



COPAKE PLANNING BOARD

DECEMBER 5, 2019

MINUTES

DRAFT

Please note that all referenced attachments, comprising 31 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 Marcia Becker, Julie Cohen, Ed Sawchuk, Steve Savarese and Jon Urban. Chris Grant was excused. Attorney Ken Dow was also present. Lisa DeConti was present to record the Minutes.

ZONING BOARD OF APPEALS – Referrals

2019-32 ZBA REFERRAL – ANVERNETTE HANNA & JACK GRIFFIN – Lakeview Road [Taconic Shores]

- ZBA Request for Area Variance dated November 12, 2019
- Building Permit Denial dated November 13, 2019
- Letter from Anvernette Hanna & Jack Griffin dated November 12, 2019 requesting
- NYS DEC Permit dated November 8, 2019
- Project Location Map
- Site Maps
- Columbia County Clerk's Recording Page
- Bargain and Sale Deed Dated December 1, 2010
- Title Insurance
- Taxes
- Pictures

Mr. Haight advised the Board that Anvernette Hanna and Jack Griffin have a stone wall on Robinson Pond that they would like to rebuild inasmuch as it is deteriorating. Mr. Sawchuk asked whether the applicant needs to present an application before the Board inasmuch as they are replacing an existing structure. Ms. Becker also made note of the fact that replacement is permitted in the code. Mr. Haight brought up the fact that this would fall under development within one-hundred feet (100') of a body of water. Attorney Dow explained that the applicants are not only repairing the existing wall but will be removing old rubble and rebuilding the stone wall. Mr. Haight did point out that the application states 'replacement' of a stone wall.

Ms. Becker acknowledged that a DEC Permit was given and made note of the fact that there should be a vegetation barrier as well. Mr. Haight felt the decision should be made by the ZBA.

A letter will be written to the ZBA advising them that the Planning Board had no recommendations as this is permitted by the Code.

PUBLIC HEARING

2019-29 MINOR SUBDIVISION – GWYNNETH PIERSON – Weed Mine Road[Copake]

- None

Jeff Plass appeared representing the applicant. Mr. Haight opened the Public Hearing and asked if anyone would like to speak on this application. Being none Mr. Haight closed the Public Hearing.

- **On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to close the Public Hearing.**

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

- Letter from Timothy Rode/Zarin&Steinmentz dated December 5, 2019
- Letter from Christopher Voorhis P.E./Nelson & Pope Engineers & Surveyors dated November 6, 2019

Mr. Haight re-opened the Public Hearing and asked if anyone wished to speak on the GRJH Application.

Hillsdale Resident MIKE DVORCHAK ... Mr. Dvorchak read a letter from Zarin & Steinmentz into the record. He addressed Save Craryville's issues as follows:

- The need for an Adequate Soil Remediation Plan. Save Craryville feels Site Plan Approval should not be granted as GRJH has not presented a comprehensive soil remediation plan to address the petroleum contamination on the property.
- Request for Record of GRJH Soil Testing Results and Statement Regarding Future Soil Testing. Save Craryville feels any record of GRJH soil testing and type of testing should be provided.
- Improper Testimony from GRJH's Geologist at the November Meeting. Save Craryville commented on the time GRJH's geologist's spoke and felt a reasonable time limit should be imposed on any expert testimony. They also felt the Board

should require any critique of an expert's credentials or work product be submitted on the record and in writing.

- Unreasonable Rules Regarding Filming and Recording of Public Board Meetings. Save Craryville objected to filming and recording from the auditorium's seating area.
- Lack of transparency with respect to Documents Relied Upon During Board Meetings. Save Craryville felt any documentation reviewed or considered by the Board should be made available to the public. They objected to a 'sketch' GRJH's Geologist showed the Board at the previous meeting that was not submitted but merely used as a drawing as it did not have the geologist's stamp on it and was not official.
- Non-Conforming Northeast Driveway Set-back. Mr. Dvorchak next referred to Save Craryville's claim that the Driveway Set-Back is non-conforming. Mr. Haight made note of the fact that this has been addressed over and over again during prior Public Hearings.

Mr. Dvorchak submitted the Zarin and Steinmetz letter.

