



COPAKE PLANNING BOARD
SEPTEMBER 6, 2012
MINUTES

Approved
November 1, 2012

Please note that all referenced attachments, comprising 9 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Bob Haight and Steve Savarese. Gray Davis was delayed but arrived shortly after the meeting began. George Filipovits and Jon Urban were excused. Lisa DeConti was present to record the minutes. Town Attorney Kenneth Dow was also present.

ZONING BOARD OF APPEALS – Referrals

1. ZBA REFERRAL/SPR – ROBERT & JACQUELINE BEATTY – Lakeview Road [Taconic Shores] – (2012-24)

Linda Chernewsky appeared before the Board representing Robert and Jacqueline Beatty. Ms. Becker acknowledged that a letter of agency was received from the owners and advised the Board that Mr. and Mrs. Beatty wish to screen in an existing deck, construct a new deck and step, covered front porch and add new windows to their garage. Ms. Becker made note of the fact that this would be done within the one-hundred foot (100') set-back of Robinson Pond.

Ms. Becker pointed out that this is a modification of a non-conforming structure on a non-conforming lot and will require a Site Plan Review. She also acknowledged a submission from Baldwin and Sons informing the Board that there were some problems with the septic system but over time they have resolved the problems and have installed a new four inch (4") sewer line from the house to the septic tank, along with a new riser.

Ms. Becker questioned whether the well was on the site map and was advised that the house is connected to the Taconic Shores Property Owners Association water system. Ms. Becker also questioned the lot coverage and was advised that it was approximately thirteen percent (13%). She made note of the fact that the stairs were also in the one-hundred foot (100') set-back.

Ms. Becker questioned whether Ms. Chernewsky had applied for a DEC permit. Ms. Chernewsky advised her that she spoke with Mike DeRuzzio who responded, stating that based on the information he had received to date it appears that he should be able to issue a permit no later than September 14th. Ms. Chernewsky will mail in the signed application and fee when she receives it from Mr. Beatty.

Mr. Grant was confused about what is being done and Ms. Chernewsky pointed out the portion of the deck that will be screened in as well as the portion that will be reinforced and remain open. She also pointed out a portion of the roof that will be refinished.

Ms. Becker questioned whether there was any visual impact. Ms. Chernewsky explained that the property was pretty much hidden by the tree line. Ms. Becker questioned whether the Board had any concerns. Mr. Grant made note of the fact that an open deck was exempt from any set-back regulations. The fact was brought up that an open deck is exempt but a closed deck is not. Mr. Grant pointed out that it would be wise to apply for the variance should one be required. Mr. Davis reviewed the code which stated that: *'Open porches and decks attached to a residence shall be exempt, provided that all other requirements can be met, and provided that such porch or deck shall never be enclosed.'* It was decided that a variance is needed. Ms. Chernewsky will be going to the ZBA for the variance and the Taconic Shores Property Owners Association for the required documents.

The Check List was reviewed. It was noted that the stairs that are being replaced are considered a site improvement. Ms. Chernewsky informed the Board that there are two septic tanks on the property. One is a five-hundred (500) gallon plastic tank and the other is a one-thousand (1,000) gallon concrete tank. Ms. Becker questioned why there were two (2) septic tanks. Ms. Chernewsky explained that there is a washer, dryer, bedroom and bathroom in the basement that go to one system and the kitchen, two bedrooms and baths that are upstairs go to the other system.

Ms. Becker made note of the fact that the DEC permit is needed but no other state or county permits are required as well as the ZBA decision which is also needed.

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan for the Beatty house renovation from the drawings made by Morris Associates dated August 13, 2012 subject to receipt of the DEC permit and ZBA decision to grant the variance.

2. ZBA REFERRAL/SPR – ANN CAPTAIN – South Colony Rd. [Copake Lake] – (2012-25)

Linda Chernewsky appeared before the Board with Anne Captain. Ms. Chernewsky explained that Ms. Captain wants to put a garage on the lower level, with a master bedroom and bathroom on the second level. Ms. Chernewsky made note of the fact that the existing home is thirty feet (30') off the property line for the front yard set-back instead of the required forty feet (40') so a variance will be needed for this. Ms. Becker made note of the fact the house is on a conforming lot.

Ms. Chernewsky advised that although Ms. Captain is adding a bedroom upstairs she will be changing one of the existing bedrooms to an office leaving the bedroom count at two (2). Ms. Becker made note of the fact that the lot was a good sized lot even though the front yard set-back required a variance request.

Ms. Becker questioned whether there was any documentation for the existing one-thousand (1,000) gallon septic tank so that it could be verified that it was in good working order. Ms. Chernewsky will provide her with this. Ms. Becker questioned who pumped the septic tank. Ms. Captain advised her that Superior in Pine Plains pumped out the system and she received an inspection certificate.

