



COPAKE PLANNING BOARD

AUGUST 1, 2019

MINUTES

DRAFT

Please note that all referenced attachments, comprising 84 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 Bob Haight, Chair. Also present were Chris Grant, Marcia Becker, Ed Sawchuk, Steve Savarese and Jon Urban. Julie Cohen was excused. Town Board Liaison Richard Wolf, Town Supervisor Jeff Nayer, and Attorney Ken Dow were also present. Lisa DeConti was present to record the Minutes.

ZONING BOARD OF APPEALS – Referrals

NONE

PUBLIC HEARING

2017-38 SITE PLAN REVIEW – GRJH INC. – State Route 23 [Crarryville] ***(Open since November 2, 2017)***

- Letter from Michael Zarin/Zachary Mintz to Copake Town Clerk dated June 25, 2019
- E-mail from Robert Braun dated May 28, 2019
- Letter from Michael Zarin/Daniel M. Richmon/Timothy Rhode to Bob Haight dated July 19, 2019
- E-mail & Letter from Leigh McBride dated July 23, 2019
- E-mail from Mack McCormack dated July 23, 2019
- E-mail from Bob Braun dated May 28, 2019
- Paul Rubin Resume

Before re-opening the Public Hearing Mr. Haight addressed the six (6) points Jamie Carano had issue with at the previous meeting.

Ms. Carano's First Point: The Revised Site Plan does not conform to the Town Zoning Code. Mr. Haight pointed out that Ms. Carano did not state how she feels the Site Plan does not conform to the Code. From Mr. Haight's point of view the Site Plan conforms to the Code.

Ms. Carano's Second Point: The Phase I Site Assessment focused on potential sub-surface site contamination. Mr. Haight made note of the fact that Ms. Carano believed that the Phase I has not been satisfied as yet. Mr. Haight explained that during the ZBA process one of GRJH's employees alluded to the fact that a fuel tank had been removed and given to Catamount. Mr. Haight did extensive research for this. He went back to the previous owners of Catamount as well as their fathers and was told that there are no underground tanks at Catamount at all and no tanks were ever given to them. Mr. Haight also said that he found no acknowledgement that there ever was a gas station on that site. Mr. Haight also brought up the fact that the applicant had ground radar testing and nothing was found to be in the ground. It is Mr. Haight's opinion that the Phase I has been satisfied. He also noted that the Phase I is actually to protect the prospective buyer of the property.

Ms. Carano's Third Point: Town Engineer. Mr. Haight brought up the fact that Ms Carano had issue that details regarding the Town Engineer were discussed by the Board after the Public Hearing was closed for the evening and the Save Craryville group was not present to hear this. Mr. Haight made note of the fact that the Planning Board meetings do not end when a Public Hearing ends. He noted that the Board still has business to discuss and the hiring of an engineer happened to be under the category of Administrative as well as the contract between an engineer and the Town.

Ms. Carano's Fourth Point: Revised Storm Water Pollution Prevention Plan (SWPPP). Mr. Haight addressed the fact that Ms. Carano had issue with the Save Craryville Environmental Engineer Bart Clark's issues of septic placement and the presence of a stream and wetlands on the site not being addressed. Mr. Haight pointed out that Mr. Clark had not been given all the information which is stated in the report Mr. Clark made. Mr. Haight also made note of the fact that there are no streams or wetlands on the property.

Ms. Carano's Fifth Point: Ground Water Impact Analysis. Mr. Haight acknowledged that Ms. Carano had issue with the fact that an Engineer has not yet been contracted to conduct a Ground Water Impact Analysis. He acknowledged that since that meeting an engineer has been hired and has submitted his report.

Ms. Carano's Sixth Point: Visual Impact Report. Mr. Haight brought up the fact that Ms. Carano made claims that the Planning Board has given no consideration regarding the visual impact of the site, potential improvements, the lighting, architectural landscaping. He made note of the fact that the lighting has been discussed at several meetings, has been discussed with the owner and has been reviewed by the Town Engineer. As far as the visual impact of the building Mr. Haight addressed the fact that a Morton style metal building was proposed on the first Site Plan and after undergoing several changes HardiPlank siding has been added, a front porch and dormers have been added and on the suggestion of Save Craryville's first lawyer a Gable peak-style roof has been added. Mr. Haight also made note of the fact that the Drive-Thru was removed. He pointed out that all these changes have been reported at the Planning Board meetings.

