

Town of Copake Zoning Board of Appeals

~

Meeting Minutes of February 27, 2020

~

Draft

The meeting of the Zoning Board of Appeals of the Town of Copake was held on, February 27, 2020 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.

In attendance were; Jon Strom, Jeffrey Judd, Thomas Goldsworthy, Dionisio Fontana and Neal Klein.

Also attending was Town Attorney Ken Dow and Town Board Liaison Stosh Gansowski

Veronique Fabio recorded the minutes.

An audience of about 8 was present.

2) Reading and approval of the minutes:

Chairman Jon Strom asked for a motion on the minutes of December 19, 2019 and January 23, 2020.

On a motion by Tom Goldsworthy, seconded by Neal Klein, the minutes were unanimously accepted.

3) Correspondence:

Note from Dionisio Fontana that he will not be available to attend the March meeting.

2-7-20 From Jeanne Mettler in ref. to violence in the workplace training.

~ Jon Strom noted that the one hour training will count for the New York State ZBA member training. Members indicated what days they were going to attend.
2-10 Natural Resources Inventory Training.
2-10 Land Use Leadership Alliance (LULA) Training Program - SPRING 2020
2-10 Andrew Didio, documents requested by the ZBA
2-19 David Kenny, document requested sent.
2-19 CCPB response in ref. to Eco-Site.

4) New Applications:

1) 2020-4, Patricia & Frank Bogucki, 138 Cove Rd. Tax Map 165.10-1- Repair & replacement of a retaining wall on Copake Lake

~ Mr. Bogucki presented his project. He wants to repair the existing retaining wall on the edge of Copake Lake. He presented a letter dated 12-6-2019 from the DEC including a permit to build the new retaining wall. The wall will be the same length as it is now: 75' with 5 steps going down to the water. No vegetation will be removed. The wall will sit 3' above the ground and will be made with 6x6x12 pressure treated beams, 10 deadmen evenly spaced over the 75feet, and re-bars. Crushed stones and geotextile filter fabric will be installed at the back of the wall.
~ Tom Goldsworthy noted that anything left over from the construction should be removed from the property.

~ Jeffrey Judd asked if anything will be done during construction to protect the lake water. Mr. Bogucki said that a silt fence will be installed as per the plans presented.

~ *Jon Strom asked for a motion to accept the application for public hearing for March 26, Tom Goldsworthy made the motion, Dionisio Fontana seconded, all members agreed.*

2) 2020-5, Gary Mastropolo, Center Hill Rd. Tax Map 176.1-1-39 Construction of a new house on non-conforming lot

~ Mr. Mastropolo recently purchased a 0.25 acre lot, part of the Taconic Shores development. The lot faces Center Hill Rd. There are shell rocks on the lot towards the back.

Mr. Mastropolo would like to build a small house 1100 square feet maximum on the lot. He had conversations with Mike DeRuzzio from Columbia County Department of Health concerning the septic system that would have to be installed and its location. The lot is part of the Taconic Shores water supply system; therefore a well is not necessary.

~ Jon Strom indicated that the ZBA needed plans for the proposed house in order for the ZBA to give any type of variance. Engineering work has to be done ahead. The ZBA cannot give advice it is a board of appeals. The application cannot be accepted as presented.

3) 2020-6, John Urban, 59 Golf Course Rd. Tax Map 165.-1-99.2

Expansion of the garage and dining room. New bedroom on the main level. Repair of the lake side house wall.

~ Linda Chernewsky represents the owner John Urban.

Linda explained that the windowed wall on the back of the house had been improperly built and now needs replacement. The garage will be expanded as well as the dining area and the rear deck. A bedroom will be added on the main level. Linda is asking for Relief from 232-20,B,2,a,2 for modification of a non-conforming structure, a left side yard variance of 26'.9" and 3.30% lot coverage variance.

Mr. Urban owns an empty lot adjacent to where his house is located. Tom Goldsworthy and Jeffrey Judd talked about the option to combine the two lots in order to reduce the amount of variances necessary.

~ Linda Chernewsky said that it is not an interesting proposal for the owner to merge the lots. It is now taxed as an empty lot and Mr. Urban might decide to sell it in the future.

~ Jon Strom asked for a motion to accept the application for public hearing for March 26, Tom Goldsworthy made the motion, Jeffrey Judd seconded, all members agreed.

5) Public Hearings:

1) 2020-02 Kennedy John & Robin, Lot 5, Island Drive. Tax Map 165.6-1-48

Construction of a seasonal dock and a boat lift on Copake Lake.

~ Jon Strom asked for a motion to open the public hearing, Tom Goldsworthy

made the motion, Jeffrey Judd seconded, all agreed.

The application is presented by Andy Didio of Taconic Engineering. He indicated that he had provided that ZBA with the additional documents requested; Copy of the deed, photo of the boat lift and the canopy, as well as an aerial photo of the lot with the proposed location of the dock. The dock and the boat lift will be removed in the winter and stored on the shore.