Ms. Becker acknowledged the tree line on the side of the driveway where the proposed garage will be placed. Ms. Becker made note of the fact that a Site Plan Review is required inasmuch as the structure is non-conforming. The Check List was reviewed. It was noted that no DEC permits were required. Ms. Becker questioned whether the property needed to be graded. Ms. Chernewsky explained that inasmuch as there is garage under the house at this time, the addition would be added at grade level. Ms. Becker questioned whether the water ran down the driveway. Ms. Chernewsky pointed out that the driveway is flat so this is not an issue. It was noted that no state or county permits were required. Ms. Becker questioned whether there was a completed application form from the ZBA. Ms. Chernewsky will provide a copy this.

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to approve the Site Plan of Anne Captain on South West Colony Road from plans done by Morris Associates dated August 21, 2012 subject to receipt of verification that the septic is working properly and receipt of the ZBA application and granting of the required variance from the ZBA for the front yard set-back.

3. ZBA REFERRAL/SPR – JOSEPH W. & CORINNE E. GURSKY – South West Colony Road [Copake Lake] – (2012-26)

Ms. Chernewsky appeared before the Board with Joseph and Corinne Gursky for a modification of a non-conforming structure. She explained that the Gurskys have an existing house on South West Colony Road that they wish to eventually demolish after their new house is rebuilt. Ms. Chernewsky made note of the fact that the property was surveyed and all the set-backs can be met with the exception of the rear set-back. Ms. Chernewsky explained that the rear set-back cannot be met because the Gurskys will be living in their old house until their new one is completed and the Building Inspector will not issue a Certificate of Occupancy for the new house until the existing house is removed.

Ms. Chernewsky acknowledged that there is an existing pine tree line in the front, back and one side of the property. Ms. Becker questioned whether there will be a lot of trees removed. Mr. Gursky explained that there was a large pine tree behind the house that was taken down inasmuch as it fell but no other trees are planned for removal at this time. Mr. Grant noted that the only set-back that the new house will not conform with is the rear set back which will be resolved when the old house is removed.

Ms. Becker referred to Town Code 232-24B(2)(b), replacement of a non-conforming structure which read that: *Replacement. A nonconforming structure may be replaced to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the prior structure except as provided above or as approved by the Planning Board in a site plan review and approval.* A question arose regarding the height of the proposed structure. Ms. Chernewsky explained that regulations in the 'R-2' zone state that the structure can come up to two and one half (2½) stories to thirty-five feet (35'). Mr. Grant questioned this and made note of the fact that this needs to go before the ZBA. Mr. Gursky addressed the fact that he will be downsizing the structure from a two bedroom to a one bedroom.

Mr. Davis advised that the present structure is twelve-hundred and eighty nine (1289) square feet and the new structure will be thirteen-hundred and forty nine (1349) square feet, sixty (60)

square feet over the existing structure. Ms. Chernewsky pointed out that the total lot coverage for the proposed structure will be at 6.5% while the existing structure was at 6.2%. Ms. Becker advised that a variance would be needed for the additional sixty (60) square feet of the proposed structure. Mr. Grant made note of the fact that the 6.5% of lot coverage is within the required 25% lot coverage for that zoning district. Mr. Davis clarified that the lot is a non-conforming lot and inasmuch as the lot coverage is being increased a variance would be required. The Board was in agreement with this. Mr. Grant pointed out that the lot coverage and height are being increased and according to the above referenced Town Code 232-24B(2)(b) variances will be needed for both issues along with the rear yard set-back variance. It was clarified that the structure is non-conforming because it was built before zoning and does not meet the set-back requirements.

Mr. Grant questioned the capacity of the septic system. He was advised that the system has a seven-hundred and fifty (750) gallon tank. Ms. Becker asked how new the system is. Mr. Gursky advised her that he bought the property in 2003 and the system started to fail, was repaired and has been fine ever since. Ms. Becker asked for the proper papers to verify the system is working properly. Mr. Davis questioned whether the attic would be unfinished space. Mr. Gursky advised him that this would remain unfinished. Ms. Becker questioned whether the new structure was being built so that there would be second story living space. Mr. Gursky advised her that this was not his intent. Ms. Becker pointed out that it is the responsibility of the Board to look at future uses and additional bedrooms that might be added. Mr. Gursky noted that permits would be needed for this and Ms. Chernewsky acknowledged that the windows would need to be replaced since the present windows do not meet egress. Mr. Grant did make note of the fact that the attic space would need to remain unfinished as once it is finished it would be classified as a bedroom which would affect septic requirements.

On a motion made by Mr. Savarese and seconded by Mr. Davis the Board voted unanimously to approve the Site Plan for Joseph and Corinne Gursky on South West Colony Road from plans drawn by Morris Associated dated August 21, 2012 subject to receipt of documentation of the septic tank improvement, the granting of the rear yard set-back variance, the increase in height variance as per Town Code 232-24B(2)(b), the increase in lot coverage variance and the fact that the upstairs space remain unfinished.