Mr. Haight made note of the fact that most of the concerns stated in the July 19, 2019 Zarin & Steinmetz letter have been addressed along with Ms. Carano's concerns with the exception of an Appeal to the Code Enforcement Officers Opinion of the Special Use Permit.

Mr. Haight asked whether any Board members had any issue with the comments he just made. Mr. Grant asked if the Board had a copy of the Phase I report. Mr. Haight advised him that there is a copy of the Phase I as well as pictures and a ground penetrating radar report. Mr. Grant asked if the conclusion of the Phase I Environmental Study was that no further action was needed. Ms. Metz explained that the whole issues surrounded the question of whether there were underground tanks on the property. She added that inasmuch as there was no historical data as to the use of the property they brought the Sandborn Maps and other aerial photos to demonstrate that. She also noted that when the issue of underground tanks came about they had a ground penetrating radar for a complete analysis of the property and it was determined that there were no underground tanks on the property. Mr. Haight added that there was a grocery store on the property and before that a small Chevy dealership but there was no gas station.

Mr. Haight once again opened the Public Hearing to the people and reminded them that there is a two (2) minute time limit to speak. He asked who would like to speak on this issue first.

Save Craryville Attorney DANIEL RICHMOND... Mr. Richmond asked for additional time beyond the two-minute ruling. It was Mr. Richmond's opinion that a more complete Phase I is needed and he reiterated the fact that there is a belief that there was once a gas station on that site. Mr. Richmond disagreed with Mr. Haight's statement that the Phase I is to protect the buyer of a property and feels you have to identify contamination before you start disturbing land. Mr. Richmond suggested running this by the Town Engineer. It was Mr. Richmond's belief a Phase II should be done. Aside from the Phase I Mr. Richmond also felt the Save Craryville's Oakwood Environmental Associates letter should be presented to the Town Engineer regarding what appears to be a flooded area to the West of the property. Mr. Richmond feels the location of the septic system near this apparent flooded area is inappropriate and not healthy. Mr. Richmond also feels the SWPPP should be reviewed as well. He also noted that there are lingering concerns about the water quality and the aquifer. Mr. Richmond submitted Paul Rubin's Resume for the Board's review and suggested the Board hire an independent planner to address the visual impact of the building. Mr. Richmond also was not in agreement with the determination of BI/CEO Hime regarding the Special Use Permit.

Hillsdale Resident BARBARA SMITH... Ms. Smith once again reiterated her previous concerns regarding the fact that she feels the Traffic Study was seriously flawed. She felt there are several problematic issues in the Traffic Study that should be addressed.

Former Copake Resident residing in Indiana SUSAN DEVOS ... Ms. Devos objected to the Board's determination that there was no gas station on the proposed site.

Hillsdale Resident RICHARD McCORMAC... Mr. McCormac referred to two studies apparently done by the Town of Copake one of which refers to the area beneath the proposed site as having an unconsolidated aquifer with hydrogeologic sensitivity and feels that a gas station above this area poses a potential threat to the aquifer.

Copake Resident MADGE KALFUS... Ms. Kalfus also has concerns about the amount of traffic from the school buses when children leave school and feels the traffic study should have been done during that time of day.

Copake Resident BOB LEVIT... Mr. Levit questioned who will operate the Knife Gate Valve and what happens to the water when this gate is closed.

Hillsdale Resident LESLIE LASSITER... Ms. Lassiter also had concerns regarding the Knife Gate Valve and what would happen if a spill occurred during the night. Mr. Haight explained that this is only another feature to address a potential spill and there are other alarms and such that will address a spill.

Hillsdale Resident AMY DAVIDSON... Ms. Davidson questioned whether the projected increase in water and rainfall that might occur with climate change has been considered. Mr. Haight explained that this is done to DEC specifications.

Hillsdale Resident STEVE SMITH... Mr. Smith wanted assurance from the Board that they are perfectly satisfied with the public safety issue as handled by the DOT in making the final decision that no traffic control is warranted at that intersection.

Mr. Haight closed the Public Hearing for the evening and noted that it will remain open.

SUBDIVISIONS/SITE PLANS

2019-5 ZBA REFERRAL/SPR – KEVIN & GLORIA ANDERSON – Washington Road [Taconic Shores]

- Building Permit Denial dated January 9, 2019
- Application for Site Plan Review dated January 12, 2019
- ZBA Request for Area Variance Dated January 13, 2019
- ZBA Action Taken Form Dated March 2, 2019
- Department of Health Letter dated May 29, 2019
- Survey
- Floor Plan and Elevations

Linda Chernewsky was present to represent the applicant. Ms. Chernewsky submitted the approval from the Department of Health (DOH) and advised the Board that ZBA approval was also received for the alteration of a non-conforming structure as well as front, rear and right yard setbacks.

