

**Town of Copake
Zoning Board of Appeals**

Draft

~
Meeting Minutes of September 26, 2019
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The meeting of the Zoning Board of Appeals of the Town of Copake was held on, September 26, 2019 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.

Present were; Jon Strom, Michael DiPeri, Jeffrey Judd, Thomas Goldsworthy and Dionisio Fontana.

Town Board Liaison, Stosh Gansowski was present as well as Town Attorney, Ken Dow.

Veronique Fabio recorded the minutes.

An audience of about 25 people was present including Town Supervisor Jeff Nayer, Planning Board Chairman Bob Haight.

2) Reading and approval of the minutes:

Jon Strom asked if the members had read the minutes of August 22, 2019;

On a motion by Michael DiPeri, seconded by Dionisio Fontana and approved by the entire ZBA, the minutes were accepted.

3) Correspondence:

The following correspondence was acknowledged and will be reviewed as the meeting goes.

8/2/19 from Ryan Walsh in ref. to 2019-09

8/26/19 and 8/27/19 from Zarin & Steimetz in ref. to GRJH

8/29/19 from Ken Dow ref. to filling an appeal with the ZBA
8/30/19 from Zarin & Steimetz Application to ZBA
9/9/19 from J. Carano, 8 emails in ref. to GRJH (applicant will bring hard copies of doc.)
9/11/19 from Linda Chernewsky ref. to 2019-10 Asbestos Inspection Results
9/16/19 from J. Carano Ref. to appeal filled with ZBA.
9/23/19 from J. Carano, 3 emails in ref. to GRJH
9/24/19 from K. Dow in ref. to appeal 2019-13
9/25/19 from Planning Board referral for 2019-10 Cohen/ Byrne.

~ Jon Strom noted that the meeting dates for November and December will have to be changed to November 21 and December 19, availability of the meeting room permitting.

He suggested that the presentation of the Save Craryville application should be moved to the end of the meeting as there are a lot of people who might want to speak tonight.

4) New Applications:

1) 2019-11. 95 Lake Shore Dr. Taconic Shores. Alice & Buddy Platt, Tax Map 176.3-2-55

Represented by Architect Christie Billeci.

22'x 18.4' single story addition with new bedroom and accessible bathroom.

~ Architect Christie Billeci presented the project. The house presently has 2 small bedrooms; the owners would like to build a 18.4' x 22' room to the right side of the existing home. The addition will have a bathroom and a 3rd.bedroom.

The existing septic system is designed for a 3 bedroom house, it now has only 2. Right side and rear variances are requested.

The existing 8'x10'shed will be moved away from the house in the rear yard.

~ Jon Strom asked for a better plot map showing the topography of the area.

~ Christie Billeci will check on the variances needed.

~ Jon Strom asked for a motion to accept the application for public hearing for October 24,

Michael Diperi made the motion, Dionisio Fontana seconded, all members agreed.

2) **2019-12. 11 Elm Street.** Gano Metjajic, Tax Mapp 165.7-2-14.

Rep. by Lindsay leBrecht.

Demolition of existing house, build a new one on the non-conforming lot, 2 front and 2 rear yards area variances requested.

~ Lindsay Lebrecht presented the project, the owners want to take down part of the existing house and start building a new house while still occupying the remaining part of the old house.

This property is a corner lot; it has 2 front yards and 2 side yards.

~ Jon Strom noted that according to the plan presented, the new house would be set 14' away from the property line on Pine Street.

~ Jon Suggested that the existing house should be teared down to allow the new one to be centered on the lot, therefore reducing the number of variances needed.

~ Lindsay LeBrecht will forward the suggestion to the applicant and present a revised plan.

3) **2019-14 Copake Camping Resort. 2236 C.Rt. 7.**

Request for a variance to operate the campground 10 months out the year.

Attorney Alex Betke represents the owner David Zweig and Engineer Rich Andreassen presented the application.

The owner proposes to operate 22 sites (16 RV sites and 6 cabins) for 10 months. This is not in compliance with the town's definition of "Seasonal Campground". "Seasonal Campground" is limited to 6 months.

~ Jon Strom asked if the plan was now, not geared towards holiday's season but maybe more towards housing seasonal workers.

~ Thomas Goldsworthy asked if the campground will be closed November and December.

~ Jeffrey Judd clarified that the remaining 241 sites will not be available to campers outside the 6 months allowed.

~ Jon Strom asked if the stores and activities rooms will be closed.

~ Rich Andreassen responded that no store or activity rooms will be open outside the allowed seasonal period, but a full time campground manager and on-site maintenance personnel will be available year round.

*~ Jon Strom asked for a motion to accept the application for public hearing for October 24,
Michael Diperi made the motion, Jeffrey Judd seconded, all members agreed.*

5) Public Hearings:

1) 2019-07, 11 Memory Lane, John Barbato, Tax Map 165.10-1-18

Continuation of the public hearing opened in June.

Relief from: 232-8 A, Density Control Schedule.

232-8 C, 4, Garage located in the front yard.

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

232-11 G, 1, Shed in the front yard and close to side property line.

232-20 B, 2, a, 2, Modification of a non-conforming structure.

Presented by Ryan Walsh.

~ Jon Strom noted that the ZBA is not an advisory board and a complete application had to be presented. Jon acknowledged that the new plans were much improved.

~ Ryan Walsh has updated his plans and his application is now complete. He presented his project; the existing house is on a non-conforming lot, it is a 2 bedroom home and will have the same number of bedrooms after renovation.