PUBLIC HEARING

None

SUBDIVISION/SITE PLAN

2012 -27 SITE PLAN REVIEW – JAMES AND ANNE WAGNER – Golf Course Road

Ms. Chernewsky appeared before the Board representing James and Anne Wagner. Ms. Chernewsky advised the Board that she spoke with the owner of the property and got him to agree to have his property surveyed. Ms. Chernewsky informed the Board that she went to the ZBA and the Building Inspector and was advised that Mr. Wagner is allowed to rebuild his house

on the existing footprint as long as the size and height of the new structure will not be increased. Ms. Chernewsky quoted the existing footprint at thirty-six feet (36') by twenty-six feet (26').

Ms. Chernewsky went on to explain that the existing foundation has a large hole in it. She also acknowledged that she spoke with Mike Higgins of the DEC who advised her that there are no wetlands in that area. She will be sending them an application for the one-hundred foot (100') buffer zone. Ms. Chernewsky also made note of the fact that the front yard set-backs are satisfactory but the side yard set-backs are not able to be met.

Ms. Chernewsk explained that the house Mr. and Mrs. Wagner wish to rebuild is a Chalet looking house. Mr. Grant questioned the septic tank location and Ms. Chernewsky advised him that the system is located on the golf course. Mr. Grant questioned whether this was tied into the community septic system and was advised that it was not. Ms. Chernewsky explained that Mr. Wager has a pump station that pumps up to the system as well as a deeded right-of-way to get to the area. Ms. Becker advised that the Board would need to see any pertinent agreements. Mr. Grant questioned what the present foundation is and was advised that part of it is stone, part tarp, part rock and some patching. Plans are to remove the entire foundation.

Ms. Becker brought up the fact that this application is in violation of another part of the Town Code pertaining to the fact that there cannot be any development within one-hundred feet (100') of a water body. Ms. Becker also made note of the fact that when other people were faced with these circumstances they have moved their house back. Ms. Chernewsky informed the Board that the owner is not in agreement with doing this. Ms. Becker pointed out that this is in violation of the code and this cannot be done without a variance to do so. Ms. Becker also pointed out that the Comprehensive Plan states that the people of the Town of Copake want their water bodies protected. Ms. Becker and Mr. Grant questioned whether the new structure can be built inasmuch as the soil would be disturbed. Ms. Chernewsky's thoughts were that bales and silt fences would have to be put around the edge once the deck was removed.

Mr. Davis and Mr. Grant believe that there would be a problem in putting the foundation so close to the water. Ms. Chernewsky agreed that this would need to be considered in the plans and could be worked around. Ms. Becker believed a variance would be needed as there is a conflict between the two codes, the one stating that one can rebuild within the same footprint and the other stating that the soil cannot be disturbed within one-hundred feet (100') of a water body. Ms. Chernewsky informed the Board that she did consult with the ZBA and was advised that a variance was not needed. Ms. Becker was aware of this and it was her opinion that a variance is required. She suggested that a legal opinion might be needed for this.

Mr. Grant pointed out that the DEC would need to be consulted before any decisions were made. Ms. Chernewsky advised him that she had already contacted them and once she received a site plan she would present it to them. Ms. Becker questioned how far the foundation was from the edge of the water. Mr. Davis advised her that the porch was almost in the water.

Mr. Grant questioned what will happen to all the trees next to the house. Ms. Chernewsky explained that there are some trees that are dead and rotted and the tree next to the house will need to be removed. Ms. Becker questioned where the driveway was and was informed that there is a little parking area at the top of the property and the owners walk down to the house. Ms. Becker made

note of the fact that the Building Inspector needs to make a determination as to whether a variance is needed. She will consult with him on Saturday and let Ms. Chernewsky know his decision.

2012 -20 SITE PLAN REVIEW – COPAKE VALLEY FARM – Route 22

David Weiner appeared before the Board representing Salvatore Cascino and Copake Valley Farm. Mr. Weiner brought pictures of the existing barn and presented them to the Board. Ms. Becker pointed out that the submissions had not been entered into the record at last month's meeting and entered them into the record at this time. She entered the application for Site Plan review, the building permit application, the introduction letter of July 20, 2012 from David Weiner, the drawing of the compost/machine building dated February 13, 2007, the proposed site plan/grading and drainage plan dated August 28, 2008, Track 1 and Track 2 Survey map by Rockfeller and Nucci dated September 12, 1997 into the record. Ms. Becker also entered another letter received by Mr. Weiner dated August 6, 2012 into the record.