Mr. Haight asked if there were any changes to the plans since the Board first reviewed them. Ms. Chernewsky clarified that the only changes were that she changed the figures from a decimal system to fractions as she felt these would be easier to read. Ms. Chernewsky did advised the Board that the DOH only approved the septic for three (3) bedrooms as the site could not accommodate more bedrooms.

Ms. Becker asked whether Ms. Chernewsky will make the changes on the paperwork. Ms. Chernewsky will amend the plans however she noted that the building permit will reflect this. Ms. Chernewsky also noted that the house will be built on the existing footprint and the updated septic system will be placed in the location of the previous one. Ms. Becker asked why the proposed structure is referred to as a one-and-a-half (1½) story and Ms. Chernewsky explained that this was due to the slope of the roof. Ms. Becker also asked whether there is community water and a private septic. Ms. Chernewsky acknowledged that this is correct.

Ms. Becker asked if DEC approval was given. Ms. Chernewsky explained that DEC approval is not required and that there is an artesian well that runs underneath the applicant's property with a pipe to the road however she was advised that this is not of concern. Ms. Becker questioned the fact that ZBA approval was given 'contingent to Planning Board, DEC and DOH approval.' Ms. Becker asked if Ms. Chernewsky can get clarification from the ZBA regarding this.

Mr. Haight felt that the Board should hold off on their approval until the matter of DEC approval is clarified. Ms. Chernewsky will address this.

2019-8 SITE PLAN REVIEW – COPAKE CAMPING RESORT – County Route 7A [Copake]

- Letter from Richard Andreassen requesting Site Plan Review dated July 19, 2019
- Letter of Agency dated May 9, 2019
- E-mail from Michael DeRuzzio dated July 17, 2019
- Letter from Dean Knox to Raymond Jurkowski dated May 21, 2019
- ZBA Memorandum of Decision dated June 27, 2019
- ZBA Action Taken Form denying Year Round operation dated June 27, 2019
- ZBA Action Taken Form approving the addition of 29 sites dated June 27, 2019
- Letter from Dean Knox of the CCDPW dated May 21, 2019
- E-mail from Stephen Sanborn dated April 29, 2019
- E-mail from Stephen Sanborn dated June 23, 2019
- **Check submissions**

Civil Engineer Richard Andreassen and Attorney Dan Huffenus appeared before the Board to represent the applicant.

Mr. Andreassen advised the Board that since his last appearance ZBA approval was received for the addition of 29 campsites however approval was denied for the Special Use Permit for year-round use. He noted that his appearance before them today was for Site Plan Review for the addition of the 29 campsites.

Mr. Andreassen noted that acknowledgment was received from the Columbia County Department of Public Works that they see no issue with this and plans were submitted to the

DOH for water and waste water review. He added that they have satisfied the DOH's comments and plans are currently under review by NYS DEC. He also noted that they are in the process of replacing several waste water systems on sites that were found to be inadequate and these are also under review by the DEC.

Mr. Haight asked if Mr. Andreassen had plans to return to the ZBA for a Special Use Permit to operate for ten or eleven (10-11) months and was advised by him that this is under consideration but no decisions have been made at this time.

Ms. Becker asked if there are plans to address the recommendations made by the Columbia Department of Public Works are being addressed. Mr. Andreassen assured that they are.

The Site Plan was reviewed. Ms. Becker asked whether the water use is being monitored as previously discussed. Mr. Andreassen acknowledged that this is continuing. Mr. Haight asked whether there were any recommendations or approvals from the DEC. Mr. Andreassen explained that this is still under review by the DEC. He did note that they do have approval to replace the septic systems that were compromised and some of the proposed areas that are being incorporated into the sites are also under DEC review.

Ms. Becker asked if any building permits have been issued as yet and was advised by Mr. Andreassen that none can be issued until ZBA and Site Plan approvals are received. Mr. Haight asked whether there is a SPDES permit and Mr. Andreassen acknowledged that this was received last year however he did note that this will be modified once the new sites have been incorporated. Mr. Andreassen will provide a copy for the Boards records and amendments as necessary.

