



COPAKE PLANNING BOARD

JUNE 18, 2020

MINUTES

DRAFT

Please note that all referenced attachments, comprising 53 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 Virtual ZOOM meeting of the Copake Planning Board was called to order at 7:00 p.m. by Bob Haight, Chair. Also in virtual attendance were Chris Grant, Marcia Becker, Julie Cohen, Steve Savarese and Jon Urban. Ed Sawchuk was excused. Attorney Ken Dow was also in virtual attendance. Lisa DeConti was in attendance to record the Minutes.

ZONING BOARD OF APPEALS – Referrals

NONE

PUBLIC HEARING

2020-8 MINOR SUBDIVISION– MARIAN DUKSA– Weedmine Road [Copake]

Mr. Haight asked if anyone wished to speak on this application. No one was in virtual attendance to speak. Mr. Haight closed the Public hearing.

SUBDIVISIONS/SITE PLANS

2020-7 ZBA REFERRAL/SPR – CATAMOUNT SKI AREA – State Route 23 [Copake]

- Revised Site Plan dated September 30, 2019

Pat Prendergast appeared representing Catamount Ski Area. Mr. Prendergast reminded the Board that the applicant is proposing to do a Snow Tubbing Park which is presently before the ZBA for a Special Use Permit. Mr. Prendergast also explained that inasmuch as the base of the Snow Tubbing Park is closer than 100 feet to a wetland the ZBA advised him that he will also need to get an area variance. A Public Hearing by the ZBA will be held at their June meeting for this.

Mr. Prendergast also acknowledged that at the base of the park there will be a small thirty by fifty foot (30' x 50') Lodge and a Restroom Trailer. He noted that the Lodge which will be a metal building and if the Snow Tubbing Park is successful the applicants plan on having him design a septic system.

Mr. Haight asked whether Mr. Prendergast checked with the Department of Transportation (DOT) regarding the extra traffic that this might generate. Mr. Prendergast explained that he did not contact the DOT at this time but had spoken to Joseph Visconte at the DOT a couple of years ago. At that time Mr. Visconte requested that the driveway be paved and curbed and the applicants plan to have this done this year inasmuch as they still have a valid permit. Mr. Prendergast also made note of the fact that the driveway plans are for a standard commercial entrance.

Mr. Haight asked what the status was at the ZBA. Mr. Prendergast acknowledged that there will be a Public Hearing for this at their next meeting and if all goes well he hopes to receive approval at that time.

Mr. Haight asked if the Board had any questions. Mr. Grant asked if there was any access between the Snow Tubbing Park and the rest of the ski area. Mr. Prendergast explained that there is a maintenance road that can be accessed but he didn't believe many people would be walking this due to the distance. It was noted that a shuttle may become available for this purpose.

Ms. Becker noted that the Maintenance Building that was previously discussed is not on the plans. Mr. Prendergast explained that when the applicants looked into this it was more detailed than expected due to the rock in that location so they decided to revise their plans. He continued to explain that the plans would include a fifty by one-hundred foot (50' x 100') building next to the existing maintenance building and he hopes to present this to the Board at next month's meeting. He also advised the Board that plans for the previous building have abandoned.

Ms. Becker asked whether Mr. Prendergast wanted to wait until next month to proceed. Mr. Prendergast would prefer conditional approval for the Snow Tubbing Park contingent to ZBA Approval so that applicant can begin work.

Mr. Grant asked whether there will be restroom facilities and Mr. Prendergast explained that there will be Restroom Trailer for this purpose that will have heating and hand washing capability. Mr. Grant asked if it was self contained and was advised that it was and did not need a septic.

Ms. Becker felt this should be held over until next month's meeting when plans will be available for the Maintenance Building.

Mr. Prendergast also noted that at the base of the Park there are Army Corp of Engineer wetlands and Federal wetlands do not require a set-back. He did make note of the fact that the Town Code does require a set-back from any wetlands for a septic.

Mr. Haight asked if there are presently any plans for the Maintenance Building. Mr. Prendergast explained that he has not begun the plans for this as yet and hopes to have them available next month but could not commit to this. After discussion the Board agreed to proceed with the Snow Tubbing Park and review the Maintenance Building when Mr. Prendergast returned.

Mr. Haight questioned whether DEC approval will be needed. Mr. Prendergast explained that DEC approval is not needed for this. However, he did note that approval was given for a Stormwater Permit that was obtained for the Pond to which the Snow Tubbing Park will be added to.