Ms. Becker asked everyone on the Board if they remembered and/or had a chance to review the 2008 Copake Valley Farm Major Site Plan Application. Mr. Grant and Mr. Davis acknowledged that they were on the Board at that time. Mr. Haight and Mr. Savarese who were not on the board at the time reviewed the information. Ms. Becker asked if any of the Board members see any substantial difference between the submission of the Hay Barn Expansion and the Compost Grinder Building between the 2008 review and the present application. Mr. Grant acknowledged that there were some revisions to the plan that had to do with structural components but not the dimensions nor the fact that there is a compost grinder or composting facility. Mr. Weiner clarified that the grinder would be in the back and the hay building in the front.

Ms. Becker advised that it is the Board's conclusion that this proposal is substantially the same as what was submitted in 2008 and she noted that the drawings submitted are exactly the same. Mr. Weiner acknowledged that it is the same building but on a stand-alone basis and the primary purpose is that more space is needed for hay. Ms. Becker pointed out that after an enormous amount of testimony, analysis, evaluation and specialists and studies done in 2008 a determination was made at that time regarding this specific proposed building and it was considered as a stand-alone on its own merit and it was deemed not permissible. Ms. Becker acknowledged a quote from the Planning Board decision which stated that "this structure in this area cannot be built as proposed" and advised that the Board will not review the same thing again.

Mr. Weiner questioned what the reason was as to why the building could not be built as proposed. She suggested Mr. Weiner go through the record for this information.

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously not to review this application as proposed. Ms. Becker did advise Mr. Weiner that he can modify and revise the plans so that it is not exactly the same and then it might be reviewable.

Mr. Weiner questioned this inasmuch as he had been advised that the building is now stand-alone versus the review that was given last time when there was a question as to whether there needed to be a full Site Plan Review. Mr. Weiner believed that in the review that was given last time there was a question as to whether there should have been a full Site Plan Review versus the expedited review even though there were several farm buildings involved. It was Mr. Weiner's

opinion that the previous review was questionable on its face. He questioned Attorney Dow that by virtue of the fact that the building is stand-alone for the purpose of storing hay and enclosing the grinder as opposed to part of a major expansion that this was reviewable. Attorney Dow advised that he would have agreed with Mr. Weiner that this would be permissible if the denial of the aggregate project did not isolate this building in the decision and specifically refer to it alone as not permissible. Attorney Dow continued stating that however, the decision did look at this and said in Part 3 referring to this building that ‘the conclusion was that this structure in this area cannot be built as proposed’ specifically addressing this exact plan in this exact location which in his view, makes this subject to the fact that it has been looked at on its own. Had it not been specifically mentioned Attorney Dow pointed out that it would be a different situation.

Ms. Becker suggested modifying the plans. Mr. Davis questioned what the grinder is being used for. Mr. Weiner advised him that it is not functional at this time but the intent was for it to be used to grind up large wood products for composting and mulching. Mr. Davis questioned whether that was products from the site. Mr. Weiner advised him that at the time the farm was purchased there was a resolution of the Zoning Board that Copake Valley Farm could bring in suitable material such as yard waste, trees, and unprocessed wood and compost it and make it part of the composting process and this should be part of the ZBA record. He continued that this would basically blend in with the manure from the herd that is there now. Mr. Davis questioned whether Mr. Weiner was proposing to reactivate that grinder and process more material with it in a potentially enclosed structure. Ms. Becker advised that this application will not be reviewed at this time unless Mr. Weiner comes back with a modification.

Mr. Weiner questioned whether he would need to reapply or whether this application would be amended. Ms. Becker questioned this. Mr. Haight advised that this needed to be a new application. Ms. Becker made note of the fact that the new application could not be substantially the same.

2012 -22 MAJOR SUBDIVISION/BLA – JOE FLOOD – Route 22 & Yonderview Road

Joe Flood appeared before the Board. Ms. Becker acknowledged the map given her by Mr. Flood. Mr. Grant referred to the date of March 19, 1995 on the map and Ms. Becker questioned whether this had been updated since that time. Mr. Flood advised her that this had been updated and Ms Becker suggested having the surveyor add the new date to the map.

Mr. Flood informed the Board that he owns approximately two-hundred and twenty six (226) acres of land and he would like to subdivide forty-six point six one (46.61) acres from the total with the house and all of the existing sheds that went with the old farm included. He noted that the property is located on School Road and Yonderview adjoining the parcel directly across School Road that also connects down to Route 22. Mr. Grant questioned whether Parcel 1 was the subdivision. Mr. Flood acknowledged that it was.

