

Town of Copake Zoning Board of Appeals

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Meeting Minutes of February 22, 2018

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The meeting of the Zoning Board of Appeals of the Town of Copake was held on February 22, 2018 at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

1) Roll call:

The meeting was called to order at 7:12 PM by Jeffrey Judd ZBA Co-Chairman. Present were; Frank E. Peteroy, Thomas Goldsworthy, and Mark Miller. Town Board Liaison Stanley Gansowski was present as well as Town attorney Ken Dow. Michael Diperi and Jon Strom were excused. Lisa Di Conti was present to record the minutes.

2) Reading and approval of the minutes:

~ The approval of the November 16, 2017, and January 25, 2018 minutes was deferred until next month.

3) Correspondence:

The following correspondence was acknowledged and reviewed.

2-10-18 From Planning Board, referral for Kevin & Hildy Dier. The Planning Board reviewed the application and has no issue with it.

1-22-18 From Lee Heim, Building Permit #BP-2016-026 expiring for James Gardner. The ZBA has no information regarding this application.

1/22 From Lee Heim in ref. to LED sign for the Copake Fire Dept.

It was determined that an application should be filed with the ZBA for the new sign for the fire house;

232-14 H. “An existing sign that is to be reused for a different business or any other change shall be considered new and require approval.”

4) New Applications:

2018-02 Michael Etra & Camp Pontiac, 2044 County Road 7 - Tax

Map 186.-2-38-100. Represented by Evan Young of Crawford & Associates.

Relief from 232-20 accessory dwellings/need special use permit.

Revised Site Plan approval needed from Planning Board.

Frank Peteroy recused himself.

~ Evan Young of Crawford & Associates represents the applicant, he was present at the meeting.

~ Mr. Young explained that the owner wants to construct 4 new buildings 3 of which require Special Use Permits.

1) An Art & Crafts building under 1000 square feet.

2) A 3bedroom seasonal residence that will be occupied by the owner. Estimated date of construction fall 2019.

3) A building to house the staff from June to August and a fitness center. Estimated date of construction sept 2018.

4) An additional 1 bedroom seasonal residence for the owner.

All the constructions will be wood frame and building number 3 will replace an existing construction that will be demolished. The other buildings will be new, all constructions will maintain the original character of the site.

Mr. Young noted that building number 1 will replace an existing trailer.

~ Thomas Goldsworthy asked if the term “seasonal” used, meant that the building #2 and #4 will not be insulated.

~ Mr. Young responded that they will be insulated with a heating system.

~ Thomas Goldsworthy noted that all buildings had different start construction dates, will the applicant apply for building permits at different time?

~ Mr. Young responded that this is a 5 year plan proposal and instead of coming back for each building the owner is hoping to get approval for the entire project. They will apply for a building permit starting with building # 3 with construction planned for September 2018.

~ Ken Dow indicated that special use permits are not required for **non-residential** accessory buildings but are required for the accessory dwellings only.

~ Thomas Goldsworthy noted that last year the ZBA approved variances for a new septic system, is the water treatment system approved for the new construction?

~ Mr. Young responded that in May 2017 camp Pontiac completed its new septic system and all was approved by the DEC.

A recap of the project:

#1, replacing a mobile home.

#2, new construction of a 3 bedroom residential dwelling.

#3, construction for the staff and fitness center under 3000square feet, replacing an existing building.

#4, one bedroom new construction of a residential dwelling.

A March 1st Planning Board is planned.

~ Jeffrey Judd asked for a motion to accept the application for public hearing next month. Thomas Goldsworthy made the motion, Mark Miller seconded, all agreed.

2018-03 Copake Fire District, 390 County Route 7A - Tax Map **176.3-4-12**

The Fire Department wants to install an electronic sign 99” x 41” to replace the existing sign.

Zoning Board approval is needed as per Zoning Section 232-14, H “The change of size of an existing sign requires approval from the ZBA.”

Applicants, Randy Shadic and Harold Jensen are presenting the project.

They would like to install a LED sign with integrated public alert system, a much better way to communicate with the public.

Federal and public grants will be used to finance the new sign but an approval for the project is necessary before applications for funding can be filed.

~ Thomas Goldsworthy noted that a variance is needed for the size, the old sign is 20 square feet the new one will be 32.

Variances for the size as well as for the lights as per 232-14 I of the Copake Zoning Code is required.

~ Frank Peteroy asked if the sign will be in the same location.

The sign will remain in the same spot.

~ Jeffrey Judd asked for a motion to accept the application for public hearing next month. Frank Peteroy made the motion, Mark Miller seconded, all agreed.

5) Public Hearing:

2018-01 Kevin & Hildy Dier, 129 Birch Hill Rd. Tax map 155.1-64.122

Area variance for a 10x14 shed located in the front yard.

~ Jeffrey Judd informed Mr. Dier that a board of 4 members as it is tonight, could end up with a 2-2 vote and that Mr. Dier might want to wait until next meeting for a better chance to get the variance.

~ Ken Dow indicated that a 2-2 vote could be reconsidered within 62 days. If the application is not reconsidered it could be denied.

A variance for the location of the shed in the front yard is needed 232-8 D (4).

~ Frank Peteroy noted that the allowed size for a shed is 10'x12', the applicant is planning to install a 10'x14 therefor a size variance is also necessary (232-9 T (1)).

