

ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
June 30, 2015

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Present: David Cooper, Sandy Haakonsen, Christy Ransford, John Stelling, Pat Liddle  
Absent: Bill Wallace

Chairman Cooper called the meeting to order at 7:00 p.m. with 3 people in the audience. The one item on the agenda is consideration of the application of Charles A. Goldberg, represented by Frederick J. Haley, for a variance and subdivision for parcel #50.1-2-3.1 at 25 Queechy Lake Drive.

Motion by Pat Liddle with 2<sup>nd</sup> by Christy Ransford to approve the minutes of February 24, 2015. All in favor.

David read the Goldberg application and said based on the draft minutes of the Canaan Planning Board meeting on April 20, 2015, the proposed subdivision was reviewed because of the width of the right of way and size of the lots, which are non-conforming. We have an application where standing is being granted by the Planning Board as a result of Mr. Haley's March 16<sup>th</sup> informal presentation to them and the draft April 20<sup>th</sup> Planning Board minutes where they formally denied a minor subdivision of this parcel. From David's review it is a sizeable lot with 2 houses to be divided into 4 parcels. From the maps it is not clear how all this will work. Tonight the ZBA will arrive at what it needs from the applicant to deem the file complete.

David discussed what we have in the file. David asked if there is any paperwork on the rights of way. Mr. Haley said around Queechy Lake are many properties, summer camps and year-round residences, whose deeds and maps refer to rights of way but no deeded descriptions of these rights of way are found. All this was done between 1920 and 1975. The roads are not routinely maintained in winter. The two residences that are on this lot get access from a right of way behind the former Pyrenees restaurant. What does the applicant propose to do? The rights of way are supposed to be 60' wide. We have a situation where there are 218' of frontage, part of which is 35' wide.

David said we are charged with granting the minimum relief necessary for a good reason. Are you proposing that the location of the provided right of way will change? No, they did exchange a written easement for Lot 2 to come out over the driveway and for Lot 1 to continue to own the driveway. David said you could get frontage off a private way if you had one but Mr. Haley said they do not have a private way. The lack of 60' stymies him. David asked if they were proposing to use the 25' access as the basis for access to all these other properties. Yes, they would come in off Whittings Pond Road with a provided way to get into the back but the grades are steep.

Mr. Haley said Lots 1 and 3 have legal road frontage. Lots 2 and 4 would have rights of way to Whittings Pond Road or County Route 30. David asked why you can't conform on Lot 2 with 2 acres. Mr. Haley said some land could come off Lot 3 to make Lot 2 bigger, but it is still land-locked. David asked if they have a deed that gives them access to this way, and Mr. Haley said yes they did.

Mr. Jack Leal, owner of neighboring land, spoke saying his driveway is a shared right of way with the property. It is very steep from Whittings Pond Road to his house. He can't get up in the winter. Mr. Leal's deed grants access through Lot 1 to Whittings Pond Road down to the Lake. Jack and neighbors J. Rahman and Gail Davis are opposed to this process. Mr. Haley said they could avoid the Leal property by

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using road frontage on Whitings Pond Road to access the property. Lots 2, 3, and 4 would not have road frontage but would have a 35' right of way to get out to County Route 30.

David said you are requesting a variance for each lot line. You could make Lot 2, 2 acres but you would still need a deeded right of way. Mr. Haley said they could go through Lot 1 to 2 to 3 to 4. It would be a 35' right of way. Mr. Leal's rights cannot be changed. David said the variance would be for the sub-standard parts of the right of way. The Board has to be assured that the lots are viable, have access. You can make it 60' in every place where it can be 60'. Mr. Haley said the area of the right of way does not subtract from the area of the lot, but after reviewing the law, John Stelling thinks the way would have to be subtracted from the lot.

David asked Mr. Haley why they want to do this. Mr. Goldberg bought the property 8 years ago and would like to sell the two houses separately. Mr. Haley went on to say the area was originally a farm, and the farmer sold off lots according to the rules of the day. Rights of way were granted. Before 1975 large parcels could be broken up without concern for frontage, etc.

Christy asked about wells for Lots 1 and 2 – Mr. Haley advised there is a well on Lot 1 that probably provides water to both houses. They may have a common septic as well.

Discussion of ways in which the lots could be altered, but the terrain is very steep.

Mr. Haley likes David's suggestion of a road maintenance agreement that all parties would have to sign.

John Stelling said in Canaan's zoning law there is not a definition of an easement, only right of way, or way. The definition is very specific on 60'. This cannot be a way. Mr. Haley said it could be a private easement specifically for ingress and egress.

David said that the variance requests would have to be very specific and must describe why the applicant thinks they are rational. Mr. Haley should get the lots as conforming as possible and where it's not possible, that's where to request a variance. The goal would be to minimize the number of variances requested.

Mr. Haley said a driveway doesn't have to be 60'. Could it be a "common driveway?" Other towns have that. David said Mr. Haley and the owner have to work out how they want to proceed, how what they want is going to work. Mr. Haley will come back next month, July 28<sup>th</sup>, with a revised plan, to continue the conversation. David said we are not in a position to schedule a public hearing. Mr. Haley is asked to please notify the Board Clerk, Julie Alexander at [juliej10549@yahoo.com](mailto:juliej10549@yahoo.com) 5 days prior to July 28<sup>th</sup> if he cannot attend on July 28<sup>th</sup>.

Sandy Haakonsen requested the applicant please complete section C on page 2 of the application form and provide a narrative with rationale for the variance request.

The Board can review the Canaan subdivision law which is found on the Town's website, [www.canaannewyork.org](http://www.canaannewyork.org).

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There being no other business before the Board, Motion by Pat Liddle with 2<sup>nd</sup> by Sandy Haakonsen to adjourn. Adjourned at 8:01 p.m.

For the Board,



Julie Alexander,  
Clerk