

ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
September 29, 2015

1

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

Chairman Cooper called the meeting to order at 7:00 p.m. with 3 people in the audience. There is one item on the agenda: application by Marcy Bemiss, Bemiss Properties LLC for a special permit to build a commercial storage facility on State Route 22, Tax Map ID #50.-1-54.

Motion by Pat Liddle with 2<sup>nd</sup> by Sandy Haakonsen to approve the August 2015 minutes as amended electronically. All in favor.

The Bemisses were building a storage building in a commercial zone. A building permit was issued by the building officer. About a week ago the building officer was made aware that the permit was in error because the use that he had allowed was an accessory use, which requires a special use permit to be on the property. The applicants are attempting to get a special permit to construct a commercial storage building in a C-2 zone.

David explained the process. The ZBA is responsible for looking at variances and granting special permits. We cannot do site plan review for commercial permits; that has to be done by the Canaan planning board. You should contact the planning board right away to get on their agenda.

There was a stop work order issued by the building officer, and they did stop work. The building officer contacted the town attorney, who advised against the stop work order because the building is still open, and a considerable investment has been made by the owners who should be able to make the building secure. It will be several weeks before their contractor can return to work on the site.

We are going to review the file and tell the applicants anything they need to add before the public hearing. The zoning law has a lot of helpful information. It is helpful that the applicant has a survey, which should be useful before the planning board.

On the subject of use, they are going to be moving their trucks around, and they will be using and storing their personal property.

John Stelling discussed why this is considered commercial storage – because of the trucks. It cannot be a garage without a primary building on the property. A commercial storage building is a specially permitted accessory use. The building officer initially felt it was a permitted use. John said the building officer looked at the definitions and tried to put it where it fit. David said we could do an interpretation of the zoning.

Pat Liddle said commercial storage building is under the category of uses in the law. When you look that up it has to be incidental to the main use of the property. We don't have a definition of an accessory use, just an accessory building. David will contact the town attorney to see if there are any other avenues that could result in a favorable decision. We have to figure out what an accessory use is, and the only way to get there would be to hold a public hearing. John commented that prior to this building

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2

the lot was vacant and therefore had no use. It seems wrong that you cannot put up a barn in a commercial zone.

David reviewed the application that was submitted. David explained the process for a public hearing. We will notify the Canaan planning board that we have accepted your application for a special permit. You will need to get on their calendar to develop an approved site plan. We will also have to forward a copy of your application to the Columbia County planning board. We will conduct and close the public hearing and then deliberate. We cannot officially decide until we have an approved site plan.

Mr. Bemiss stated that the building permit they have now is for a storage building. David said the building officer is trying to get them whole. Marcy Bemiss expressed her frustration wanting to know why the Town of Canaan can't just say they made a mistake and go ahead as originally authorized. David said we should look forward. He will talk with the town attorney to see if there is another avenue, but we should work the regular process while we look for another way. Bill Wallace asked if the applicants are working on the entry with DOT, and they are.

Motion by David Cooper with 2<sup>nd</sup> by Bill Wallace to accept the file and set a hearing date. All in favor. The public hearing is scheduled for Tuesday October 27, 2015 at 7:00 p.m. at the Canaan town hall.

Motion by Pat Liddle with 2<sup>nd</sup> by Bill Wallace to adjourn. All in favor. Adjourned at 7:50 p.m.

For the board,

Julie Alexander, Clerk