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the Catamount Ski Area Snow Tubbing Site Plan from Plans dated February 19, 2020 and Revised June 11, 2020 subject to ZBA approval for a Special Use Permit and Building within the 100' Set-Back from a Wetland.**

2020-8 MINOR SUBDIVISION– MARIAN DUKSA– Weedmine Road [Copake]

- Short Environmental Assessment Form dated June 10, 2020
- Ag Data Form
- Driveway Cut Approval from Highway Superintendent William Gregory

Phil Wellner appeared representing Marian Duksa for a Subdivision to subdivide Parcels 1 and 2 into Parcels A, B and C.

In reference to Question 10 of the SEQRA Mr. Becker asked whether there are septic systems on both Parcels. Mr. Wellner explained that there is only a septic system on Parcel C where the residence is. He reminded the Board that at the last meeting he asked for an exemption for septic on Parcels A and B as these parcels are being farmed and no construction is planned for them.

Ms. Becker asked for clarification as to why “Yes” was answered on Question 10 of the SEQRA which reads: ‘*Will the proposed action connect to an existing public/private water supply?*’ Mr. Wellner explained Mr. Russel felt this applied inasmuch as there is an existing well on Parcel C that could be connected to Parcel’s A and B without drilling a new well. Mr. Wellner did make note of the fact that there is no plan to do so at the moment however a separate septic and well would be required if a house were to be put on Parcel’s A or B. He also noted that Ms. Duksa could possibly enter into an agreement with the future owner of Parcel C to have water connected to their well for use in the existing barn on Parcels A and B. Ms. Cohen acknowledged Note 14 on the Survey Map which reads: ‘*Prior to the issuance of a residential building permit for Parcels A and B, the owner of said parcels must obtain approval for a septic system from the Columbia County Department of Health.*’

Mr. Wellner pointed out that if approval is given Parcel’s C-1 and C-2 would be owned by subsequent buyers and Parcel’s A and B would be owned by Ms. Duksa. Ms. Cohen did acknowledge that Note 9 on the Survey Map reads: ‘*Parcel’s C-1 and C-2 are to be conveyed together as a single 19.166 acre parcel and are never to be considered separately marketable.*’ Mr. Grant made note of the fact that the Board cannot legally create Parcel C-1. Mr. Wellner explained that the reason C-1 was put on the map in this way was to avoid having a separate Maintenance Agreement with Parcels A, B and C. The intention is to deed the driveway to Parcel C with Parcel’s A and B having their own separate entrance to Weed Mine Road.

Mr. Grant asked whether there will be a separate deed for Parcel C-1. Mr. Wellner explained that Parcels C-1 and C-2 would both be on one deed. Mr. Grant once again noted that an undersized lot cannot be created by the Planning Board. Mr. Wellner explained that the reason this was placed on the map in this manner is that the Rail Trail breaks the parcels in half. Mr. Grant asked whether there is an easement for this. A discussion ensued as to whether the Board could proceed as Parcel C-1 is undersized. Mr. Wellner did point out that the intent is not to create a separate parcel, it is to identify that part of the Parcel is on the East side of the Rail Train and the other is on the West Side. He reiterated the fact that both lots will be a single entity with a single Tax Map ID number.

Mr. Grant asked whether one parcel can consist of two non-contiguous parcels. Attorney Dow clarified that this is possible if the parcels are separated by a road or as in this instance the Rail Trail. Mr. Urban suggested an easement for the road. Ms. Cohen noted that this is basically a driveway. Mr. Wellner pointed out that Note 9 on the map was written the way it is because they cannot be split. Mr. Wellner explained that they didn't consider doing an easement so as to avoid burdening either Parcel A or Parcel B with a Driveway Sharing and/or Maintenance Agreement. Mr. Wellner explained that the reason the parcels were referred to as C-1 and C-2 were for the accuracy of the meets and Bounds description. He also made note of the fact that this is noted on the Survey. Ms. Cohen pointed out that the existing property is separated by the Rail Trail and is one Tax Map number.

Ms. Becker acknowledged that there is a waiver in Town Code § 197-24A “**Waiver of requirements**” which reads: ‘*Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or Chapter 232, Zoning.*’ Attorney Dow felt this was applicable in this instance. The Board was in agreement.

The Part II of the SEQRA was reviewed.

On a motion made by Mr. Grant and seconded by Ms. Becker the Board voted unanimously to approve the Minor Subdivision of Marion Duksa from a Survey Map by Dan Russell of Crawford and Associates dated May 15, 2020 subject to Parcels C-1 and C-2 being conveyed as and remain under a single Tax Map Number with such notification being noted on the Survey Map.

