

ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
May 30, 2017

Present: David Cooper, Pat Liddle, Bill Wallace, Jack Steffek, Christy Ransford

Absent: Sandy Haakonsen

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 Thomas Potter and Daniel Mathieu for an area variance to build an in-ground pool, **208 Cunningham Hill Road, Tax Map ID #60.-1-52.1**

David explained that the other open files are still with the Planning Board and that the Zoning Board will continue with them once both the Canaan Planning Board and Columbia County Planning Boards are set.

Motion by Pat Liddle with 2<sup>nd</sup> by Jack Steffek to approve the April 2017 minutes as submitted. All in favor.

**Consideration of file #2017-6**, Thomas Potter and Daniel Mathieu, 208 Cunningham Hill Road, began at 7:03. David read the file. Property owner Thomas Potter would like to build a 16'x32' in-ground pool with a non-conforming Setback. The zoning district is RA-2 and the current use is a residence, which will not change. There will be alterations to wiring, but not to septic. The driveway will remain the same, as will the use and occupancy. The lot size is 48 acres.

This application was denied by Zoning Enforcement officer Lee Heim on 5/26/2017, and was referred to the Zoning Board for an Area Variance as per article IV subsection D.

Chairman Cooper read the following narrative written by Thomas Potter:

This additional information is being provided to the Town of Canaan Zoning Board of Appeals in support of the request for an "area variance to the Zoning Ordinance" for the location of a 16' by 32' in ground pool on the property at 208 Cunningham Hill Road.

On 5/26/17, an application for building permit was denied because the proposed location of the in-ground pool (see Site Plan dated 5/16/17) was within 1.67 feet of the easterly property boundary. This distance does not meet the 50-foot setback requirement for the Town of Canaan. The proposed location of the pool on the property proximate to the easterly property boundary is being requested due to the following:

- Septic/sanitary improvements exist directly south of an existing property residence and would not be desirable for a pool location.
- The proposed location of the pool is proximate to necessary utilities located within the northerly garage building.
- The proposed location of the pool is generally flat.
- Rock outcropping and potentially ledge exists to the west of the proposed location.
- Areas to the west of the northerly garage and west of the nearby shed are being preserved for future livestock and/or farming activities.

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David asked if the septic was located on the Massachusetts side of the property, and Mr. Potter said it is on the Canaan portion, and directly south of the residence. David explained that Mr. Potter owns two pieces of property that abut, one another, but the boundary line between parcels happens to be the state boundary line. There is a residence on the MA. property as well as on the NY state side of the property that is being renovated at this time.

Mr. Potter provided the board with a "Google Earth" photo that shows where the proposed pool will be located. David questioned whether Tom could see where the state line is, and he said that there is a marker on the property, and pointed it out on the photo and on the site plan.

Bill Wallace said that if septic was going to be one of the reasons the pool needs to be located here, then he needs to show where it is on the site plan. Tom pointed out on the photo where the tank and test holes that were being explored at time of purchase were located. There was no leach field, so the septic was moved. David asked if the terrain is relatively flat where he would like to put the pool, and the answer was yes.

Pat Liddle asked if the pool was going with the Massachusetts residence or both places, to which the answer was both. Tom explained that the other people in residence were his family as well.

David asked if the outline of the pool was the actual size, or did it include the necessary fence. It is the actual size of the pool. Depending on what the ledge and the rocks demonstrate to the contractor, it may be constructed a little further west. David asked if potentially the fence could end up going into Massachusetts. Mr. Bowe mentioned using an existing post and rail fence and stone wall, but Bill Wallace said that would not be allowable, as it couldn't have foot holes in it and needed to be at least 4' high so people couldn't get up on it. David stated that the fence would need to conform to NY State Building Code.

David asked if there was anything else beside the septic that should be represented, and Bill stated that since future farming and agriculture had been mentioned, that they should point out the general area for that portion of land on the map.

Pat Liddle asked that there be a general note for the distance from the driveway to the nearest intersection. Matt Bowe asked if it should be from the Top of Dean Hill Road. Bill said the idea is to just put on the map the distance in feet and add an arrow from one point to the other. Mr. Bowe said the west boundary of the NYS property is the Top of Dean Hill and 295 intersects with Cunningham Hill Road just east of the state line. He will put distances on the map.

Pat asked where the mail is delivered, and Tom said he has to have two P.O. Boxes. One in MA and one in NY.

Bill asked if the board could take a look at the property, and Tom said he could take everyone around at once. David explained that the board was not able to do that, because if it was more than two people it

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would be a quorum and thusly considered a meeting. If it is a meeting then the public would need to be notified. It was decided that the board would travel at different times in the morning on Saturday.

Motion by David Cooper with 2<sup>nd</sup> by Bill Wallace to conditionally accept the file and set a hearing date as long as additional information is received within 7 days. All in favor. The public hearing is scheduled for Tuesday June 27, 2017 at 7:00 p.m. at the Canaan town hall.

David explained the process of notifying all abutters, including Massachusetts and New York.

Motion by Pat Liddle with 2<sup>nd</sup> by Bill Wallace to adjourn. All in favor. Adjourned at 7:46 p.m.

For the board,

Heather O'Grady, Clerk

\*\*\*\*\* Property owner Thomas Potter called the ZBA clerk on Thursday, June 1, 2017 and stated that he wanted to withdraw his application for the area variance. He said he would reapply at some point in the future.