

Town of Copake Zoning Board of Appeals

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Meeting Minutes of April 27, 2017

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on April 27, 2017, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

1) Roll call:

The meeting was called to order at 7:00 PM by Jon Strom, ZBA Chairman. Present were; Frank E. Peteroy, Michael Diperi, Mark Miller and Town Attorney Ken Dow.

Thomas Goldsworthy was excused.

Secretary Veronique Fabio was present to record the minutes.

An audience of about 8 people was also present.

2) Reading and approval of the minutes

Jon Strom made a motion to approve the December 15, 2016, January 26, and February 23, 2017 minutes, Michael Diperi seconded, other members agreed except Frank Peteroy whom abstained from approval of the December 2016 minutes.

3) Correspondence:

The correspondence from Marc Gross dated April 26, 2016 was acknowledged by Jon Strom, the ZBA file on this application was closed last year.

4) New Applications:

1) 2017-11 Benudis, 392 Lake View Rd. Tax Map# 176.1-3-1

Upgrade of Septic Tank within 150' set back from Robinson Pond.

Christopher Knox of Crawford & Associates represents the owner.

The applicant needs relief from town code for replacement of a non-conforming septic tank located within 150 of Robinson Pond.

The Taconic Shores owners Association requires the upgrade as part of the terms of sale of the property. Septic tank has to be replaced by June 10th 2017.

Some renovations not impacting the foot print are planned. A site plan review will be presented to the Planning Board.

The new 1250 gallon concrete tank will replace the existing metallic one.

~ Christopher Knox asked if there was a way to speed up the process as the water was shut off in the house.

He was told that a public hearing will be scheduled next month.

~ Jeffery Judd asked if there was another option for the tank's location. The response was negative as the lot is surrounded on two sides by the pond and the TSOA water line goes through the other side.

~ Jon Strom asked for a motion to accept the application for public hearing next month. Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

The application will be forwarded to the Planning Board.

2) 2017-12 Hebbeler, 111 Mountain View Street Copake Falls. 176.2-2-35

New entry stairs within front yard setback.

Bruce Moore of Red House Design represents the owner.

Dave & Carol Hebbeler bought the house in December 2016.

~ Jon Strom read the Planning Board referral letter.

"At the April 6, 2017 Planning Board meeting the Board reviewed the application of Dave and Carol Hebbeler in Copake Falls. They acknowledged that the applicant is before the ZBA for Town Codes: 232-24B(2)(a)[2], Town Code 232-24B(2)(a)[5] and Town Code 232-8B for relocation of the stairs to the Front Yard.

The Board approved the Site Plan subject to ZBA Approval and the addition of the septic, lighting and zoning district to Site Plan."

This is a non-conforming structure in a R2 zone. The plan is to expand the second floor sleeping area over the existing porch that will be enclosed, a new rear deck and a set of side entry stairs. The new stairs will be outside the original footprint and a front yard area variance is necessary.

No additional bedroom will be created. The septic tank size is 1000gallons.

~ Jon Strom asked for a motion to accept the application for public hearing next month. Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

3) 2017-13 Kennedy, Lot 5 Island Dr. Tax map 165.6-1-48

Lot grading within 100' of Copake Lake.

Andrew Didio of Taconic Engineering represents the owners.

~ Jon Strom read the Planning Board referral letter.

“At the April 6, 2017 the application of John and Robin Kennedy on Island Drive at Copake Lake was referred to the Planning Board by the Building Inspector inasmuch as the cost of the project exceeded \$400,000.00 as per Town Code 232-23.

In reviewing this application the Board advised Project Engineer Andrew Diddio that although the Community Septic leech fields are quite a distance away Town Code stipulates that any part of the system must be 100 feet away from a well as the septic on the Site Plan was located only 50 feet from the existing well. A copy of the Association SPEDES Permit was requested so the Board can keep track of the usage of the system.

It was also discovered that there will be grading that will extend into the 100 foot buffer and as per Town Code 239-9 P (1) no development shall be permitted closer than 100' to a stream, creek, wetland or other body of water and will need to go before the ZBA for a variance which is why the Board referred this project to you.”