Ms. Becker brought up the fact that there have been several subdivisions done over the years and referred to Town Code 197-5 which reads: *Any subsequent minor subdivision of any lot approved under this chapter must be submitted to the Planning Board for approval, and the number of additional lots shall be added cumulatively to the number of lots approved since 1972. At the discretion of the Planning Board, it may determine that a subsequent minor subdivision plus the earlier minor subdivision result in a number of lots that would require application as a*

major subdivision. In such event, the Planning Board may require that the new subdivision application be considered a major subdivision and all requirements and limitations of a major subdivision must therefore be met. Ms. Becker made note of the fact that this property is also located in the Scenic Corridor Overlay zone and that major subdivisions in Copake are Conservation Subdivisions Town Code 232-26.1. *Flexible Lot Subdivisions.* Mr. Grant pointed out that the map shows two parcels. Mr. Flood clarified that Parcel 2 would be the lands that would remain in his possession.

Mr. Grant questioned what other subdivisions have been done in the past. Mr. Flood explained that he has sold the old farm house approximately two (2) years ago and it is now a separate tax map. Ms. Becker pointed out three lots that Mr. Flood acknowledged had been sold in the mid to late 1990s. Ms. Becker also made note of the fact that some land was also given to the Town of Copake. Mr. Flood questioned whether Boundary Line Adjustments were considered subdivisions and was advised that they were. He questioned the fact that there is not an additional tax number for this. Mr. Grant clarified that there have been more than five (5) subdivisions on Mr. Flood's property. Ms. Becker pointed out that the land in question is all open land. Mr. Grant acknowledged that being the case the land would lend itself to a conservation subdivision.

Mr. Grant advised that this is now considered a major subdivision. Mr. Flood questioned whether this could be at the Board's discretion and Ms. Becker agreed that some discretion could be considered. Ms. Becker questioned whether Mr. Flood wished to put this land in a Conservation Easement. Mr. Flood advised her that his plans are to leave both Parcel 1 and Parcel 2 as farm land. Ms. Becker questioned whether deed restrictions would be put on these parcels. Mr. Flood advised her that he had no plans to do so at this time. Ms. Becker pointed out the fact that without deed restrictions the land could become anything in the future.

Mr. Grant clarified that the Board is required to consider this subdivision as a Conservation/Flexible Lot Subdivision and there are procedures that need to be followed such as a study of the land and an identification of features that should be conserved. Ms. Becker suggested that Mr. Flood review section 232-26.1, Flexible Lot Subdivisions of the Town Code. Ms. Becker quoted Town Code 232-26.1A(1) which read: *Flexible lot subdivisions allow design flexibility while preserving important natural attributes of the land. The purpose of flexible lot subdivision development is to ensure that environmental resources are protected and that development occurs on the land that is best suited for development.* She advised Mr. Flood that he would need to do a calculation of unrestrained acreage and base density to figure out what lands are developable and then figure out how many lots you could theoretically build at three (3) acre zoning.

Mr. Flood addressed the fact that he had no intention of building on the property. Ms. Becker advised him that if he put this in the deed there would be no problem. Ms. Becker explained that this process does not remove any development rights in terms of density as the same number of residences can still be developed but on smaller pieces of land. Mr. Flood asked if the Board is classifying this as a major subdivision and was advised that they were obligated to do so.

Mr. Flood questioned why the Board had to make this classification. Ms. Becker explained that this had to be done because there were more than five (5) subdivisions since 1972. Mr. Flood acknowledged that he was not aware that a Boundary Line Adjustment was considered a

subdivision. Mr. Flood questioned the fact that this goes back to 1972 and believed a law came into effect a couple of years ago. Mr. Grant clarified that subdivision law preceded that. Ms. Becker advised Mr. Flood that this has to do with the SEQR which does not allow subdivision (segmentation) without looking at the entire parcel to see what kind of environmental impact it will have.

On a motion made by Mr. Savarese and seconded by Mr. Grant the Board voted unanimously to classify this as a Major Subdivision. Ms. Becker did tell Mr. Flood that the Board will help him through the process if he decides to go in that direction.

2012 -22 SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]

Ms. Becker informed the Board that she visited Mr. Sinisi's site and suggested he meet with the Building Inspector before he returns to the Board. Mr. Sinisi will consult with the Building Inspector to discuss the changes he would like to make to his structures.

2012 -28 SITE PLAN REVIEW – LAWRENCE AND KATHRYN HOUSE– Pine Street [Copake Lake]

Darlene Riemer appeared before the Board representing Lawrence and Kathryn House and presented the Board with a letter of agency. Ms. Becker advised the Board that Mr. & Mrs. House also wish to replace a house within the existing footprint and once again referred to Town Code 232-24B(2)(b). Ms. Becker noted that the property is on Pine Street on Copake Lake and is not waterfront property. Ms. Becker reviewed the Site Plan and commented that the footprint appears to take up half of the lot coverage.