Mr. Haight noted that inasmuch as this is located on a county road it will need to be sent to the Columbia County Planning Board (CCPB) for review once DEC approval and the Septic plans are received. Ms. Becker asked whether a Public Hearing is needed. Mr. Haight pointed out that Public Hearings have been held by the ZBA. Mr. Haight also advised the applicant to forward any approvals once received so that a packet can be forwarded to the CCPB.

2019-12 SITE PLAN REVIEW – CAMP PONTIAC – County Route 7 [Copake]

- Columbia County Planning Board approval dated June 20, 2019

Evan Young from Crawford and Associates appeared before the Board representing the applicant. Mr. Young reminded the Board that Camp Pontiac wishes to construct a twenty-four foot by twenty-four foot (24' x 24') open pole barn pavilion and Site Plan Review was needed inasmuch as it is a commercial use. Mr. Young brought up the fact that at the last meeting all that was needed was review by the Columbia County Planning Board (CCPB) which was received and submitted. Ms. Becker noted that the CCPB found that this proposed action has no significant county-wide or intercommunity impacts associated with it. Ms. Becker pointed out that the Check List was reviewed at the last Planning Board meeting and Mr. Haight asked if anyone had any comments regarding this application. There were none.

On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for Camp Pontiac dated May 27, 2019.

Mr. Haight will stamp the plans on Saturday.

**2019-15 BOUNDARY LINE ADJUSTMENT – JOHN CARUSO – State Route 23
[Copake Lake]**

- Application for Boundary Line Adjustment dated may 30, 2019
- Part I of the Short Environmental Assessment Form (SEQRA)
- EAF Mapper Summary Report dated June 11, 2019
- Letter of Agency dated May 30, 2019
- Bargain and Sale Deed between Mark Fuller and John Caruso
- Bargain and Sale Deed between Robert Farley & Carolann Farley and Robert J. Farley, Jr. & Jacqueline Farley

Dustin James and Dan Russell appeared representing the applicants. Mr. James explained that Mr. Farley would like to merge a twenty-five foot piece of Mr. Caruso's lake-frontage property with his. After looking at the survey it was noted that the parcels are not contiguous. Mr. James pointed out that there are some parcels in the area where non-contiguous parcels have been merged. Mr. Haight explained that this might have been done prior to zoning.

Mr. Haight also explained that by subdividing a twenty-five foot parcel from an already non-conforming parcel will make the remaining parcel more non-conforming. Mr. Russell questioned whether the adjustment can be made if a variance is received from the ZBA. Mr. Grant suggested accomplishing this through an easement.

A discussion ensued regarding whether this would be allowed under the new Zoning Code. Mr. Russell noted that he did not see anything that would prevent this in the code. Mr. Haight once again acknowledged the fact that the Board is restricted from creating or adding to a non-conforming parcel. Attorney Dow did note that with non-contiguous parcels easements can be questionable as well. Mr. Grant also brought up the fact that to merge a parcel they would have to have the same Tax ID Number and he didn't see how this could be accomplished on a non-contiguous parcel. Mr. Russell noted that in a similar situation pedestrian access is being given. Mr. Russell will speak to the applicant regarding other options as he was not aware of the fact that this could not be accomplished through a Boundary Line Adjustment. The Board will look into whether this can or cannot be accomplished.

**2019-17 SITE PLAN REVIEW – CATAMOUNT SKI AREA – State Route 23
[Copake]**

- Building Permit Denial dated July 1, 2019
- Application for Site Plan Review dated July 18, 2019
- List of Abutters
- Elevations, Floor Plan and Pictures

Pat Prendergast appeared representing Catamount Ski Area. Mr. Prendergast acknowledged that the applicant would like to construct a sixteen by twenty-four foot (16' x 24') Utility Shed between reservoirs two and three to house a couple of electric pump. Mr. Prendergast noted that he is before the Planning Board inasmuch as Site Plan Review is required for a commercial entity.

Ms. Becker questioned whether a full Site Plan is required for this application. Mr. Haight questioned whether the Check List needs to be reviewed inasmuch as the applicant is requesting a utility shed. Attorney Dow referred to the Less Intensive Review and Waiver Requirements for Site Plans in the Town Code which states:

The Planning Board may find that some requirements of this subdivision are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application or are inappropriate to a particular site plan. In such cases, the Planning Board may waive any submission requirements for the approval of site plans provided such a waiver does not prevent or circumvent the purposes and intent of any Town of Copake law or regulation or the Comprehensive Plan

Attorney Dow did also note that the Planning Board can waive anything deemed unnecessary in the Check List. The Check List was reviewed. It was noted that no State or County Permits were needed. It was noted that this is a Type II Action, is exempt from SEQRA and is located within the Mixed Use (MU) district which Mr. Prendergast added to the Site Plan.