Inasmuch as the Board is now dealing with minimal issues on this application Mr. Haight requested that the Public Hearing be closed permanently. A motion was made by Mr. Haight and seconded by Mr. Savarese to close the Public Hearing permanently.

Mr. Urban felt one month's notice should be given before the Public Hearing is closed as issues have been raised during past Public Hearings that the Board gave consideration to. Mr. Haight made note of the fact that this has never been done before. Ms. Becker stated that people can still submit comments in writing however Attorney Dow addressed the fact that once the Public Hearing is closed the record is also closed. Ms. Becker suggested giving a limit of ten (10) days after the closing of the Public Hearing to submit any written comments. Attorney Dow did acknowledge that this could be done. Mr. Urban still objected to closing the Public Hearing at this time. Mr. Haight felt the applicant should also be given consideration in the matter and pointed out that this would set a precedent going forward. Mr. Sawchuk was in agreement with Mr. Urban and felt this was a prudent path to take. Mr. Haight agreed to allow a grace period for submissions.

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to close the Public Hearing with written comments accepted until the 15th of December.**

A roll-call vote was taken.

<u>M. Cohen</u>	<u>Mr. Haight</u>	<u>Ms. Becker</u>	<u>Mr. Sawchuk</u>	<u>Mr. Savarese</u>	<u>Mr. Urban</u>
Yea	Yea	Yea	Nay	Yea	Nay

The motion was carried four (4) to two (2).

2019-23 BOUNDARY LINE ADJUSTMENT– COHEN FAMILY PARTNERSHIP – North Mountain Road [Copake]

Ms. Cohen recused herself to represent the Cohen Family Partnership. The Public Hearing was opened. Mr. Haight asked if there was anyone present that would like to speak on this application. Being none, the Public Hearing was closed.

2019-31 BOUNDARY LINE ADJUSTMENT– COPAKE LAKE GOLF LLC – Golf Course Road [Copake]

Mr. Urban recused himself to represent Copake Lake Golf LLC. The Public Hearing was opened. Mr. Haight asked if there was anyone present that would like to speak on this application. No one was present to speak, however the Public Hearing will remain open until next month so Mr. Urban can submit a revised Survey Map.

SUBDIVISIONS/SITE PLANS

2019-29 MINOR SUBDIVISION – GWYNNETH PIERSON – Weed Mine Road[Copake]

- Driveway Permit

Jeff Plass appeared representing the applicant. Mr. Haight asked Mr. Plass if there were any changes since last month. Mr. Plass acknowledged that there were no changes and submitted the Driveway Permit.

Ms. Becker read Part II of the SEQRA. She asked Mr. Plass whether the proposed site or any portion of it is located in or adjacent to an area designated as sensitive for archeological sites on the New York State preservation archeological inventory. She noted that this was marked “yes” on the SEQRA form. Mr. Plass was not aware of the location being near or adjacent to any of these sites.

Ms. Becker asked whether any portion of the site of the proposed action or any lands adjoining the proposed action contain wetlands or any water body regulated by any federal or state agencies as this was also checked. Mr. Plass explained that the Bash Bish brook isn’t on the property but is near the property.

Ms. Becker then noted that the Timber Rattle Snake and Bog Turtle are listed under the question asking whether there are any animals or associated habitats listed by state or federal government as threatened or endangered. She asked the Board if there was a reason the applicant couldn’t move forward. Mr. Haight didn’t feel this would be applicable to a Minor Subdivision. The Board was in agreement with this.

After review of the SEQRA...

- **On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted unanimously to make a Negative Declaration of the SEORA for the Pierson Subdivision.**
- **On a motion made by Mr. Haight and seconded by Ms. Cohen the Board voted unanimously to approve the Minor Subdivision for Gwynneth Pierson from the Survey revised as of October 24, 2019.**

Mr. Haight will stamp the maps on Monday for Mr. Plass to pick up during the week.

2019-18 BOUNDARY LINE ADJUSTMENT– PAUL & NANCY MILLER – Empire Road [Copake]

- None

No one appeared to represent the applicant.