Ms. Riemer advised the Board that the existing house has two (2) bedrooms on the first floor as well as a sleeping loft accessible by a ladder over the kitchen and the owner would like to open up the entire first floor and move the two (2) bedrooms to the second floor. Mr. Grant commented that the height of the building is being increased and would require a variance. Ms. Riemer acknowledged that the new structure would be nine feet (9') taller than the existing structure. Mr. Grant questioned if a second story was allowed and was advised that a second story is allowed but cannot exceed the height of the existing structure. It was clarified that a replacement does not allow the increase in height but a renovation does. Ms. Riemer pointed out that the foundation needs to be replaced and the Board advised her that this would be considered a replacement.

Ms. Riemer advised that there is a deck with a stairway that goes into the side of the house which the homeowners would like to fill in and connect with another deck. Ms. Riemer went on to explain that the existing deck will be screened in and the new deck would remain open and fill in an area that is problematic as water and snow accumulates in this area. Ms. Riemer made note of the fact that the outer dimensions with the exception of the deck addition would remain the same.

Attorney Dow brought up Town Code 232-24B(2)(a)[4] which reads: *Where a single-family dwelling exists on a nonconforming lot, a second story may be permitted over the same footprint, provided such addition does not exceed the height limitations in the density control schedule of this chapter for nonconforming lots.* A discussion ensued regarding this and it was the conclusion that a variance may not be needed in this case as twenty-five feet (25') is the height

limitation in this zone. Ms. Becker pointed out that nothing can be done about the amount of lot coverage on this lot. It was also brought up that several houses, including the other House residences share the same waterfront.

Ms. Becker advised Ms. Riemer that the Board needs to know about the septic location and size. Ms. Riemer informed the Board that Dan Russell surveyed the property and said he would be able to locate the septic system. Mr. Grant brought up the fact that the Board would also need to know the size to see if it is an adequate system for the number of bedrooms in the structure. Ms. Riemer did bring up the fact that there would be no increase in bedrooms for the replacement structure.

Ms. Becker noted that the only outstanding item is the septic information and there were no other permits required unless a new septic system is needed which would require a Department of Health permit. Ms. Riemer believed that the septic system is located in the front of the property. Ms. Becker made note of the fact that this application would not need to be sent to the ZBA inasmuch as the second story is allowed and the height is within the required range.

On a motion made by Mr. Savarese and seconded by Mr. Davis the Board voted unanimously to accept the drawings for replacement of the House property on Pine Street done by Darlene Riemer AIA, plans submitted August 27, 2012 as a Preliminary Sketch.

2012 -23 MAJOR SUBDIVISION/BLA – VIJOBA REALTY – Yonderview Road

Phil Gellert appeared before the Board and advised the Board that he is revising the Boundary Line Adjustment that was done previously. He did inform the Board that there is a provision on this piece of property stating it is 'forever green' and the purpose is to have space between the neighboring parcels where nothing can be built. He did acknowledge that this would be in the deed and/or the final map and noted that a septic system would be permissible inasmuch as it is underground. Ms. Becker acknowledged the application and brought up the fact that a letter of agency was not needed inasmuch as the property belong to Mr. Gellert.

Ms. Becker acknowledged that this is the same situation that arose regarding Joe Flood. Mr. Gellert pointed out that if Boundary Line Adjustments are not counted there have only been three (3) subdivisions on this four-hundred (400) acre tract of land, two (2) on the West side of the road and one (1) on the East side of the road. Mr. Gellert did bring up the fact that the Town Code does allow for discretion of the Board regarding this. Mr. Grant did note that the Board would need to review the history before any decisions can be made. Ms. Becker asked Mr. Gellert to bring the Board a survey of all the lands owned by Vijoba Realty and everything that has been done to date and what lands have been subdivided out of them in the past. Ms. Becker clarified that what the Board needs to look at is major impacts of land use. Mr. Gellert did ask the Board that if they granted him a variance with these subdivisions he would then add to his deed that any future subdivisions will have to conform to the sixty percent (60%) regulations. Mr. Grant advised him that the Board will have to see his proposals and survey maps before any decisions can be made.

2012 -29 SITE PLAN REVIEW – YONDERVIEW LLC – Yonderview Road

Julia Sedlock and Mark Rowntree of Cosmo Design Factory appeared before the Board representing Yonderview LLC. Ms. Sedlock presented the Board with a letter of agency. Mr. Rowntree advised that the site of the septic was placed on the previously mentioned Vijoba Realty lot line adjustment application just to give the Board the whole picture of what is being proposed. Ms. Becker questioned why the septic was placed in that location. Ms. Sedlock advised her that the original location for the approved septic was done before the road was relocated. Ms. Sedlock added that the road was relocated to reduce the grade of the land.