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously that the application submitted for Site Plan is sufficient for review and non-relevant items can be waived.**
- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Site Plan for Catamount Ski Resort from a Site Plan dated July 18, 2019 for the new Utility Shed and Pump House.**

Mr. Haight will stamp the plans on Saturday.

**2019-19 BOUNDARY LINE ADJUSTMENT – ANNA HELEN BOHLING STICKLER –
County Route 7 [Copake]**

- Application for Boundary Line Adjustment dated July 22, 2019
- Letter of Agency dated June 27, 2019
- List of Adjoining Owners
- Tax Map of Parcel
- Agricultural Data Statement
- Part I of the Short Environmental Assessment Form (SEQRA)
- EAF Mapper Summary Report dated July 23, 2019
- Deed between Meta G. Bohling and Anna Helen Bohling
- Deed between Elizabeth Eisen and Michael L. Weitzman & Joanne Petrosky
- Schedule A – Legal Description
- Survey Map

Dan Russell appeared representing the applicant. Mr. Russell explained that Ms. Stickler's land completely borders and surrounds Mr. Weitzman and Joann Petrosky's land and they would like to purchase five point two-one-four (5.214) acres from Ms. Stickler to form a parcel that is six point one-nine-nine (6.199) acres.

Ms. Becker acknowledged the Agricultural Data Statement. However, Mr. Russell did note that none of the surrounding farms receive an Agricultural Exemption.

The Minor Subdivision Check List was reviewed and a Public Hearing will be set for next month's meeting.

- **On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to set a Public Hearing for next month's meeting.**

Mr. Russell will return for the September meeting.

2017-38 SITE PLAN REVIEW – GRJH INC. – State Route 23 [Craryville]

- Letter from Jean Patota dated July 23, 2019
- E-mail from Bobbi Trudel to Lance Gorney dated May 1, 2019
- E-mail from Lance Gorney to Bobbi Trudel dated May 1, 2019
- Department of Transportation (DOT) Letter to Steven Smith P.E. dated June 18, 2019
- Letter from Attorney Dow to Lee Heim, Building Inspector (BI)/Code Enforcement Officer (CEO) dated June 12, 2019

- Letter from Bob Haight to Lee Heim, BI/CEO dated June 12, 2019
- Letter from Lee Heim, BI/CEO to Planning Board dated July 1, 2019
- Letter from Mark Nadolny/Creighton Manning to Lance Gorney dated June 27, 2019
- Columbia County Planning Board approval dated July 18, 2019
- Letter from Daniel Biggs, RLA to Bob Haight dated July 17, 2019
- Letter from Lance Gorney P.E. to Steven Smith dated July 2, 2019

Alicia Metz appeared representing GRJH. Ms. Metz made note of the fact that the last time they were before the Board final DOT approval on the SWPPP and the Traffic Study had not been submitted as yet. Ms. Metz acknowledged that since that meeting subsequent information on the Traffic Study requested by DOT had been submitted to them and they signed off on it. She also noted that a report from Engineer Daniel Biggs of Weston and Sampson was submitted and the Columbia County Planning Board found that this proposed action has no significant county-wide or intercommunity impacts associated with it and the letter clarifying the status of the Special Use Permit was received from the Code Enforcement Officer.

Ms. Becker brought up the fact that she had been struggling with the General Commercial Design Standards and whether the Building proposed by the applicant complies with these standards. Ms. Becker made note of the fact that in the beginning she had doubts that the building complied as she was just considering the footprint. After carefully reviewing the code Ms. Becker pointed out that what needs to be considered is the building scale. Ms. Becker referred to Town Code 232-21J(18)(c) which reads: *Building Scale. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from the all exposed (public) vantage point*

Ms. Becker made note of the fact that when taking into consideration the scale of the building the proposed Convenience Store is compatible with the Town Code. Ms. Becker quoted the square feet of the surrounding buildings as follows:

- Phil Gellert's Apartment House - three-thousand one-hundred and twenty-four (3124)
- Bert's Inn - four-thousand four-hundred and fifty-eight (4,458)
- Former Post Office - one-thousand three-hundred and thirty-three (1,333)
- Craryville Firehouse - twenty-six-thousand six-hundred and forty (26,640)
- Random Harvest - two-thousand eight-hundred and eighty (2,880)
- Proposed Convenience Store - three-thousand two-hundred and forty (3,240)

In conclusion Ms. Becker pointed out that although she would like to see a smaller building the proposed structure is compatible with the surrounding buildings.