~ Mr. Dier indicated that they purchased the lot next to them and the property line was moved over. A garage in the back of the property is planned for the future.

~ Thomas Goldsworthy was on site and noted that the shed could be visible from the road in the winter.

~ Jeffrey Judd noted that no abutters were present.

~ Mr. Dier decided to wait until next month for a vote from the ZBA.

The Public Hearing will remain open until March 22nd.

2017-25 Vargas/Machado, 123 Golf Course Rd. Tax Map 165.5-6 & 165.5-1-18

Relief from 232-8 front & side yard variance.

232-9, P, 1 septic within 150' of water & development within 100' of water.

232-23, A cost of construction & proposed square footage.

232-24, B, 2, a, 5 modification of a non-conforming structure

~ Chris Knox is present on behalf of the owners of the property.

~ Jeffery Judd warned the applicant of the possibility of a 2-2 vote tonight because only 4 members are presents.

~ Ken Dow explained in detail the effect of a tie vote.

~ Chris Knox decided to recap the project and keep the discussion open.

Demolition of the existing house and construction of a 4 bedroom residence is planned.

Yard setback, work within 100' of Copake Lake as well as a variance for a septic system within 150' of the lake are needed.

The DOH approval for the septic was received as well as the easement agreement for the use of the golf course land for the installation of the mentioned septic system. Chris Knox said that clarification on the easement agreement on what constitute 'golf season' for installation of the septic system was given.

~ Thomas Goldsworthy asked about details on the easement agreement, first page last paragraph *"Further reserving to the Grantor the right to relocate the Grantee's septic system, at Grantor's sole cost and expense, to another location on Grantor's property."*

~ Chris Knox responded that the Grantor's attorney recommended that particular detail in the agreement. In order to move the system the DOH would have to re-visit the septic location and issue another approval.

~ Ken Dow noted that the applicant would have to come back before the ZBA if the system was moved.

~ Thomas Goldsworthy noted that full authority is given to the golf course.

~ Ken Dow clarified that authority is given over the owner of the property not the town and the golf course owner still has to abide by the town code.

~ Jeffrey Judd said that the ZBA did not want to move forward without Planning Board approval.

~ Bob Haight from the Planning Board was in the audience precisely for that reason and explained that at the February 1st Planning Board meeting, members were not able to vote on the application even though they had no issue with it because one of the member, Mr. Urban, was unable to vote being the owner of the property involved which left only three members which would not constitute a quorum.

Bob Haight noted that Planning Board had concerns on whether repairs could be done as easement restrict access and installation from June to September.

~ Thomas Goldsworthy indicated that clarification are needed with regard to “*installation and repairs done with as little disruption as possible.*”

~ Frank Peteroy asked about the safety measures that will be in place for piping to septic as it will be going uphill, if any type of alarm in case of a system failure will be set up?

~ Chris Knox indicated safety warning will be in place, they can be set as audio as well as well as digital warnings. The side line set back has been moved following the board’s recommendations.

~ Jeffrey Judd asked if the applicant wanted to go forward with the ZBA vote this evening.

~ Chris Knox said he wanted to go ahead with the vote.

~ Ken Dow noted that there are several variances and they should be treated separately. Also for the record; Mark Miller alternate member will be voting tonight as two members are excused.

~ *Jeffrey Judd made a motion to close the public hearing, Thomas Goldsworthy seconded, all in favor.*

Jeffrey Judd indicated that the ZBA had 62 days before rendering a decision, but he believed that the members will be able to make a decision tonight.

He proceeded to read the 267-b Permitted action by board of appeals.

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:

1; 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: Open for discussion.

2; 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: There are other ways to build a house

3; Whether the requested area variance is substantial;

Answer: Yes

4; Whether the proposed variance will have an adverse effect or impact on the

physical or environmental conditions in the neighborhood or district;

Answer: Open for discussion.

5; 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

Tonight the Zoning Board of Appeals will be voting on;

1) Motion to vote on **232-8** front and side yard variance, proposed foot print and distance from the lake.

Vote: Thomas Goldsworthy; NO Jeffrey Judd; NO
 Frank Peteroy; YES Mark Miller; YES

~ Jeffery Judd justified his vote based upon aesthetic and changes in character of the view shed from the lake, a visual disturbance as well. J. Judd noted that there are other option to improve a residence without making such drastic alterations. The project creates very substantial changes.

~ Thomas Goldsworthy based his negative vote on self-imposed hardship, it is not a modification of an existing building, the proposed setbacks variances are substantial, and square footage increase is substantial taking the lot size in consideration. The applicant should try to comply with code as much as possible especially if the owners are starting fresh with a new construction.

Tie vote, can be re-visited within 62 days.

2) Vote on **232-9 P (1)** Septic System location closer than 150' and development closer than 100' to a body of water are not allowed.

Vote: Thomas Goldsworthy; NO Jeffrey Judd; YES
 Frank Peteroy; YES Mark Miller; YES

Variance for the location of the septic system is approved.

~ Ken Dow suggested that the applicant come back next month with a revised plan.

No Closed Public Hearing and no Internal Business.

On a motion by Thomas Goldsworthy, seconded by Jeffrey Judd and agreed upon by all members, the meeting was adjourned.

Respectfully submitted.
Veronique Fabio.

Next meeting March 22, 2018