~ Andrew Didio explained that the project is on the island on Copake Lake. A 4 bedroom residence is planned on lot #5. A variance is needed for grading the lot within 100' of the lake. The location of the future house will meet the 100' setback but grading the area is necessary. The well will be located to meet setbacks. Andrew is in contact with Copake Home owner's association, they indicated that there was ample room on the S.P.D.E.S. (State Pollutant Discharge Elimination System) contract for another 4 bedroom home. Andrew showed drawings of the house as well as the landscaping planned.

Few tree will be remove strategically to preserve maximum privacy. Grading will be done to soften the land towards the lake.

An erosion and sediment control plan is part of the documents presented tonight. The lot is 1.2 acre, the planned lot coverage will be 14.1%, and maximum allowed coverage is 25%.

Relief from 232-9P (1) is needed.

~ Jon Strom asked for a motion to accept the application for public hearing next month. Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

4) 2017-14 Michael Shadic, lake Shore Acres Rd.155.18-35

Cannot meet rear and right side setback for new house construction.

Application is incomplete.

Mr. Shadic will have to present building plans and a survey in order for the ZBA members to consider the application.

5) 2017-15 Kerbin, 2177 Ct Rte 7. Tax map 186.-2-27

Addition on a non-conforming lot within 100' of Upper Rhoda Pond.

~ Christie Billeci of CWB Architect represents the owners. She indicated that the existing house was located within 100' of Upper Rhoda Pond. The work planned is as follow; a new screen porch, an 8'.5"x 12'.2" east side addition and a 15'x 16' west side addition. The east side room already exists it will be rebuilt a little larger. The new screen porch will also be larger than the existing one and will be only 2' closer to the water than what it is now. The bedroom count will remain the same (2).

Christie has a demolition permit for the garage that will not be replaced. The Property is not within DEC wetland according to the maps provided.

The variances needed as per Building Department are relief from 232-24 B (2), (a), {5} modification of a nonconforming structure and work within 100' of a water body.

~ Jon Strom asked for a motion to accept the application for public hearing next month. Michael Diperi made the motion, Jeffrey Judd seconded, all agreed.

The application will be referred to the Planning Board.

6) 2017-16 Bernstein, 357 Lakeview Rd. Tax map 165

Improvements (screen porch, 2covered porches, & bath addition) within 100' of Copake Lake.

~ Linda Chernewsky represents the owners. This is a non-conforming structure within 100' of a water body. The proposed work consists of a front covered porch, a shed roof over the garage door, some retaining walls towards the south side of the house, a screen porch on the left side and a bathroom addition.

Relief from 232-9P (1), 232-24B (2) (a) {2} and {5} is needed.

~ Jon Strom asked for a motion to accept the application for public hearing next month. Michael Diperi made the motion, mark Miller seconded, all agreed.

The application will be referred to the Planning Board.

5) Public Hearing:

1) 2017-08 Frances Cicogna, 38 Blue Bird Rd. Tax Map# 165.6-1-20

Area variance requested for 12'x 20' shed located less than 10' from the property line.

~ Jon Strom asked for a motion to open the public hearing, Mikael Diperi made the motion, Jeffrey Judd seconded, all agreed.

~ Jon Strom read the referral letter from the Planning Board.

“At the March 2, 2017 Planning Board meeting the Board reviewed the referral of Frances Cicogna and Gregory Caron on Blue Bird Road at Copake Lake.

The Board had no issue with this application however Ms. Becker recommended that the ZBA review section 232-9T of the Town Code as this section refers solely to sheds.”

~ Jon also read an email from Paul and Gail Marano in support of the application.

The shed will be installed on crushed stones, 3' from the right side property line.

Relief from 232-9 T (1) and a right side yard variance of 27 feet in needed.

~ Jon Strom asked for a motion to close the public hearing, Jeffrey Judd made the motion, Mickael Diperi seconded, all in favor.

~ Jon Strom 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: NO

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: NO

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: NO

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 Relief from 232-9 T (1) and a right side yard variance of 27 feet.

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: Abstained,

Jon Strom: YES, Michael Diperi: YES, Mark Miller: YES.

Variance is granted.

2) 2017-07 Raymond Sassoon, 645 Breezy Hill Rd. Tax Map 157.-1-95

Relief from 232-8 (4) for a garage located in front of property.

~ Jon Strom asked for a motion to open the public hearing, Mikael Diperi made the motion, Jeffrey Judd seconded, all agreed.

~ Bill Stratton presented an updated survey of the property showing the location of the garage.

~ Jon Strom explained the reason why the original permit was issued by mistake.

He also read the Planning Board referral letter.

