

**Town of Copake  
Zoning Board of Appeals  
Minutes- September 9, 2011**

A Special meeting of the Zoning Board of Appeals of the Town of Copake, was held on Friday, September 9, 2011, at the Copake Town Hall, 230 Mountain View Road, Copake, NY. The meeting was called to order by Chairman Jeff Nayer at 7:00 PM.

Present at this meeting were: Jeff Nayer, Frank Peteroy, and Hilarie Thomas. An audience of about 6 were present.

**Minutes:**

*Hilarie made a motion to waive the reading and to accept the July 28, 2011 minutes, this was seconded by Frank. The motion carried, unanimously.*

**Correspondence:**

The following correspondence was either reviewed or read;

- A. Copake Planning, 9/4/11,(Szafran)
- B. NY DEC Fact Sheet, septic systems
- C. Budget 2012
- D. NY DEC, 8/25/11, (Frawley)
- E. Survey Map, (Frawley)

**Closed Public Hearings:**

None

**Public Hearings:**

**Application # 2011-07,** Paige & Michael Frawley, 1226 Lakeview Rd, Area variance, Lake setbacks.

Jeff reminded all that this is a continuation of a Public Hearing from August 25, 2011. We did not close because we were waiting for some additional information. Jeff asked Ms. Baptie and Ms Frawley to come forward to present the new information.

Ms. Baptie presented a copy of the survey map and briefly explained that the lake front is shaped as a trapezoid. The map documents that the Frawley's parcel is .23 acres. Calculating the math on this with a 1673 sq ft house and taking into consideration of the deck, the lot coverage issue is at 22%, which is below the maximum of 25%. Therefore becomes a non-issue.

Frank asked if the deck was on grade. Ms. Baptie explains that although it is on grade with the front of the house, the back grade of the property declines to the lake, so it is up in the air. Under the deck is a screened porch on half and the other half is an open patio. He asked if this had been included in the lot coverage calculations, because an open porch or deck does not count. Ms. Frawley responded that it was calculated so the 22% lot coverage is less. Hilarie and Jeff reminded Frank that this is about to change as the building plans show that the deck area will all be enclosed living space.

Jeff reads the letter from NY DEC, to which permission is given to build 3 feet closer to the lake. Jeff mentions that during his visit to the property the house next to theirs is even closer to the lake. Ms. Baptie refers to the plot plan to show that the front of house property line distance varies from 13.5, 13.8, and 13.5 because of the shape of the land.

He quickly recaps the application; it consists of three variance requests. One for the addition to be 3 feet closer to the water, one for a north side yard to be 3 feet closer for the stairs, and one for the south side yard to be 8.5 feet closer and to stay in line with the existing house. He opens the floor for any public comment, being none he asks for a motion.

*Frank makes a motion to close the Public Hearing, this is seconded by Hilarie. This motion carried, unanimously.*

Jeff asks the board members if they are ready to vote on this issue tonight or to wait. All respond that they are prepared to vote this evening. He reads the permitted actions by the Zoning Board of Appeals for an area variance:

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider:
  - i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

Answer: No

- ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an area variance;

Answer: No

- iii. Whether the requested area variance is substantial;

Answer: No

- iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Answer: No

- v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Answer: Yes, but not a problem.

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Jeff again reviews the variances that we will be voting on. A 8.5 foot side yard variance on the south side of the house, for the addition to extend no more than 10 feet from the existing house and to stay in the line with the existing house, no closer than 49 feet from the surveyed lot line of the lake. A 2.5 feet side yard variance on the north side allowing for the stairway. A reference to the stamped plot plan, and this is all pending site plan approval from the Planning Board.

Jeff asked for a roll call of vote: Frank; Yes, Hilarie; Yes, Jeff; Yes.

Jeff announced that this variance will be granted. The Action Taken forms will be mailed to the applicant and will be on file with the Town Clerk. In addition the Planning Board, Building Inspector, and Zoning Enforcement Officer will receive a copy for their file and record, and the maps and plans will be dated and stamped.

**Application # 2011-10, Hope Barringer, 7441 State Route 22, Special Use Permit**

Jeff reviewed the application, it is for a special use permit to allow Hope to sell dairy products at a farm stand which they want to build. Jeff asked Hilarie if she had answers to her questions as to whether they needed a special use permit for this use. Hilarie explained

that we use the definition of Ag & Markets in our own town law, it was that that lead to the confusion. Hope had spoken with Ag & Markets and that agency told her to get the special use permit from the town. Jeff had spoken with Tal regarding this and he agreed that it would be necessary to get the special use permit for this activity.

*Hilarie makes a motion to open the Public Hearing, seconded by Frank. This motion carried, unanimously.*

Jeff asked if anything has yet been received from the referrals to the County Planning Board, The Town of Ancram, The NY DOT, or the Copake Planning Board. Nothing has been received back yet, due to the fact that it has merely been 10 days. It would be helpful to the Barringers' if we could agree to whatever outcome the approval is pending approval from these other agencies. They were targeting opening the stand for late October/early November. Jeff did ask Hope about whether they would be required to obtain Health Department approval.

When asked if anyone present wished to speak to this matter, no one came forward. Jeff then asked if any member of the board had any further questions, there were none. He reviewed 232-28G of Town Code.

*Before issuing a special use permit, the Zoning Board of Appeals shall assure itself of the following:*

- 1. There shall be no detrimental effect by the establishment of such use.*
- 2. Such use will be in harmony with the district in which located.*
- 3. Such use will be in conformance with the New York State Uniform Fire Prevention and Building Code(30) and applicable local codes and ordinances.*

Jeff asked about the renovations that are being done to the building and told Ms. Barringer that she would be subject to Copake Fire Code and that the Building Inspector would ensure that she was in compliance.

