



# COPAKE PLANNING BOARD

**JUNE 6, 2019**

## **MINUTES**

---

### **DRAFT**

**Please note that all referenced attachments, comprising 78 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, Julie Cohen, Ed Sawchuk, and Jon Urban. Steve Savarese and Town Board Liaison Richard Wolf were excused. Town Supervisor Jeff Nayer, and Attorney Ken Dow were also present. Lisa DeConti was present to record the Minutes.

### **ZONING BOARD OF APPEALS – Referrals**

#### **2019-13      ZBA REFERRAL – RYAN WALSH & JOHN BARBATO – Memory Lane [Copake Lake]**

- ZBA Request for Area Variance dated May 17, 2019
- Building Permit Denial dated May 2, 2019
- Site Plan
- Floor Plan
- Survey Map
- Pictures

Mr. Haight acknowledged that Mr. Walsh and Mr. Barbato wish to add an entrance vestibule, bathroom at the rear of the house, a paved area, steps and detached shed at the rear of the house, increase the roof pitch, shore-up piers and extend the porch by 2 feet (2'). Ms. Becker brought up the fact that as with many lakefront properties the rear of the house is actually the front of the house and the front of the house is actually the rear of the house so the applicant's are actually adding their vestibule, bathroom, paved area, steps and detached shed in the front of the house. She added that the increased porch is actually on the lakefront side and not the rear of the property.

Mr. Grant pointed out that there are three reasons for the Building Permit Denial. The first being the modification of a non-conforming structure, the second being the fact that a shed is being put in the front yard and development within one-hundred feet (100') of the water which extends the porch closer to the lake. The Board had no issue with the changes on the road side however the Board did have issue with the extension of the porch toward the lake. The Board recommends that the porch be repaired however they did not feel the porch should be extended another two feet (2') toward the lake.

Ms. Becker also made note of the fact that the applicant is making a dormer on the upper floor which increases the number of bedrooms from two (2) to four (4). Mr. Haight pointed out that inasmuch as there will be an increase in the bedroom count, the septic should be inspected to show if it is sized appropriately.

A letter will be written to the ZBA addressing the Board's concerns about an increase in the porch and the size of the septic system. The Board had no issue with the applicant repairing the porch however they did have issue with them increasing it. Mr. Grant noted that an applicant is allowed to replace a non-conforming structure however they are not allowed to increase the non-conformity. Mr. Grant also pointed out the section on the building permit denial that asks *whether this proposal involves new, or alterations to or additional use of a sewage disposal system should read "yes" instead of "no"* inasmuch as there will be an increase in the bedroom count.

**2019-14            ZBA REFERRAL – JACK & MARIA ZADRIMA – Golf Course Road  
[Copake Lake]**

- ZBA Request for Area Variance dated May 10, 2019
- Building Permit Denial dated September 26, 2017
- Dock Drawings

It was noted that Mr. and Mrs. Zadrina wish to add a dock to their property. Mr. Grant pointed out that the application shows that there is a seawall being added as well as a dock and he had concerns about poured concrete in the lake. He added that the applicant will need a DEC permit.

The Board felt more current Site Map is needed to make a recommendation as the Site Map provided is only a proposed map so the exact location of the dock is questioned. Mr. Grant added that it also needs to be determined whether a DEC permit is required or not.

A letter will be written to the ZBA addressing the Board's concerns.

**PUBLIC HEARING**

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

- E-mail from Kelly Becker dated April 28, 2019
- E-mail from Virginia Newman dated April 28, 2019
- E-mail from Peter Cohen dated April 28, 2019
- E-mail from Barbara Smith dated May 1, 2019
- E-mail from Amy Davidson dated May 1, 2019
- E-mail from Leslie Lassiter dated May 2, 2019
- E-mail from Steven Smith dated May 5, 2019
- E-mail from Gray Davis dated May 2, 2019
- Letter from Zachary Mintz dated May 29, 2019

- E-mail from Ken Dow dated June 4, 2019
- E-mail from Amy Davidson dated June 4, 2019

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 ZACHARY MINTZ...** Mr. Mintz asked for leniency from the two-minute ruling and Attorney Dow advised him that in the past extended time has been given to experts. Mr. Mintz introduced himself as an attorney from Zarin & Steinmetz in White Plains NY who specialize in land use and environmental law and he is representing the Save Craryville group. It was Mr. Mintz's belief that the Special Use Permit previously issued by the ZBA has expired and the application should be back before the ZBA for review. It was also his belief that even if the Special Use Permit had not expired the application should be back before the ZBA for them to consider the changes and any new potential environmental impacts that have taken place. He also felt this should be the case if the Special Use Permit is not expired.