Ms. Becker questioned the size of the proposed house. Ms. Sedlock advised her that the house will be thirty-five hundred (3,500) square feet mostly on one level with a second story that has a couple of guest bedrooms. Ms. Becker believed that a fifteen-hundred (1,500) gallon septic would be needed. Ms. Sedlock acknowledged that the correct septic size will be in the letter from the DOH, however they will need to reapply for the septic location. Ms. Becker questioned where the well location was and Ms. Sedlock advised her that this has not been decided as yet as it will depend on the final septic system location.

Ms. Becker questioned whether there was a driveway code and Mr. Grant did not believe there was one with the exception of a shared driveway and the only requirement was that the driveway be twenty feet (20') wide. Ms. Becker questioned whether the driveway would be accessible by the Fire Department. Ms. Sedlock advised her that the Fire Department did visit the location. Mr. Davis did request that the Board be kept informed of the Fire Departments comments and to indicate their suggestion for changes on the site map.

The Check List was reviewed. Mr. Davis questioned whether the detached garage and mother-in-law-apartment will eventually have a bedroom and bathroom that will tie into the existing septic system. Ms. Sedlock acknowledged that the septic system will be designed to accommodate both. Ms. Becker questioned whether the Fire Department would require a turn-around on the driveway. Ms. Sedlock advised her that nothing was mentioned with the exception of widening certain areas and reducing the grade in certain areas. Ms. Becker questioned the plans for outdoor lighting. Ms. Sedlock explained that lighting was planned for the entry with some minimal lighting around the pool. Mr. Davis advised her that the pool lighting should be shaded light. Ms. Becker did note that there may be a DOH letter forthcoming but no other permits are required at this time.

On a motion made by Mr. Davis and seconded by Mr. Haight the Board voted unanimously to accept the drawing from Cosmo Design Factory for the Bruse Miller house on Yonderview Road dated September 6, 2012 as a Preliminary Sketch.

2011 -24 SITE PLAN REVIEW REVISION – MARK FRANK – Island Drive [Copake Lake]

Ms. Becker acknowledged that this is a revision to an approved Site Plan. Mark Frank appeared before the Board and read a memo from Architect Miguel Sostre concerning revisions to the approved Site Plan.

The first revision is a change from a two curb cut circular driveway to a one curb cut driveway entry centered on the house. Mr. Frank explained that this change helps resolve the issue of the grade being too steep on the further side of the driveway. Mr. Sostre's letter stated that the grade at the corners of the property will remain as existing due to the removal of the two curb cut circular driveway and the grade to accommodate the new driveway will reduce the amount of fill that needs to be brought in.

Mr. Sostre's letter also acknowledged that the addition of two small retaining walls at each side of the house will transition to a new grade at the front of the house and allow for a more harmonious transition to the abutting neighbors property and no grade modifications will be within the one-hundred foot (100') lake set-back. Ms. Becker asked if this was on the elevations. She was advised that they are not.

Regarding the Plans, Mr. Sostre's letter stated that there are no significant changes to the plans and the foot print of habitable area remains the same.

Mr. Frank made note of the fact that most of the changes were to the Elevations of the house however there were no changes to the interior dimensions. He pointed out that as far as the look of the house they changed the roof from a Gambrel beach house look to a lake house look and the window types have changed from double hung to casement windows and rather than white trim they will have wood stained trim. Mr. Frank continued to explain that the stone veneer elevations have changed slightly to accommodate the look of the house and while the massing and building heights have stayed the same the siding has changed to rough cut oak planks with a twelve inch (12") wide exposure from cedar shakes and the roof has changed to an architectural shingle asphalt from a cedar roof.

Ms. Becker brought up the fact that the Building Inspector had told her that there was a slight jog in the deck. Mr. Frank explained that the original plan that was approved looked a little different because his contractor and the Building Inspector said it was over by five feet (5') and due to that fact the property was staked out again according to the Building Inspector's measurement from the lake. Mr. Frank did acknowledge that the changes did not change any of the required set-backs.

Ms. Becker questioned a comment about something being more aggressive to the neighbors. Mr. Frank explained that the addition of one of the walls to the side of the house allows the grade to come down quicker. Mr. Davis clarified that this allows more level land next to the house however, he expressed concern about the run-off to the neighboring property and asked if there was a way to keep as much of the water on the Frank property as possible. Mr. Davis was also concerned about the run-off disturbing the existing trees on the property. Mr. Frank will consult with his architect regarding this. Mr. Davis also questioned whether any trees will be replaced inasmuch as some were being removed for the new driveway cut. Mr. Frank explained that trees will be moved to the property line and others will be planted to fill in some of the empty spots.

Ms. Becker questioned whether the Board needed to visit the site before they approved the changes. Mr. Davis did not think this was necessary as long as it is entered into the record. Ms. Becker asked if a revised plan of the landscaping could be submitted to the Board. Mr. Frank will supply the proper documents. Mr. Davis will e-mail Mr. Sostre to express the Board's concerns.