** Build a new garage 24'x14' one story, setback 86' from Memory Lane and modify the existing driveway to provide access to it, the existing driveway is unstable and Mr. Walsh has been in contact with Taconic engineering. Also planned is the repair the existing parking area.*

** Build a new entry addition, stair, patio, and a shed at the west side of house (between the house and Memory Lane NOT between house and lake).*

** Modify the pitch of existing roof to relocate the second bedroom upstairs (house will remain a two-bedroom house). The total height of the house will be 24'.*

** Repair the existing porch in the same foot print at lakeside to make it structurally sound; enclose the porch at lakeside to make it four seasons.*

There will be no work within the 50' setback from the lake.

~ Jon Strom asked if there was anyone here that wanted to comment on the application.

Members did not have any more questions.

~ Jon Strom asked for a motion to close the public hearing, Michael Diperi made the motion, Tom Goldsworthy second, 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 **232-8 A, Density Control Schedule.**

232-8 C, 4, Garage located in the front yard.

232-11 D, 2, Development within 100” of Copake Lake.

232-11 G, 1, Shed in the front yard.

232-20 B, 2, a, 2, Modification of a non-conforming structure

Vote:

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

Tom Goldsworthy: YES

Variances are granted.

2) 2019-10, 165.-15-01-51. Randy and Susan Cohen/Byrne. 17 Washington Drive

Demo existing house, and rebuild a 3 bedroom home. Variance for non-conforming property, front and side yard sets back.

Presented by Linda Chernewsky.

~ Linda Chernewsky explained that the existing house will be taken down. This is a corner lot, it has 2 front yards and 2 side yards.

The new house will be built within the existing footprint. The number of bedrooms will remain the same. The proposed house will be higher than the existing one at 19'8"1/4.

~ Jon Strom read the Planning Board referral;

"At the September 5, 2019 Planning Board meeting the members reviewed the application of Randy and Susan Cohen/Byrne at Copake Lake.

The Board made note of the fact that the applicant owns a separate adjacent lot on which their well is located. Ms. Becker seemed to remember a section in the former Zoning Code that stated that increasing a non-conformity wasn't allowed if the applicant had the potential to merge adjacent lots as this would alleviate the non-conformity and possibly the necessity of a variance.

The Board also noted the fact that the septic system and fields needs to comply with the appropriate standards for a new structure as required in the new Zoning Code."

~ Tom Goldsworthy asked if the owners will combine the two lots.

~ Linda Chernewsky responded that they will not, the owners said that it might end up costing them more taxes if they were to adjust the property lines. Linda added that even if they combined the 2 lots and built the house in the middle, variances would still be required.

Linda Chernewsky has provided a letter in reference to the installation of a 1000gallons septic tank dated April 2017.

There were no questions from the audience regarding this application.

~ Jon Strom asked for a motion to close the public hearing, Michael Diperi made the motion, Tom Goldsworthy second, 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.

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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 A, Density Control Schedule.

A variance of 19.2' front yard and 9.1' side yard setback on Washington Dr.

A variance of 35' front yard and 5.11' side yard setback on Van Buren Dr.

Vote:

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

Tom Goldsworthy: YES

Variances are granted.

New Application:

- 3) **2019-13. Save Craryville.** Applicants are appealing the town of Copake CEO's decision in ref. to GRJH and challenging the issue of the expiration of the Special Use Permit that was granted in 2016.

Presenting the application; Jamie Carano and Tim Rode of Zarin & Steinmetz law firm. They are representing 9 aggrieved parties as follow; Irene Sax, Jim Cox Chambers of FH Farms, Hillary Melville of Homestead Market, Peter Bottjer, Roberta Linding Darling, Timothy Heffernan, William Rasweiler Angus Farm, and Michael & Carol Pallen.

~ Town Attorney Ken Dow indicated that the only issue that can be dealt with by the Zoning Board of Appeal is the determination regarding the expiration of the Special Use Permit that was issued in December 2016 to GRJH for the operation of a gas station and a convenience store at 1763 State Route 23 in Craryville Tax Map # 144.4-1-5.

There was a discussion between Ken Dow and Tim Rode regarding the cases submitted to the ZBA from Save Craryville.

~ Tim Rode indicated that three issues are submitted:

- (1) the expiration of the special use permit;
- (2) whether the ZBA must re-open its SEQRA review/rescind its Negative Declaration based on the emergence of new information relevant to the project's potential adverse environmental impacts (*i.e.*, the overwhelming evidence of a sand and gravel aquifer directly beneath the project site);
- (3) whether the appeal stays the Planning Board's Site Plan Review under Town Law Section 267-A(6). The materials that Save Craryville submitted that are referenced in your e-mail are relevant to the ZBA's determination on one or more of these three issues.

~ Ken Dow indicated that the ZBA has no jurisdiction over a stay of the Copake Planning Board and that the ZBA does not have the authority to rescind the negative declaration on the SEQRA.

The only thing that the board can do is to make a determination on the Special Use Permit expiration.

~ Jamie Carano distributed binders and started her presentation by reading a letter threatening a law suit from the members of Save Craryville if their demands were not met. It was suggested to her that this is not the best way to approach any board.

Three (3) members of the Save Craryville group (Tim Heffernan, Peter Bottjer and Jim Cox Chambers) took the stand and expressed their opinions and concerns.

They spoke about the negative impact the GRJH project could have on a number of aspects, either personal or more global.

~ Tim Rode pointed out the Copake code 232-23 F in reference to the extension and renewal of a Special Use Permit; he noted that GRJH failed to apply for an extension.

~ Jon Strom asked for a motion to accept the application for public hearing for October 24, Michael Diperi made the motion, Jeffrey Judd seconded, all members agreed.

6: Closed Public Hearing:

None

7: Internal Business:

The meeting was adjourned at 9:30.

Respectfully submitted.
Veronique Fabio.