Mr. Mintz also felt that the Negative Declaration of the SEQRA should be revisited inasmuch as the property is potentially located over an aquifer. He felt the Negative Declaration should either be rescinded or revisited. Mr. Mintz addressed the fact that he has not seen any written record from the ZBA that they have established themselves as lead agency, that they completed the SEQRA process and have circulated the Negative Declaration. It is his belief that due to this the SEQRA has not been completed and everything is being done prematurely.

Mr. Mintz made note of the fact that his agency will be submitting FOIL requests for information from the Planning and Zoning Boards. He also questioned the Board's Public Hearing process claiming that the Board closed the Public Hearing for the evening and continued the application after the fact.

**Town Attorney KEN DOW...** Attorney Dow addressed some of Mr. Mintz's concerns and pointed out that under SEQRA Regulations and Case Law an agency can rescind their Negative Declaration only up until the time they approve their action and are prohibited from rescinding this once the action has been taken. Attorney Dow referred to a recent action where a Town Board underwent the SEQRA process, issued a Negative Declaration, issued the Special Use Permit and then sent the application to their Planning Board for Site Plan Review. He noted that during the Site Plan Process the Planning Board encountered substantial changes to aspects of a potential significant adverse impact so the Town Board passed a resolution rescinding the Negative Declaration. They were then sued by the applicants and the courts nullified the rescission. They specifically held that the court properly annulled the challenged resolution on the grounds that the Board lacked authority to rescind its Negative Declaration. Attorney Dow noted that this case does not allow the rescission of the Negative Declaration once the Special Use Permit has been issued. Attorney Dow also clarified that this application is not a Type I Action and is actually an Unlisted Action and as for the status of the Special Use Permit is in the hands of Code Enforcement Officer Lee Heim and is not in the hands of the Boards to make this decision at this time. Mr. Sawchuk asked Attorney Dow for clarification of this.

**Copake Falls Resident WILLIAM BORIS-SCHACTOR...** Mr. Boris-Schactor felt that if the Special Permit has lapsed the case Attorney Dow's referred to is not valid.

**Hillsdale Resident BARBARA SMITH...** Ms. Smith reiterated her previous concerns regarding the Traffic Study and felt the study was seriously flawed and questioned whether any effort has been made to have this reevaluated.

**Hillsdale Resident and Save Craryville Director JAMIE CARANO ...** Ms. Carano referred to six items the Save Craryville group had issue with. Ms. Carano's claims are as follows:

- The Revised Site Plan does not conform to the Town Zoning Code. Ms. Carano accused the Planning Board of not fully exercising their authority to ensure that the GRJH Site Plan conforms to Code.
- The Phase I Site Assessment focused on potential sub-surface site contamination. She referred to a part in the May 2<sup>nd</sup> minutes where Mr. Haight stated that *the original Phase I report was only for the building and he was satisfied with the report from the recent ground radar.* Ms. Carano questioned why the Board believes the Phase I EAF has been satisfied.
- Town Engineer. 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.
- Revised Storm Water Pollution Prevention Plan (SWPPP). Ms. Carano had issue with the fact that Save Craryville Environmental Engineer Bart Clark's issues have not been addressed. She stated these issues to be the septic placement in wetlands, and the presence of a stream and wetlands on the site.
- Ground Water Impact Analysis. Ms. Carano had issue with the fact that an Engineer has not yet been contracted to conduct a Ground Water Impact Analysis since Hydro-Geologist Jean Patota's report was contrary to that of Save Craryville Hydro-Geologist Paul Rubin. She questioned why this hasn't been done yet.
- Visual Impact Report. 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. Ms. Carano also made claims that the Planning Board has been ignoring these facts. She claimed that the Board has the authority to contract an independent architect or planner at the applicant's expense to address this and the Planning Board has not exercised this option.

**Copake Lake Resident STEVE SABITINI...** Mr. Sabatini had concerns regarding the safety of the aquifer, stream and lake and asked that the Board give this consideration.

**Resident MATT ROGERS...** Mr. Rogers had concerns regarding the safety of his water as his residence is within one-thousand feet (1,000') of the site. Mr. Rogers threatened to sue the Board if his water becomes contaminated.

**Resident LINDA SENK...** Ms. Senk also had concerns about the amount of traffic at the Craryville Road intersection. She feels a traffic light is needed.

Mr. Haight closed the Public Hearing for the evening and noted that it will remain open. Mr. Haight noted that the Save Craryville group is more than welcome to stay after the Public Hearing is closed.

Mr. Haight brought up the fact that there has been confusion concerning the amount of gas dispensers for the site and made note of the fact that the December 2018 minutes address this.