Mr. Wellner will see to it that Mr. Russell makes the changes and will bring in the revised survey maps for Mr. Haight to stamp.

**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]**

- Letter from Ag and Markets dated September 5, 2019
- NYS DOT Entrance Plan dated March 27, 2020
- Copake Conservation Advisory Committee Report dated May 7, 2020
- Letter from Ag and Markets dated May 21, 2020
- Revised Master Plan dated June 12, 2020
- Farm Stand Details dated June 12, 2020

Attorney Michael Sussman and David Weiner were in virtual attendance representing the applicant.

Mr. Haight acknowledged the new Site Plan received from Mr. Weiner. Mr. Haight noted that there were new buildings added to the Site Plan however the previously requested Floor Plan for the Farm Market has not been received as yet. Mr. Weiner was under the impression that all that was required was the square footage of the building for the purpose of determining the number of parking spaces that would be needed. He noted that this was provided by the Engineer. Mr. Haight addressed the fact that this was requested at the last three meetings.

Mr. Sussman also believed that square footage was the only thing needed and questioned what legitimate interest the Planning Board would have in the Floor Plan. Mr. Haight explained that a Floor Plan is needed by the Board to see exactly what the applicant is proposing. Mr. Haight pointed out that Site Plan Review requires that every building have a floor plan included so the Board can see what can legally be built. Mr. Sussman noted that the Building Inspector has been in the building and knows what has been built. Ms. Cohen explained that the Planning Board needs to see the Floor Plan inasmuch as this building will be open to the Public. Mr. Haight added that the Board needs this should the building be amended in the future.

Mr. Sussman questioned whether internal changes in a building need to be acknowledged by the Planning Board. Mr. Haight pointed out that anything that is Commercial needs Board approval. Mr. Sussman referred to the fact that this is an Agricultural Use. Mr. Haight advised him that the Farm Market is considered Commercial and not Agricultural under the Town Zoning Code.

Mr. Sussman brought up a letter that was received from the Conservation Advisory Committee that he feels is defamatory to his client and questioned the relevance of this letter for Site Plan Review. Mr. Haight explained that the Board asked the Conservation Advisory Committee to review the Site Plan and provide their input. Mr. Haight acknowledged that the Committee pointed out that there is a stream and swamp area and no construction can be done within the set-backs of these areas.

After having just reviewed the latest Site Plan dated June 12, 2020 Ms. Becker made note of the fact that the Board has been operating from a Site Plan and list of buildings and uses submitted in 1-24-19 and an Operating Plan that was submitted in March 2019. She pointed out that the Board has now received a revised Site Plan that is different from what the Board has been basing their review on and asked whether the 2019 submissions are being withdrawn.

Mr. Sussman explained that at the last meeting he did not know that there were foundations for Greenhouses that are South of the Farm Market and he advised the applicant to include any

buildings that he intends to build. Ms. Becker noted that the prior submissions list 13 buildings and the latest submission lists 27 buildings noting quite a substantial difference and asked for clarification that the prior ones are being withdrawn. Ms. Becker pointed out that the Operating Plan must be different inasmuch as the Building Plan is different asked to see a revised Operating Plan. Mr. Weiner explained that the building strategy is the same and questioned why the Board is asking for such use detail and structural design on each building when this is a Master Plan. Mr. Weiner was under the impression that the Master Plan needed approval and then each building would be dealt with separately. He added that there is no change in operating strategy as only greenhouse space is being added.

Attorney Dow asked for clarification of the building additions to the Site Plan. Ms. Becker noted that it now looks like the twenty-four thousand (24,000) square foot Cow Barn is now an Equipment Garage and another Green House and additional Equipment Garage has been added. Mr. Weiner felt that it didn't matter what the building was called an Equipment Garage, Shed or Barn the building is still the same size building that was proposed on the original submission. Attorney Dow questioned whether there is a Barn on the revised Plan. Mr. Weiner acknowledged that he called the previous building a Barn and the Engineer called it an Equipment Garage. Attorney Dow pointed out that the use is integral to what is being done and if a barn is being proposed to be used for cattle, this fits into a particular operation and a three-hundred by eighty five foot (300' x 85') Equipment structure that is not housing livestock fits into a different category. Mr. Weiner was unclear as to why this was referred to as an Equipment Garage.