“At the April 6, 2017 Planning Board meeting the members reviewed the ZBA Referral of Raymond Sassoon. The Board had no issue with this application however, Mr. Haight did make note of the fact that due to the topography of the applicant’s property there was no other place the garage could be located and Ms. Becker recommended that relief would be needed for Town Code 232-8D.”

~ Frank Peteroy noted that the garage however located in the front yard was 361’ from the front property line.

Relief from 232-8D (4) is needed. There was no question from anyone.

~ Jon Strom asked for a motion to close the public hearing, Jeffrey Judd made the motion, Mickael Diperi seconded, all in favor.

~ Jon Strom 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.

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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: NO

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: NO

3; Whether the requested area variance is substantial;

Answer: NO

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

Answer: NO

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 Relief from 232-8D (4).

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: NO, Michael Diperi: YES, Mark Miller: YES.

Variance is granted.

3) 2017-09 Nathan Sawyer, 1084 Lakeview Rd. Tax map #176.1-3-16 and 176.1-3-17

Area variance for 12 x 24 garage located in front yard

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~ Jon Strom asked for a motion to open the public hearing, Mikael Diperi made the motion, Mark Miller seconded, all agreed.

~ Jon Strom read the Planning Board referral letter.

“At the April 6, 2017 Planning Board meeting the members reviewed the application of Nathan Sawyer and Taryn Zarillo on Lakeview Road in Taconic Shores.

*The Board acknowledged that a variance is needed for Town Code 232-24B(2)(a)[2] however they questioned whether relief is also needed from Town Code 232-8D4: *Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure.**

They approved this application subject to ZBA approval of the required variances.”

~ Mrs. Taryn Zarrillo is replacing a 12' X 16' shed by a 12' X 24' garage located in the front yard. It is a pre-made garage that will be dropped on a concrete slab. The maximum height will be 10'7". The garage will be 24' from the left side property line and 100' from Robinson Pond.

The ZBA members determined that relief from 232-8 D (4) was necessary as well as relief from 232-24B(2)(a)[2].

There was no question from anyone.

~ *Jon Strom asked for a motion to close the public hearing, Mark Miller made the motion, Mickael Diperi seconded, all in favor.*

~ *Jon Strom 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.

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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: NO

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: NO

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: NO

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 Relief from 232-24B (2) (a) [2] and 232-8D (4).

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Mark Miller: YES.

Variance is granted.

4) 2017-10 Camphill Village, 84 Camphill Rd. Tax Map # 175.1-48

Area variance for addition to an existing building within 100 feet of a water body.

Pat Prendergast is the engineer for the project, he indicated that Camphill Village is looking for a variance to expand an already existing building located within 100' of a stream. A 2500 square foot extension building was approved last year by the Planning Board, however it would have been too expensive to have that built. Camphill has a budget of \$1.35 million. The scale of the project has been reduced to a small addition to the existing kitchen and dining area. The addition will be 40' from the stream, no permit from Army Corp is necessary.

There was no question from anyone.

~ Jon Strom asked for a motion to close the public hearing, Mark Miller made the motion, Mickael Diperi seconded, all in favor.

~ Jon Strom 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: NO

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: NO

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: NO

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 Relief from 232-9 P (1) no development shall be permitted within 100' of a water body, a 60' setback variance is needed.

Roll call vote: Frank Peteroy: YES, Jeffrey Judd: YES,

Jon Strom: YES, Michael Diperi: YES, Mark Miller: YES.

Variance is granted.

4. Closed Public Hearing:

None

Internal Business:

~ Jon Strom handed out a certificate of training. He has completed his 4 mandatory hours for the year. He gave some program software that can be used by any interested member.

Jon also commented on the new solar energy law documents. He submitted about 20 corrections to the solar law. He wants to forward his edits to Stanley Gansowski for submission to the town board.

~ Ken Dow noted that amendments shall be referred to the Planning Board.

Nothing in the code allows the input of the ZBA.

Ken also mentioned the Ben Meir issue, it is in court at the moment, and the judges are working it out.

~ Jeffery Judd indicated that his law firm does business with Mr. Freeman, attorney for Ben Meir, however there is no conflict of interests perceived.

On a motion by Michael Diperi, seconded by Jon Strom and agreed upon by all members, the meeting was adjourned at 9:05pm

Respectfully submitted.
Veronique Fabio.