Mr. Haight addressed the fact that the Save Craryville Engineer did a cursory review. He noted that a cursory review is not done when something that important is being considered. Mr. Haight also made note of the fact that there are no wetlands or streams on the applicant's site.

Mr. Haight also addressed the fact that the Save Craryville Engineer also had issue with the Storm Water Pollution Prevention Plan. He noted that the SWPPP is already being revised and was in the hands of the State when this Engineer's concerns were submitted to the Board. Mr. Haight then addressed the concerns regarding revisions to the Stormwater structures and designs and noted that this is one of the things that the Town Engineer will be looking into.

Mr. Haight made note of the fact that the Waste Water Absorption Field location have been addressed on the plans. He also noted that the Department of Health (DOH) has reviewed the Soil testing for the absorption fields and have addressed this issue.

## **SUBDIVISIONS/SITE PLANS**

### **2019-11      SITE PLAN REVIEW – LYN MAIN & HEIDI BENEKE MAIN – Pear Tree Lane [Copake]**

- None

Mr. Haight advised the Board that inasmuch as the Mother-In-Law Suite renovation Mr. and Mrs. Main are doing does not have a separate door leading to it so under the Town's Zoning Code is not considered a separate apartment or accessory dwelling so Site Plan Review is not required.

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

- Building Permit Denial dated April 30, 2019
- Application for Site Plan Review dated May 21, 2019
- Letter of Agency dated May 27, 2019
- Short Environmental Assessment Form (SEQRA) Dated May 27, 2019
- EAF Mapper Summary Report dated May 21, 2019
- Location Map

- Proposed Site Plan dated May 27, 2019
- List of Abutters
- Application Fee for Site Plan Review

Evan Young from Crawford and Associates appeared before the Board representing the applicant. Mr. Young reminded the Board that the applicant received Site Plan Approval for four (4) buildings in March and now wish to add an open pavilion to their plans. Mr. Young noted that inasmuch as this will be a commercial use Site Plan Review is required.

Ms. Becker asked whether this was on the original Master Plan and was advised by Mr. Young that it was not and is a separate application from the original Site Plan approval. Mr. Young explained that the structure will be a five-hundred and seventy-five (575) square foot pole barn pavilion with a roof on it with electric and no water usage.

Ms. Becker questioned whether this should be considered a stand-alone building or integrated into the Master Plan. Mr. Young explained that he submitted this as a separate application. Ms. Becker asked whether there will be any other buildings. Mr. Young advised her that none are planned at this time but that is subject to change. Ms. Becker noted that in the past when a Master Plan had been approved individual buildings that meet a certain threshold would need to come back for Site Plan Review. However she clarified that a small pavilion such as the one on the application would not ordinarily meet the threshold for Site Plan Review but does in this case since it is a commercial building.

Attorney Dow also noted that the revised Zoning Code stipulates that any commercial building needs to undergo Site Plan Review. Mr. Haight questioned whether the application should be reviewed as a stand-alone application or an adjustment to the Master Plan. Attorney Dow did not feel it made a difference either way as any amendment needs to go through the same process as the steps for an amendment are the same as that of a revision. He added that it wouldn't necessarily require a Public Hearing which is the Board's judgment as to the magnitude of the project.

The Check List was reviewed even though it had been reviewed with the original Master Plan. It was noted that this would have to be sent to the Columbia County Planning Board for their review inasmuch as it is on County Route 7.

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

- None

Alicia Metz appeared representing GRJH. Mr. Haight acknowledged that Town Supervisor Jeff Nayer and Attorney Ken Dow are reviewing the contract with the Town Engineer. Regarding the Escrow Agreement Attorney Dow confirmed with Weston and Samson the amount quoted by them will be actual Time and Material and not a flat fee as the estimate is just a guideline to give a sense of the scope of work they received. A copy of the revised Escrow Agreement was given to the applicant for her review and signature.

Mr. Haight asked whether Ms. Metz had any updates to the project. Ms. Metz addressed the previous issue regarding the catch basin and clarified that it is a catch basin that is intended to catch the water from the site and the only change might be regarding a possible request from the DOT for a detention pond. She added that everything has been submitted to them and this is the only concern in regards to the work being done underneath Route 23. It was Ms. Becker's understanding that a detention pond is being used instead of a new pipe underneath Route 22. Mr. Haight noted that plans for this have been submitted but still need to be approved by the DOT. Ms. Metz clarified that a detention pond is the easier way to go however approval still needs to be received from the DOT regarding this and depending on their response certain components of the water filtering system on the property might change.

Mr. Grant recalled at the last meeting there were questions regarding the oil and water separator. Mr. Haight explained that this will be one of the issues the Town Engineer will be looking into.