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]

- None

David Weiner appeared to represent 13 Lackawanna Properties. Mr. Haight advised Mr. Weiner that he, Attorney Dow, Stosk Gansowski of the Town Board and three or four people from Ag and Markets had a conversation with Didi Barrett’s office. He added that they also sent the Board pictures of Mr. Cascino’s farm. Mr. Haight then made note of the fact that he is waiting to hear back from Ag and Markets as they are going to provide more information and talk to Mr. Cascino about a possible site visit.

Mr. Weiner asked whether Mr. Haight had received a package of pictures attached to the original letter sent on September 5th. Mr. Haight acknowledged receipt of a letter but said he did not receive any pictures with it. He also acknowledged that he had not received the pictures forthcoming from Ag and Markets as yet. Attorney Dow also acknowledged that pictures were not received and they asked about it during the call. Attorney Dow made note of the fact that during the conversation it was noted that the size of the file might have been the reason the pictures were not received. Mr. Haight pointed out that they are once again waiting to hear back from Ag and Markets.

Mr. Weiner brought up the fact that he also had a conversation with Ag and Markets in the morning which prompted a letter he sent this afternoon which the Board did not have a chance to review prior to the meeting. Mr. Weiner addressed the fact that he and Mr. Cascino are not aware of what else they can or should be providing for information and feel this should be a

pretty straight forward decision. Mr. Haight made note of the fact that at previous meetings Mr. Weiner was given a list of things that he could provide but he refused to make the submissions. Mr. Weiner questioned the fact that these requests were being made just for the question of whether or not Mr. Cascino's operation is a farm operation. Mr. Haight made note of the fact that visually one can see farming taking place on the property as there is corn growing. He also noted that there is a farm exemption from the Town Assessor however this is due to the fact that Lyn Main is leasing property from the applicant.

Mr. Haight then clarified that Mr. Weiner is making claim to the fact that Mr. Cascino is the farmer of the property and the Board wants to clarify just what part of the property is being farmed by Mr. Cascino and what part of the property is being farmed by Mr. Main. Mr. Weiner felt that who is farming the property is irrelevant. Mr. Haight disagreed as he pointed out that Mr. Weiner appeared before the Board and stated that Mr. Cascino was doing the farming which is why a request is being made to construct the Barns he is before the Board to have approved. Mr. Haight pointed out that the Board is trying to make a distinction as to what part of the farm Mr. Cascino is farming.

Attorney Dow brought up the fact that there are things that were represented to Ag and Markets that were different than what was represented to the Board. He also noted that in some cases there was personal knowledge that what had been reported to Ag and Markets had not been accurate so there are things that need to be clarified as to whether Ag and Markets is getting a truthful and accurate picture.

Mr. Weiner asked whether the fact that clarification is needed regarding what Mr. Main is farming and what Mr. Cascino is farming is what is preventing the application from moving forward. Mr. Haight acknowledged that this is the largest obstacle. Ms. Becker made note of the fact that Mr. Weiner was given a list of specific documents the Board was looking for. Mr. Weiner acknowledged that they were reluctant to provide some of those documents. Mr. Haight also made note of the fact that a request for a Site Visit by the Board was also turned down. Ms. Cohen also pointed out that a request for a copy of the lease between Mr. Cascino and Mr. Main was also turned down. She explained that this would show the Board exactly what was being leased by Mr. Main and what wasn't. She also made note of the fact that the Board wasn't interested in what Mr. Main is paying Mr. Cascino as this was not a factor and could be blacked out. Mr. Haight also pointed out that the first Site Visit by the Board was only for the two (2) buildings that required Site Plan Approval not the operation of the whole property.

Attorney Dow asked Mr. Weiner who the farm manager was as Ag and Markets believed Mr. Weiner was the manager. Mr. Weiner acknowledged that Mr. Cascino is the manager when it comes to decision making and he deals more with the office and paperwork and might be construed as a manager.

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

- Letter from Jean Patota dated November 13, 2019
- Letter from Steven Smith P.E. dated November 22, 2019

Alicia Metz appeared representing GRJH and acknowledged that last month they submitted a response to Save Craryville's questions regarding the SWPPP. Ms. Metz made note of the fact that she confirmed with the Engineer that nothing in the letter would require changes to the plans.