Ms. Becker questioned the fire hydrant idea that was spoken about during the application process. Mr. Frank said he spoke with the Fire Chief of Craryville who said that it was not an issue.

On a motion made by Mr. Savarese and seconded by Mr. Haight the Board voted in favor of the revisions, with Mr. Grant abstaining, to approve the revised Site Plan for Mark and Amy Frank drawn by Miguel Sostre dated October 28, 2011 and revised August 8, 2012 and the Site Map drawn by Frank Juliano Landscape Architects dated August 27, 2012.

MINUTES

On a motion made by Mr. Davis and seconded by Mr. Haight the Board voted unanimously to approve the Minutes of the July meeting. The August minutes could not be approved because there was not a quorum of Board members present at this meeting who were present at the August meeting.

ADMINISTRATIVE

ISLAND OF COPAKE LAKE SEWERAGE GROUP: Ms. Becker acknowledged a letter from Mike Sullivan that was an update of his analysis of the parcels, lot numbers, numbers of bedrooms and design and flow rate of the waste water system, a letter from Town Engineer Erin Moore who concurs with the evaluation and methodology used by Crawford Associates and a letter from The Island At Copake Lake Homeowners Association dated August 29, 2012. Ms. Becker made note of the fact that the Board has the information of what the capacity of the system is and what capacity is left and she will also give a copy to the Building Inspector so that this information can be used next time someone comes to the Building Inspector for a permit or the Planning Board for a Site Plan Review. Mr. Agnes requested a letter to the Association from the Board. Ms. Becker will send a letter to the Association referring to both Mr. Sullivan's letter and Ms. Moore's letter stating that the capacity of the system has been identified, the Board knows what capacity is available and the Town Engineer approves of the evaluation and methodology used. Mr. Davis asked if there was a pretty good buffer within the system. It was acknowledged that there are four lots available and if three six (6) bedroom houses were built and the last one was an eight (8) bedroom there would be a problem but otherwise the capacity is adequate. Ms. Becker acknowledged that the Building Inspector would have a copy of this so if anyone wants to do an improvement they will be able to refer to this information and update it. Ms. Becker also acknowledged that the DEC standards are based on the low flow rates which are not the same as the DOH standards which are higher and the Town could not accept this if our Engineer did not accept this. Mr. Agnes wanted it noted that the DEC reviews and renews the Association's permit on an annual basis and they should be Okay if they have a valid permit.

ZBA DECISIONS: Ms. Becker made note of the fact that the Mark and Lisa Nielsen project for the patio was denied. Mr. Haight questioned whether they would have to take up the patio. Ms. Becker was not sure of this but believed it was a possibility. Mr. Haight noted that if the ZBA denied it something will have to be done to rectify the situation. Mr. Savarese felt this might be

dealt with through litigation. Mr. Davis made note of the fact that this sets a precedent and things need to be enforced as much as one might not want to.

ZIEGLER COMPLAINT: Ms. Becker brought up the fact that there has been a complaint brought up regarding the Ziegler residence for a violation of his Army Corp of Engineer Permit as he was required to have proper protection on the lake and he does not. Ms. Becker noted that this is the Code Enforcement Officer's job to handle and he is aware of the situation. Mr. Davis questioned whether the Board can recommend a Stop Work Order against this. Ms. Becker made note of the requirement of the permit which stated that the 'NWP general condition Number 12 permit requires the installation and maintenance of proper soil erosion and sediment controls during construction.' Ms. Becker was not sure what the Board's jurisdiction and responsibility is. Mr. Davis pointed out that it does not conform to the Site Plan that was submitted. Ms. Becker will follow up on this.

ISMAEL LEYVA SPR EXPIRED: Ms. Becker advised the Board that Ismael Leyva's Site Plan has expired however he keeps renewing his building permit which has once again expired. Ms. Becker will contact him advising him of the situation.

SEQR REGULATION CHANGES: Ms. Becker advised the Board that the new SEQR form has been held over until the spring of 2013

CARRY OVER

The following matters were carried over to the next meeting:

- 2008-21 MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**
- 2011-18 SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**
- 2011-27 SITE PLAN REVIEW – RUTH THOMAS – Route 7 [Copake]**

ADJOURNMENT

There being no further business, on a motion made by Mr. Savarese and seconded by Mr. Haight, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:45 p.m.

Marcia Becker, Chair

Please note that all referenced attachments, comprising 9 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:

ADMINISTRATION

COPAKE VALLEY FARM

August 6, 2012 Weiner to CPB (2)

ISLAND AT COPAKE LAKE

May 21, 2012 Crawford Associates to Becker (3)

August 24, 2012 Erin Moore to Becker (1)

August 29, 2012 Agnes to Becker (2)

MARK FRANK

August 30, 2012 Miguel Sostre to CPB (1)