*Frank made a motion to close the Public Hearing, seconded by Hilarie. This motion carried, unanimously.*

Jeff asked for a roll call of vote: Frank; Yes, Hilarie; Yes, Jeff; Yes.

Jeff announced that this special use permit will be granted for selling dairy products at your farm stand. You are subject to be in conformance with NYS Fire Prevention codes, and pending approval for site plan review from Copake Planning Board, also approval from the NY DOT and the Columbia County Planning Board. The Action Taken forms will be mailed to the applicant and will be on file with the Town Clerk. In addition the Planning Board, Building Inspector, and Zoning Enforcement Officer will receive a copy for their file and record, and the maps and plans will be dated and stamped

**Application # 2011-11, Marc Szafran, 2159 Cty Rte 7, West Copake, Replacement of front yard fence with a higher one.**

Mr. Scafran was unable to be present for this Public Hearing. Jeff did report to the board that Mr. Scafran had called and gave the following dimensions as requested by the board at the previous meeting. The fence to the edge of the road is 14' 2", the fence to the center of the road is 24', and the house to the fence is 9' 2". Frank makes note that the fence is right on the road right of way.

*Hilarie makes a motion to open this Public Hearing, seconded by Frank. This motion carried, unanimously.*

As Mr. Scafran is not here to answer questions there is nothing further that we can do. Hilarie asked to make a comment, his proof of hardship although does not necessarily preclude a decision his house is in a 35mph zone, he bought the house in that condition and has been there for 50 years or so, I do not believe that he has children and it is not his full time residence. Frank adds that this fence is for privacy purposes because it is very close to the road. Jeff read into the record the response from the Copake Planning Board which makes not 232-9.F *Fences and Walls. fences or walls within a front yard shall not exceed four feet in height.....*

*Frank makes a motion to leave this Public Hearing open, seconded by Hilarie. This motion carried, unanimously.*

**New Business:**

**New Applications:**

**Application 2011-08, Camphill Village, Ring Road, Area Variances for setbacks.**

1. Village Green, front yard setback
2. Greenhouse, setback from body of water
3. Greenhouse, front yard setback

**Application 2011-09, Camphill Village, Ring Road, Area Variances for setbacks.**

1. Village Green, setback from body of water
2. Implement Shed, front yard setback

**Application 2011-12, Camphill Village, Ring Road, Special Use Permit, Adult Care Facility**

Discussion ensued as to whether these applications could be considered complete and whether this board was ready to schedule these six applications for a Public Hearing.

*Hilarie made a motion to accept the six applications as complete and to schedule them for Public Hearing for September 22, 2011, this was seconded by Frank. This motion carried, unanimously.*

**Application 2011-13, Gene & Kelly Thorn, 25 Melvin Rd, Copake Lake, Area Variance for Screened porch.**

**John Haight, contractor representing the Thorn's came forward to answer questions. This application was reviewed. Frank asked whether the deck was in existence or would be added. Answer, the deck exists, the Thorns wish to add a roof and screen it in. It was noted that this is a non-conforming house and the addition would be increasing the non-conformality.**

**Frank questions John as to the roads, Melvin & Winding, drawn on the plot plan and it was concluded that this parcel is a corner lot, giving it two front yards and one side yard. Jeff asks about the setbacks in light of this information. Frank adds that it would be a front yard setback from both roads. It was determined that in an R-2 zone a front yard setback is 40' and a side yard setback is 30'.**

**Frank questions the use of the shed in the back of the property. John replied that it was used for storage of the lawn furniture during off season which will be the purpose of the screened in porch. Frank asks if the shed would be removed, to which John answered no. Frank points out that the shed and garage are both in the front yard. John explained that Winding is a dead end road, and that there a wood lot behind the Thorns' cottage.**

**Jeff reviews the survey map and concludes that the side facing Melvin is the side that they use as the front of their house. The driveway and garage are both located from them. Hilarie asks about Winding Road, and the date the road was put in. John explains that although planned to be a road at one time it is a dead end and stops before the woods. So Winding even though deeded in the survey map as a road is not really a road. Jeff questions the corner lot theory, Hilarie states that it is a subdivision map not a survey. Frank asks for a copy of the actual deed and survey to verify this.**

**When no further questions arose, Jeff asked for a motion to accept this application and schedule it for Public Hearing.**

***Hilarie made a motion to accept this application as complete and to schedule it for a Public Hearing on September 22, 2011, this was seconded by Frank. This motion carried, unanimously.***

**Jeff adds that this application would need to be referred to the Planning Board because it is a non-conforming structure and the screened in porch will increase its non-conformality. Jeff informed him that the survey would be needed to show the well and septic system in relation to the neighboring properties.**

**Budget 2012:**

**The Town Board has asked for an estimate of the ZBA budget, and has asked for this estimate to stay within 2% of last year's budget. Jeff stated that the ZBA has pretty much remained within their budget, so he intends to submit the same amount as last year.**

**Changes to the Application forms:**

Changes to the application form have been made, regarding the approval by the Town Board to charge the applicants in addition to the application fee, for the cost of notification of abutter property owners.

**Old Business:**

**Referral to the Comp Plan Review Board:**

Frank and Michael have both expressed an interest in becoming part of this committee. A letter will be drafted to inform the Town Board that the ZBA is recommending both.

**Adjournment:**

*Frank made a motion to adjourn this meeting, this was seconded by Hilarie . The motion carried. The meeting adjourned at 8:25 PM.*

**The next meeting will be held on Thursday, September 22, 2011, at 7:00 PM.**

Respectfully Submitted,

Theresa A Traver, Recording Secretary