Ms. Metz asked whether there were any other questions for her. Mr. Haight acknowledged that this was a complete application. He also noted that the DEC will oversee the remediation of the soil and the Building Inspector should be made aware of the fact so that he can see that everything has been done to DEC standards. Ms. Becker also acknowledged that this is under the Building Inspectors purview. Ms. Metz also made note of the fact that there are several ways besides soil removal that contamination can be remediated such as treating the soil and watering among others. Mr. Haight acknowledged that this would be complied with as per DEC recommendations. Ms. Metz pointed out that the applicant and DEC address this together. Mr. Haight also make note of the fact that soil testing was discussed back when the applicant was before the ZBA and it was noted that the testing would take place during construction. He also made note of the fact that inasmuch as proof was discovered that there had been a gas station on the site he asked the applicant to do the soil testing at this time.

Ms. Becker addressed the fact that Hydro-Geologist Jean Patota mentioned at last month's meeting that she would make a recommendation to the DOH that anyone wishing to have their water tested can have a test done. She asked if that recommendation had been made. Ms. Metz acknowledged that Ms. Patota did contact the DOH however the DOH typically waits to see what the plan is with the DEC. She also said that the DEC has asked for secondary results on the samples and the ground penetrating radar results and they will be re-reviewing everything. Ms. Becker clarified that this will be done during the construction process.

Mr. Haight advised the Board that inasmuch as this is a complete application there is a good chance a vote might be taken at next month's meeting. Attorney Dow pointed out that there are code provisions as well as many other items that need to be reviewed to complete the application. Ms. Becker questioned whether the Town Engineer needs to review the final package. This will be decided once the final application is reviewed.

2019-24 SITE PLAN CONFERENCE – ECO-SITE II, LLC & T-MOBILE NORTHEAST LLC – Overlook Road [Copake]

- Letter from Robert D. Gaudioso dated September 19, 2019
- Site Plan
- View Shed Map
- Areal Photo

David Kenny appeared along with Steven Elsbree, Director of Construction Operations North Region to represent the applicant. Mr. Haight asked Mr. Kenny where the proposed location of the Cell Tower is. Mr. Kenny explained that the proposed location is on Overlook Road just south of Shagbark Tree Farm on Jane Bierbaum's property. Mr. Haight also questioned why a Cell Tower is needed when there already is one. Mr. Kenny explained that there is a need in this location as there is a gap in coverage in this area. Mr. Haight questioned whether the lack of

coverage is only for one company and was advised by Mr. Kenny that there is a lack of coverage for T-Mobile and the facility will be designed to be co-located so if other carriers have a need in the area they can also co-locate their facilities on the tower. Mr. Kenny explained that a Radio frequency justification will be done during the process.

Mr. Kenney advised the Board that a Balloon Test will need to be done and flown at the height of the tower which is one-hundred and forty-five feet (145') to comply with Town Code. Although a formal application has not been filed as yet, a Balloon Test is planned to show the visual impact to the Board.

Mr. Kenny provided a View-Shed Map to show the coverage area which shows potentially visual sites. Ms. Becker had concerns that there is quite a large area of visibility. Mr. Kenny did acknowledge that some of the sites of showing visibility might be minor.

Mr. Kenny also pointed out that a Special Use Permit will be required from the ZBA so they will contact the ZBA as well. Mr. Haight asked when they are planning on performing the Balloon Test. Mr. Kenny acknowledged that at this time plan for the Balloon Test are for mid-January and notice of fourteen (14) days needs to be given in the newspaper prior to the Test.

Mr. Kenny once again acknowledged that although they do not presently have an application before the Board they wanted to give them a preview of their plans. Mr. Kenny also wanted to discuss with the Board the fact that in order to perform the Balloon Test a few trees will need to be removed and questioned whether a permit will be needed for this. Mr. Haight advised him that no permit is required for the tree removal.

Mr. Haight asked if T-Mobile is on the existing Tower. Mr. Kenny was not sure whether it is or not but he will provide a Radio Frequency Report which will show a thirty (30) mile radius of the proposed tower so if they are on that tower it will be identified. Mr. Haight questioned why T-Mobile wouldn't get service on the existing Tower if they were on it inasmuch as Verizon and AT&T do. Mr. Kenny explained that the FCC has different band lifts and frequencies so that T-Mobile doesn't interfere with Verizon or AT&T. Attorney Dow added that it is possible that the other companies could possibly have gaps in service that the Board is not aware of.