Mr. Haight addressed the fact that a determination was made by Lee Heim, BI/CEO regarding the expiration of the Special Use Permit and he has determined that the applicant has "*substantially proceeded with the use*" through their continued efforts to get the Site Plan approved and as thus the Special Permit **HAS NOT** expired.

Mr. Haight also made note of the fact that a package was sent to Town Engineers, Weston and Sampson and a response has been received from Associate Regional Manager Daniel Biggs. Mr. Haight addressed the fact that the installation of a knife gate valve on the storm line prior to discharging the site was suggested by them to provide another safeguard for containing a potential fuel spill on-site. Mr. Haight continued to explain that as stated by Mr. Biggs, in the event of a spill, the T-handle on the valve could be depressed, closing the valve and stopping the stormwater flows off-site which would give time to mitigate the spill before it impacts any other property. Mr. Haight acknowledged that he is in favor of this being included. The Board was in agreement with this.

Ms. Metz was not aware if this had been addressed by her engineer but did acknowledge that Mr. Smith and Mr. Biggs had spoken. Ms. Metz did not have issue with including this safeguard. Mr. Haight did make note of the fact that Columbia County has hazmat units and the Craryville, Copake and Hillsdale Fire Departments are all trained to address these situations.

Mr. Grant asked for clarification of the status of the stormwater situation and the installation of the pipe requested by the DOT. Mr. Haight explained that the DOT wanted to slow down or stop some of the stormwater from entering their system and in place of the pipe suggested the applicant install a Detention Pond to slow down the fresh water from coming onto the site and thus into their system. Mr. Haight also brought up the fact that there were discussions from Hydrogeologist Paul Rubin regarding wetlands and a stream on the property and that is not exactly the case. He pointed out that what really exists is a ditch that leads to one of the DOT's storm drains. Mr. Haight made note of the fact that the reason some of the areas in question were wet was that the DOT had not cleaned their storm drains and once the applicant had the drains cleaned these issues were mitigated. Mr. Haight also acknowledged that in previous plans a catch basin was shown however that has now been changed to a detention pond and the DOT has approved this change.

Mr. Haight addressed the fact that at the previous meeting the DOT had approved the Traffic Study however since the Board's last meeting they decided they wanted to take another look at the Study and then questioned whether a left-turn lane was needed. Mr. Haight explained that conversations were held between GRJH's Engineers and the DOT and the calculations were reviewed. He clarified that after the calculations were reviewed the DOT decided that a left hand turn land was not needed. Mr. Haight also made note of the fact that the calculations that were reviewed are not set by the State but are set by the Federal Government. Mr. Haight did acknowledge that another approval was received by the DOT regarding the Traffic Study.

Mr. Haight also brought up the fact that Mr. Biggs reviewed the Lighting Plan and the outdoor lighting is acceptable. Mr. Haight also noted that Mr. Biggs addressed the issue of contamination of the aquifer. Ms. Becker read the following into the record:

Weston & Sampson (W&S) staff have reviewed the correspondence and supporting documentation from Paul Rubin of HydroQuest and Jean Patota, PG. Based on the information provided and understanding of the project site/context, W&S believes the development of the GRJH Craryville Gas Station will have minimal potential impacts to the surrounding environment including the local groundwater and nearby wetlands.

Petroleum fueling facilities are heavily regulated and the proposed gas station facility is required to be installed in accordance with Federal (Part 40 CFR) and New York State Petroleum Bulk Storage (PBS)) regulations, as well as local fire codes. The regulations in place ensure the proper transportation, storage, and management of petroleum products so that leaks, spills and catastrophic releases do not occur. With the installation of new petroleum equipment that meets current standards, the risk of a release to the subsurface and groundwater is minimal. Although incidental spills can occur during dispensing and tank filling, the engineering plans include precautions, such as dispenser breakaways, the oil baffle within the hydrodynamic separator catch basin and a grooved drive mat (retaining mechanism), that will alleviate petroleum products from potential surficial spills or onsite runoff to be discharged to the subsurface or offsite. As required by New York State navigation laws, surface spills from vehicles and other accidents will be required to be readily addressed and controlled by emergency response and cleanup. In addition, petroleum odors and nuisance odors should be addressed by the engineering plans with the installation of proper equipment such as a vapor recovery system.