A Neighbor was present and expressed his approval for the project.

There were no other questions or comments from anyone therefore,

~ Jon Strom asked for a motion to close the public hearing, Tom Goldsworthy made the motion, Neal Klein seconded, all agreed.

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 232-11, D, 2; No development is allowed within 100' of a body of water. The purpose of the variance is to allow the installation of a seasonal 654 square foot dock and a boat lift on Copake Lake.

Vote:

Dionisio Fontana: YES Jeffrey Judd: YES Jon Strom: YES
Tom Goldsworthy: YES Neal Klein: YES

Variance is granted.

2) 2020-3 Nancy Keness & Judith Meiselman, 1220 County Route 27A. Tax Map 186.1-64

Modification of a non-conforming structure for the purpose of remodeling parts of the existing house. General contractor, Kenneth Leggett represents the owners.

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

Mr. Leggett presented to the ZBA the documents requested at the last meeting; a full set of plans for the renovation. He pointed that the existing screen porch will become the new living room, which will be within the rear set back. There will be new windows and new vinyl siding. The front of the house will also be remodeled within the existing foot print.

~ Jon Strom recapped that this is a modification of a non-conforming structure; Relief from 232-20, B, 2, a.

~ Tom Goldsworthy pointed out that the left side yard of the property requires a set-back variance even if the new construction doesn't go any further into the setback than the existing building; consequently an 8'7" variance is needed.

There were no other questions or comments from anyone therefore,

~ Jon Strom asked for a motion to close the public hearing, Tom Goldsworthy made the motion, Neal Klein seconded, all agreed.

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: 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 232-20, B, 2, a. Modification of a non-conforming structure as well as an 8'7" left side yard variance.

Vote:

Dionisio Fontana: YES Jeffrey Judd: YES Jon Strom: YES

Tom Goldsworthy: YES Neal Klein: YES

Variance is granted.

3) 2020-01 Eco-Site / T-Mobile, 892 Overlook Rd. Tax Map 166.-2-4

Owner Jane Birnbaum. A Special Use Permit is requested to install a 145foot + a 5foot lightning rod as well as a 50'x50' equipment compound at the base. A height and side property line area variances will also be necessary.

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

~ David Kenny of Snyder & Snyder LLPS represents the Eco-Site; he noted that he provided the ZBA with the documents they had asked for at the last meeting;

Distance from the facility to Copake Lake; 8,973.8 feet

Most recent tax bill as proof of ownership for Jane Birnbaum.

Revised fall zone letter to account for slope of property and the revised zoning drawings (C1A, C1B, C1C, C1D) detailing tree removal for the construction of the driveway and the compound base.

~Following a question from Jeffrey Judd, David Kenny stated that approximately 80 trees, 4" Caliper or greater will be removed within a minimum 25foot swath over the centerline of the access road leading to the tower. The proposed access driveway will be 12' wide. It will be an unmanned facility visited once a month or so.

~ Jon Strom noted the February 19, 2020 letter from the Colombia County Planning Board recommending approval of the project.

J. Strom asked if anyone had comment in reference to this project.

In the audience, Mr. and Mrs. Golden asked to speak. They have a property on Center Hill Rd. within site of the tower.

They expressed their opposition to the project citing harmful effects on people and wildlife health as well as loss of property values.

~ Attorney for the applicants, David Kenny addressed their concerns and answered their questions.

He indicated that spaces on the tower will be available for rent to other carriers. It will be a 4G facility, 100% compliant with the federal government frequency emissions guide lines. David Kenny noted that speculative expansion of the tower to 5G will be possible in the future.

~ Tom Goldsworthy had questions in reference to the visual impact of the tower from the top of Center Hill Rd. He also indicated that even though his property was mentioned in the application as a possible site for the tower, he was never contacted by Eco-Site or T-Mobile.

~ David Kenny said that they will take more pictures of the area of concern.

~ Ken Dow pointed out that the Planning Board had proposed to be lead agency and will do the SEQRA.

~ Tom Goldsworthy talked about the distance of the utility compound from the Shagbark property line; David Kenny indicated that a setback variance is part of

the application. The tower is designed in such a way that in case of failure it will fall within the 150' setback zone. An engineer report is part of the application and has all the details.

~ Jon Strom recapped the variances requested;

*A special Permit.

*A setback variance.

*A height variance; the proposed tower is over the 125' allowed by the town code.

*A variance for landscaping buffer; the proposed location being totally surrounded by mature trees might not be necessary in this case.

The meeting will be continued in March.

7: Internal Business:

Jon Strom indicated that he will not be attending the April meeting.

The meeting was adjourned at 8:35 on a motion by, Tom Goldsworthy, seconded by Neal Klein and approved by all members.

Respectfully submitted.

Veronique Fabio.