Steve Elsbree addressed the Board and advised them that T-Mobile is on the SBA Tower to the West however there is a ridge that basically runs East to West and inasmuch as T-Mobile went on that tower within the past year they are located on the bottom of the tower. Mr. Kenny explained that this particular site is needed because of the topography of the area.

Mr. Haight asked if Mr. Kenny had anything to show what sites T-Mobile does not have coverage in. Mr. Kenny explained that the Radio Frequency Report will show the coverage areas and will not only show the coverage from the proposed tower but will show the coverage of the existing tower.

Mr. Kenny noted that the proposed Tower is located in the 'RU' District and they applied for a Building Permit for an initial determination and because they are located in the 'RU' Zone a Special Use Permit is required from the ZBA. Inasmuch as the applicant is presently before the Planning Board for a conference Ms. Becker asked whether a formal application will go before the ZBA first. Mr. Kenny acknowledged that they will file a formal application simultaneously.

Mr. Kenny advised the Board that he is trying to schedule a Balloon Test for January. A discussion ensued regarding the visual impact of the tower. Mr. Kenny suggested the Board add additional areas of concern to the Visual Impact Map he submitted so they can be addressed during the Balloon Test. Mr. Urban was in favor of this. Mr. Kenny suggested e-mailing him the map once it is drafted up.

2019-23 BOUNDARY LINE ADJUSTMENT– COHEN FAMILY PARTNERSHIP – North Mountain Road [Copake]

- None

Julie Cohen recused herself so that she could present the Cohen Family Partnership application. Ms. Cohen reminded the Board that they would like to merge a seven point eight, eight (7.88) acre parcel with a six point three, three (6.33) acre parcel that has an existing house on it leaving the thirty six point nine (36.9) acre mother parcel.

The SEQRA was reviewed. After review ...

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to make a Negative Declaration.**

- **On a motion made by Mr. Haight and seconded by Mr Savarese the Board voted unanimously to approve the Minor Subdivision for the Cohen Family Partnership from a Survey dated March 22, 2007.**

Mr. Haight will stamp the maps on Monday.

2019-31 BOUNDARY LINE ADJUSTMENT– COPENAKE LAKE GOLF LLC – Golf Course Road [Copake]

- None

Jon Urban recused himself so that he could present this application. Mr. Urban explained that that he would like to subdivide a twenty by twenty foot (20' x 20') parcel and merge it with an adjoining parcel for a dock. Mr. Urban will return next month with a survey map.

MINUTES

The Minutes of the November 7, 2019 meeting were approved by the Board.

- **On a motion made by Ms. Cohen and seconded by Ms. Becker the Board voted unanimously to approve the minutes of the November 7th meeting.**

ADMINISTRATIVE

JANUARY 2020 MEETING: Mr. Haight advised the Board that the January meeting falls on the day after New Year's Day however all other Thursday's are already taken with other meetings. He asked if anyone had a problem attending the day after the New Year Holiday. It was decided that the meeting will stay scheduled for January 2nd.

CARRY OVER

The following matters were carried over to the next meeting:

2019-18 BOUNDARY LINE ADJUSTMENT– PAUL & NANCY MILLER – Empire Road [Copake]

ADJOURNMENT

There being no further business...

- **On a motion made by Mr. Haight and seconded by Ms. Cohen 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 31 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

ANVERNETTE HANNA & JACK GRIFFIN

November 13, 2019	Building Permit Denial (2)
November 12, 2019	Request for Area Variance (2)
November 8, 2019	NYSDEC Permit (12)

GRJH INC.

Public Comments

November 6, 2019	Voorhis/Nelson & Pope to Haight/CPB (3)
December 5, 2019	Rode/Zarin/Richmond to Haight/CPB (4)

GRJH INC.

November 13, 2019	Patota to CPB (1)
November 22, 2019	Smith P.E. to Metz (2)

GWYNNETH PIERSON

October 22, 2019	Driveway Permit Application (3)
------------------	---------------------------------

ECO-SITE II, LLC AND T-MOBILE NORTHEAST LLC

September 19, 2019	Gaudioso to Haight/CPB (2)
--------------------	----------------------------