Upon our review, it is important to note that when considering the local geology and identifying potential sensitive receptors such as wetlands and aquifers, all publicly available mapping and data for the site and surrounding areas should be reviewed in conjunction with each other and used appropriately (i.e. consider scale of figures). As a result, this provides an overall picture so that information is not misconstrued or falsely presented. Based upon our review, when the available data, figures and maps are reviewed together and interpreted correctly, it is evident that the project site is underlain by glacial till and dense silty sand, not sand and gravel as claimed by Mr. Rubin. Glacial till and dense silty sand is less permeable and would tend to retard the movement of subsurface petroleum contamination as compared to sand or gravel. As pointed out by Ms. Patota, PG, petroleum properties and behaviors are thoroughly understood and there are well established methods of investigation and remediation that would need to be implemented if a spill were to occur.

As a result, we conclude that the proposed GRJH Craryville Gas Station has provided the proper precautions to minimize potential impacts to the surrounding environmental resources, and does not present a concern to local groundwater and nearby wetlands

Mr. Sawchuk had issue with the correspondence between Mr. Haight, Attorney Dow and BI/CEO Lee Heim. Mr. Sawchuk questioned when the clock starts running in regard to the Article 78. Mr. Sawchuk addressed a sentence in Attorney Dow's e-mail of June 12, 2019 which reads: "Under law, a qualified person may appeal your determination to the Zoning Board if they want to challenge it." Mr. Sawchuk questioned who a qualified person would be. Attorney Dow explained that what the Statute says is 'to appeal a determination of an enforcement officer the term is an "aggrieved" person.' He also noted that officials and Boards of a Town can also appeal. Attorney Dow added that he cannot expand on who an 'aggrieved' person is as that is a complicated question. Mr. Sawchuk continued to address the fact that he feels the public has a right to know when their statutory rights start and when they can commence an action.

Mr. Sawchuk was uncomfortable with Attorney Dow's e-mail because there were three (3) grounds provided in which BI/CEO Heim could make his determination regarding the Special Use Permit. He felt this was inappropriate and BI/CEO Heim should have made his determination on his own analysis.

Mr. Sawchuk also had issue with the sentence in Mr. Haight's letter which read: "*Town Attorney Ken Dow has advised us that inasmuch as the Special Use Permit has been approved by the ZBA it is now under your purview.*" Mr. Sawchuk questioned whether we are beyond or within the point of review if a challenge was made to the scope of what was approved by the ZBA. Mr. Sawchuk had concerns regarding the legal expense of the public should they wish to move and the point was not right for adjudication. Mr. Haight did not feel it is up to the Board to protect the public in their legal concerns. Attorney Dow stated that he cannot advise them on what they should do to sue or not sue the Town and what the time frame is as he is not their attorney. Attorney Dow pointed out that the Code Enforcement Officer has made a determination but he cannot advise them on who is aggrieved and what the time frame is regarding this. He noted that he is the Attorney for the Town and cannot advise private parties on how to pursue actions against the Town. Mr. Sawchuk felt it was the responsible thing to do to save someone the legal expense only to find out the time period has expired. Attorney Dow once again explained that he cannot give legal advice to private parties especially in regard with what could be an adversarial situation with the Planning Board as he is not the Lawyer at-large he is the Lawyer for the Town.

Mr. Sawchuk then addressed a sentence in BI/CEO Heim's letter which reads: "*I determine that the applicant has 'substantially proceeded with the use' through their continued efforts to get the Site Plan approved. The Special Permit has not expired.*" Mr. Sawchuk felt this was unsubstantiated from the record and questioned where the finding affect is. Attorney Dow advised him that this is not the Planning Board's issue. Mr. Sawchuk felt that the public has not been adequately provided with a yes or no. Mr. Haight and Attorney Dow both advised him that an answer has been adequately provided. Mr. Haight acknowledged that the Save Craryville Group brought up the question as to whether the Special Use Permit had expired. He continued to explain that on advice of Town Attorney Dow the Board asked BI/CEO Heim whether the Special Use Permit has expired and that was why the June 12, 2019 letter was sent to him. Mr. Haight pointed out that as far as the Planning Board is concerned the Special Use Permit has not expired so the Board continues to move forward. Mr. Sawchuk felt the point has not adequately been addressed. Attorney Dow advised him that the remedy to this is an appeal to the ZBA which is perfectly permissible if it is by a person who is qualified.

