

# Town of Copake Zoning Board of Appeals

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## Meeting Minutes of July 23, 2020

Zoom Meeting

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on, July 23, 2020 through Zoom video conference due to Covid-19.

### **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, and Dionisio Fontana.

Neal Klein was not present. I was notified that he had been unable to join the meeting due to weather related issues on 7/29/20.

Also attending was Town Attorney Ken Dow.

Town Board Liaison Stosh Gansowski was excused.

Veronique Fabio and Stacey Hartka recorded the meeting.

### **2) Reading and approval of the minutes:**

Chairman Jon Strom asked for a motion on the minutes of June 25, 2020.

*On a motion by Tom Goldsworthy, seconded by Jeffrey Judd, the minutes were unanimously accepted.*

### **3) Correspondence:**

7-7-20 from David Kenny T-Mobile withdrawing their application for the cell tower.

7-9-20 from town board on Stacey Hartka appointment as ZBA secretary

7-17-20 from Pat Prendergast reporting the Planning Board recommendation for another variance for the snow tubing project at Catamount.

7-18-20 from Hecate Energy

7-22-20 from Planning Board referrals for 2020-10,11,12

~ Jon Strom reviewed the correspondence

#### **4) New Applications:**

##### **1) 2020-13, A.Chibbaro, 89 Pine Street, Tax Map # 165.7-2-18**

Expansion of a rear deck.

~ A Chibbaro was there to present his project. He wants to extend an existing deck. Remove the octagonal part of it to create a 32' x 16' rectangular deck and add some stairs. He noted that following builder's recommendations the existing structure needed to be renovated and strengthened.

The board is requesting Mr. Chibbaro to provide more accurate measurements at the rear of the property line to see what variances are needed.

~ Jeffrey Judd mentioned that it looked like some work was already done on the deck.

~ Mr. Chibbaro responded that the deck planks were removed

*~ Jon Strom asked for a motion to accept the application for public hearing for August 27th, Tom Goldsworthy made the motion, Dionisio Fontana seconded, all members agreed.*

#### **Public Hearing:**

##### **1) 2020-10, Mc Namee, 77 Cambridge Rd. Tax map 156.-1-32**

Linda Chernewsky represents the owners James and Jessie McNamee. Mr. McNamee participated at the zoom meeting as well.

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

Linda C. explained that a new house will be built replacing a condemned cabin that was taken down in 2018. The proposed house will be larger than the existing cabin.

Needed are;

Relief from 232-20,B,2,a,2 modification of a non-conforming structure, as well as a rear yard variance of 14'10", a right side yard variance of 2'11" , a left side yard variance of 7'11" and a rear yard variance of 14'10".

There was a discussion between Tom Goldsworthy and town attorney Ken Dow in reference to "modification or replacement of the non-conforming structure"  
~ Ken Dow indicated that the ZBA is an appellate board that it does not have the authority to challenge the building and code enforcer's reasons for a permit deny.

~ Tom Goldsworthy asked if there were any reaction from abutters.

It was confirmed that 2 abutters were notified by certified letters of the project.

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

Attorney Ken Dow proceeded to read the 267-d permitted action by board of appeals document for the area variance.

*Ken Dow 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.*

*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,2 Modification of a non-conforming structure

\* right side yard variance of 2'11"

\* left side yard variance of 7'11"

\* rear yard variance of 14'10"

**Vote:**

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

Tom Goldsworthy: YES

Variations are granted.

**2) 2020-11,Harold Ehrlich, 107 golf course road, Tax Map# 165.5-13,**

Teardown house , build new one. Rep. by Linda Chernewsky.

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

~ Linda Chernewsky explained that the existing septic was too small for the existing house; a new and larger AdvanTex septic system will be installed. The Department of Health has been on site already. The existing septic is located 76' away from the lake; the new system will be 100' away from the shore line.

Linda went on noting that the foundation was cracked and the entire house was taken down. The number of bedrooms was reduced. The new deck attached to the house will be located 50'9" from the lake. A new Unilock retaining wall will be built on the front edge of the property.

~ Tom Goldsworthy read the Planning Board referral letter;

"At the July 16, 2020 Planning Board the Board reviewed the application of Harold Erlich on Golf Course Road at Copake Lake.

The Board feels strongly about granting variances that place structures and septic systems closer to the lake. In this instance they feel the one-hundred foot (100') setback to the lake and the one-hundred and fifty foot (150') setback for the septic can be adhered to. Mr. Grant recommends that if it is not possible that the septic be placed 150' back from

the lake the applicant should have to use a state of the art system to treat waste water. The Board agreed with Mr. Grant's recommendation"

~ Tom Goldsworthy asked if the option to move the garage elsewhere and locate the house closer to Golf Course Rd could be explored.

~ Linda explained that the lot slopes directly right of off Golf course Rd and the proposed design is the best taken the relief in consideration.

~ Jon Strom asked about the deck on the edge of the lake and if the septic will be connected to the Golf Course sewage system.

~ Linda responded that in this case connecting to the Golf Course system would not be cost effective; the owners would rather invest in their own very performant sewage treatment system.

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

Attorney Ken Dow proceeded to read the 267-d permitted action by board of appeals document for the area variance.

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*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

\*232-20,b,2,a. Modification of a non-conforming structure

\* 232-8,C,2. Garage even attached to the house should conform to setbacks

\* 232-11,D,2. Development within 100' of Copake Lake

\* 232-11,B,2. Septic system within 150' of Copake lake.”

\* Rear yard variance of 55’3”

\* Front yard variance of 33’8”

**Vote:**

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

Tom Goldsworthy: YES

Variations are granted.

**3) 2020-12, Alan Crowley, 70 Robin rd.**

Tax Map# 155.-19-1-30.1, 155.-19-1-30.2 and 155.-19-1-54, build new garage.

Represented by Linda Chernewsky.

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

~ Linda Chernewsky had provided new updated plans for the location of the garage. It will now be built in the front yard; 96’ from Robin Rd and 110’ from Ivy Street. The existing driveway will be kept.

~ Abutters were notified by certified mail, no one is present to discuss the project.

~ Tom Goldsworthy asked if the lots were being combined.

~ Linda responded that Mr. Crowley has contacted an attorney who is working on it. However the combining of the lots will not be in effect until next year.

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

Attorney Ken Dow proceeded to read the 267-d permitted action by board of appeals document for the area variance.

Ken Dow 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.

*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.*

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*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 232-8,C,4, Garages should not be located in the front yard.

**Vote:**

Jon Strom: YES      Dionisio Fontana: YES      Jeffrey Judd: NO

Tom Goldsworthy: YES

Variance is granted conditionally upon payment of the ZBA fees and the notification of the combining of the lots into one.

**6: Closed Public hearing**

None

## **7: Internal Business:**

~ Jon Strom pointed out the training sessions that were available.

~ Jon Strom noted that he will not be attending the August meeting and if Jeffrey Judd is not available, the meeting might be canceled.

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

Respectfully submitted,  
Veronique Fabio and Stacey Hartka