Mr. Sawchuk questioned whether the issue of the Special Use Permit has been addressed. Attorney Dow advised him that this is the jurisdiction of the Code Enforcement Officer. Mr. Sawchuk had issue with proceeding if this is not in effect. Attorney Dow assured him that at present the Special Use Permit is an active and valid Permit. Mr. Urban suggested clarifying this with the Code Enforcement Officer. A letter will be written to Mr. Heim with the Board's concerns.

Mr. Urban asked how the concerns of the public can be addressed. Ms. Becker made note of the fact that a lot of these issues have to do with the Site Map which is still being developed. Mr. Haight made note of the fact that the public brought up many issues that have been addressed by the Board and rectified.

Mr. Grant made note of the fact that one of the main concerns is the issue of the traffic at the intersection and it is his understanding that the Board's hands are tied as this is determined by the State and once they make their determination the Board cannot do anything about it. Mr. Grant also noted that the second issue is the hydro-geology and an Engineer has been retained to address this. Ms. Becker pointed out that the Town Engineer will be addressing a lot of the issues that have been brought up. Mr. Haight also made note of the fact that he went through many months of the minutes to find the answers to the issue of the number of gas dispensers.

Attorney Dow brought up the fact that it is the ultimate obligation of the Board to go through the provisions of the Site Plan Review and address the standards put forth in the Code. He noted that some issues brought up by the public are valid and need change and mitigation and others will be judged to be not meaningful enough to be in violation of the standards. Attorney Dow suggested the Board start going through these standards and asking the questions whether the concerns meet the standards of the Code or not. The Board has to satisfy themselves that the Code is complied with to attain a permitted site Plan. Mr. Grant made note of the fact that the Board is following the Code and have actually gone above and beyond that and noted that the Board is retaining an Engineer who will be addressing many of the issues in question.

Ms. Becker questioned whether a letter had been received from Lance Gorney of the DOT or just the e-mail received. Mr. Haight acknowledged that the e-mail was the only response we received. Ms. Becker suggested contacting them for a proper letter to have in our files.

## MINUTES

The Minutes of April 13<sup>th</sup> and May 2<sup>nd</sup> meetings were approved by the Board.

**On a motion made by Mr. Sawchuk and seconded by Ms. Cohen the Board voted unanimously to approve the minutes of the April 13<sup>th</sup> and May 2<sup>nd</sup> meetings.**

## ADMINISTRATIVE

**JULY BOARD MEETING:** Mr. Haight advised everyone that the July Planning Board meeting falls on the 4<sup>th</sup> of July and the following Wednesday July 10<sup>th</sup> was an available date to consider. He suggested rescheduling the meeting for Wednesday July 10<sup>th</sup>. The Board was in agreement with this date.

## CARRY OVER

The following matters were carried over to the next meeting:

- 2019-5            ZBA REFERRAL/SITE PLAN REVIEW – KEVIN & GLORIA ANDERSON –  
Pear Tree Lane [Copake]**
- 2019-8            SITE PLAN REVIEW – COPAKE CAMPING RESORT – County Route 7A  
[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 Ms. Cohen and seconded by Mr. Grant, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:20 p.m.

---

Bob Haight, Chair

**Please note that all referenced attachments, comprising 78 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**

**RYAN WALSH AND JOHN BARBATO**

April 24, 2019                      Building Permit Denial (2)  
May 17, 2019                      Request for Area Variance (1)

**JACK AND MARIA ZADRIMA**

September 16, 2017              Building Permit Denial (2)  
May 10, 2019                      Request for Area Variance (1)

**GRJH INC.**

July/August 2018                  Town Topics (1)  
August 24, 2018                  Smith to Goff/CPB (3)  
April 4, 2019                      Rubin to Haight/CPB (2)  
April 4, 2019                      Gordon to Haight/CPB (5)  
April 28, 2019                    Becker to CPB (2)  
April 28, 2019                    Newman to CPB (2)  
April 28, 2019                    Cohen to CPB (2)  
May 1, 2019                        Smith to Gorney/CPB (1)  
May 1, 2019                        Smith to Gorney/CPB (2)  
November 20, 2018                Henchy to Haight/CPB (3)  
May 1, 2019                        Smith to Haight/CPB (2)  
May 1, 2019                        Davidson to CPB (46)  
May 1, 2019                        Haight to Davis (1)  
May 2, 2019                        Davis to Haight/CPB (1)  
May 2, 2019                        Lassiter to CPB (1)  
May 5, 2019                        Smith to apurcell/CPB (2)  
May 29, 2019                      Mintz to Haight/CPB/ZBA (2)