Ms. Becker pointed out that the question is what the Building is being used for. Mr. Weiner clarified it to be a Barn and believed that a set of Plans was submitted for this. Mr. Haight made note of the fact that this was asked for but not received. Ms. Cohen also acknowledged the fact that a Floor Plan was not even given for the Farm Market and asked Mr. Weiner how the Board can make a decision without seeing the requested documents.

Mr. Sussman believed the Floor Plan was irrelevant to the Board's decision and once again expressed his ire regarding the Conservation Advisory Committee's letter that made references to the applicant's Waste Hauling operation. Mr. Sussman also objected to the Board's requests regarding the uses of the buildings. Mr. Haight explained to him that the use of a building needs to be considered. Mr. Sussman once again referred to the fact that this is a farm operation.

Mr. Haight pointed out that if the building referred to as an Equipment Garage is being used for that purpose it is way too large for this type of operation. If this building is to be a barn as depicted in the prior Site Plan Mr. Haight requested a layout of it to make sure it complies with Ag and Markets and USDA standards as both entities have specific calculations for barns. Mr. Sussman believed this was the responsibility of Ag and Markets and made note of the fact that some barns house cattle as well as equipment. Mr. Haight requested that a floor plan be submitted showing this. Mr. Sussman acknowledged that Floor Plans will be submitted.

Ms. Becker liked the Operating Plan that was submitted with the prior Site Plan and asked whether an amended Plan can be submitted with the revised Plan. Mr. Haight made note of the fact that the sizes of some of the buildings have changed from the prior plan as well.

Mr. Haight referred to a Cardwood Processing Machine on the revised Plan and questioned what this is. Mr. Weiner explained that this is the Grinder that was previously referred to.

Mr. Haight reviewed what needs to be submitted for the next meeting. The following list was addressed:

- the labeling on the Site Plan needs to be clarified
- floor plans for the Equipment Garage/Barn
- Floor Plan for Farm Market
- Additional Buildings behind the Farm Market
- Revised Operating Plan

Inasmuch as the Farm Market will be open to the public, Mr. Haight will contact the Fire Department because there are only five feet (5') between the Farm Market and the building behind it. Mr. Haight did not believe this to be an issue but wants to address it to make sure.

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

Although the applicant carried their application over until next month they requested the Board's agreement to extend the Stop Clock. Attorney Dow clarified that the applicant wished to extend the time frame for which the Board needs to take action. The Board was in agreement with this.

- **On a motion made by Ms. Becker and seconded by Ms. Cohen the Board voted unanimously to extend the Stop Clock deadline for Eco-Site&T-Mobile Northeast LLC.**

Mr. Haight asked Attorney Dow how talks were going with the applicant regarding the hiring of an Engineer. Attorney Dow explained that the applicant had concerns with certain parts of the Escrow Agreement and were going to write up some alternatives. Attorney Dow explained to them that any changes will need to go back to the Town Board to be amended. The applicant will provide the changes they are requesting. Attorney Dow will contact the applicant regarding this.

MINUTES

The Minutes of the May 21st meeting were approved by the Board.

- **On a motion made by Mr. Haight and seconded by Mr. Savarese the Board voted unanimously to approve the minutes of the May 21st Planning Board Meeting.**

ADMINISTRATIVE

CATAMOUNT SKI AREA: Mr. Haight acknowledged the Notice of Decision for a Special Permit from the Town of Egremont issued to Catamount Ski Resort, LLC regarding an application that was made to expand the pre-existing nonconforming structures and uses of the ski area lodge and lifts located at 17 Nicholson Road, expanding of ski season activities to include indoor and outdoor social and recreational events.

ARTICLE 78: Attorney Dow advised the Board that an Article 78 was received against the Planning Board from Save Craryville, challenging the Board's decision of the GRJH Inc. application.

CARRY OVER

The following matters were carried over to the next meeting:

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

ADJOURNMENT

There being no further business...

- **On a motion made by Mr. Haight and seconded by Mr. Urban the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 8:30 p.m.**

Bob Haight, Chair

Please note that all referenced attachments, comprising 53 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

MARIAN DUKSA

June 18, 2020	SEQRA Parts 1, 2 and 3 (6)
June 14, 2020	Proposed Driveway Inspection Report (1)

13 LACKAWANNA PROPERTIES

September 5, 2020	Latham to Nayer (36)
May 7, 2020	CAC to CPB (2)
May 21, 2020	Latham to Barret (2)

ADMINISTRATIVE

May 28, 2020	Town of Egremont Catamount Notice (6)
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