Mr. Grant asked for clarification that the plans the Board has are the latest plans and incorporates the Detention Pond. Mr. Grant also addressed the fact that a letter from the DOT saying that the Detention Pond is acceptable in lieu of increasing the culvert under the road from twenty-four to thirty inches (24"-30") is forthcoming inasmuch as this has only been implied. Ms. Metz clarified that this was not implied but clearly stated by the DOT that the Detention Pond is acceptable however a letter to the effect will be provided. Mr. Grant also asked that the Knife Gate Valve be clearly specified on the plans. Ms. Metz was not sure how this could be specified on the plans but suggested it be accounted for in a note.

MINUTES

The Minutes of June 6th meeting were approved by the Board.

On a motion made by Mr. Haight and seconded by Ms. Becker the Board voted unanimously to approve the minutes of the June 6th meeting.

ADMINISTRATIVE

2019 PLANNING AND ZONING SCHOOL FORM: The 2019 Planning and Zoning School Form was included in the Board's packet and they were advised that they need to be returned to the Town Board for approval.

CARRY OVER

The following matters were carried over to the next meeting:

- 2019-18 BOUNDARY LINE ADJUSTMENT – PAUL & NANCY MILLER – Empire Road [Copake]**
- 2017-31 SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #1] – Lackawanna Road [Copake]**
- 2017-32 SITE PLAN REVIEW – 13 LACKAWANNA PROPERTIES [BUILDING #2] – Lackawanna Road [Copake]**

ADJOURNMENT

There being no further business...

- **On a motion made by Mr. Haight and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 9:20 p.m.**

Bob Haight, Chair

Please note that all referenced attachments, comprising 84 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

GRJH INC.

Public Comments

May 28, 2019	Braun to CPB (1)
June 25, 2019	Zarin/Mintz to Town Clerk (3)
July 19, 2019	Zarin/Richmond/Rode to Haight/CPB (3)
July 23, 2019	McBride to Haight/CPB (2)
July 23, 2019	McCormack to Haight/CPB (5)
August 1, 2019	Paul Rubin Resume (8)

Submissions

May 1, 2019	Trudel to Gorney/CPB (1)
May 1, 2019	Gorney to Trudel (2)
June 12, 2019	CPB to Heim (1)
June 12, 2019	Dow to Heim (1)
June 18, 2019	Gorney to Smith (1)
June 27, 2019	Nadolny to Gorney (5)
July 1, 2019	Heim to CPB (1)
July 2, 2019	Gorney to Smith (1)
July 17, 2019	Biggs to Haight (4)
July 18, 2019	Stalker to Haight/CPB (2)
July 23, 2019	Patota to Haight/CPB (1)

KEVIN & GLORIA ANDERSON

January 9, 2019	Building Permit Denial (2)
January 12, 2019	Application for Site Plan Review (1)
January 13, 2019	Request for Area Variance (1)
January 24, 2019	ZBA Action Form (2)
May 29, 2019	DeRuzzion to Matuszek (1)

COPAKE CAMPING RESORT

April 29, 2019	Sandborn to ZBA/CPB/CBD (1)
May 21, 2019	Knox to Jurkowski (3)
June 23, 2019	Sandborn to ZBA (1)
June 27, 2019	ZBA Memorandum of Decision (5)
July 17, 2019	DeRuzzio to Andreassen (1)
July 22, 2019	ZBA Action Taken (4)

CAMP PONTIAC

June 21, 2019 Stalker to Haight/CPB (1)

ROBERT & JACQUELINE FARLEY

May 30, 2019 Application for Boundary Line Adjustment (2)
June 11, 2019 Short Environmental Assessment (SEQRA) (4)

CATAMOUNT SKI RESORT

July 1, 2019 Building Permit Denial (2)
July 18, 2019 Application for Site Plan Review (1)

ANNA HELEN BOHLING STICKLER

July 22, 2019 Application for Boundary Line Adjustment (2)
July 22, 2019 Agricultural Data Statement (1)
July 22, 2019 Short Environmental Assessment (SEQRA) (4)
January 24, 2019 ZBA Action Form (2)
May 29, 2019 DeRuzzion to Matuszek (1)