

ZONING BOARD OF APPEALS
TOWN OF CANAAN
COLUMBIA COUNTY, NEW YORK
May 31, 2016

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

Chairman Cooper opened the meeting at 7:00 p.m. with three people in the audience. Motion made by Pat Liddle with 2nd by Sandy Haakonsen to accept the April minutes as submitted. All in favor.

There is one public hearing and possible deliberation on the agenda.

Chairman Cooper stated that he just wanted to mention that he had needed to make a small revision to the decision on the file for **Gutchess Lumber #2016-2**. The holiday hours in the original decision were incorrect so he spoke to the Town Attorney who advised him to make the revision in order to save from having issues down the road.

David read the legal notice for the public hearing on file **#2016-3**, Dorothy Meppen who is being represented by Mark Meppen.

Mr. Meppen submitted his receipts along with a copy of his notice to abutters as well as a check for his filing fee of \$25.00

Chairman Cooper stated that he had received some information from the Town Planning Board, and read pages 3-4 of the Planning Board Minutes from the 4/18/2016 meeting. (The entire minutes can be found on the Town Website or at the Canaan Town Clerks office.) He stated that this would help set-up the whole matter with the Meppen Boundary Line Adjustment.

Within the minutes it is stated that there are trailers and a metal building that are not in compliance with the Site Plan. Chairman Cooper asked Mr. Meppen if the trailers were for sale, and Mark said that yes they were and that the metal building would be removed. Chairman Cooper then went on to say that the ZBA's main concern is with the Boundary Line Adjustment.

Continuing with the Planning Board minutes he read that there was concern that the Boundary Line Adjustment would change the line from residential to commercial and create a new lot. Also discussed was that this Boundary Line Adjustment would take a non-conforming lot and make it better, but it still would not be wholly conforming.

One other issue that was taken up at the Planning Board meeting was that land was being taken away from the commercial property and being added to the residential and this wasn't a good policy.

Chairman Cooper then read a letter from Planning Board Chairman, Pierre Gontier, in which he said that the Boundary Line Adjustment had been referred to The Zoning board of Appeals for an interpretation

of the law of what constitutes the making of a new non-conforming lot. (Does the movement of the boundary line of an existing non-conforming lot create a new lot?)

Chairman Cooper then asked surveyor Matthew Bowe and Mr. Meppen if they were just looking for a simple Boundary Line Adjustment. Mr. Bowe asked if he could present the board with a new map. He pointed out where there would be .432 acres taken from the commercial zone and added to the 1.08 residential piece of property for a total of 1.512 acres. Chairman Cooper said that the other thing is that you can have more than one use on a property. The trailer is legal and you are allowed to have a residence on commercial property and they can exist simultaneously. Mr. Bowe said that is what he believed Pierre had been trying to clarify in his letter as well. He also stated that it was not a significant diminishment of the commercial property. It will now be over 75% conforming so we are making progress. David said that this just seems to make sense for the house.

Mr. Meppen stated that he had picked the adjustment so that it went with the natural tree line on the property and this piece of property looks like it should belong with the residence and not the hardware store.

John Stelling said the board was getting into the nuts and bolts of this, but isn't the primary issue whether or not a new lot is being created? Chairman Cooper affirmed this. John said that Local Law #1 of 2003 which is the first boundary line adjustment law to be had in the Town of Canaan says by definition: A Boundary Line adjustment is any change or adjustment in a line separating two or more adjoining lots, which does not result in the creation of a new lot. Pat Liddle stated that then by definition this is not creating a new lot. John went on to say that it is only a subdivision that can create a lot and there is no subdivision being done here.

John stated that he thinks Mr. Meppen should get his \$25.00 back as he didn't really need to be there. David commented that he wasn't sure how making a lot more conforming should have compounded the Boundary Line Adjustment. David said it seemed illogical when a lot is becoming more conforming to argue it whether the property was coming from commercial or residential.

John said there seemed to be some confusion that if you change the lot lines you are also going to change the zoning lines, and that is not the case. Canaan Zoning and Lot Lines are different.

David asked how the Board wanted to proceed. Did they want to close the hearing? The Board members all agreed that they had heard enough. David asked if they still wanted to return Mr. Meppen his check and they agreed. David asked for a vote and all were in favor.

Pat made a motion to close the hearing with a 2nd from Sandy Haakonsen. Hearing closed at 7:28.

Deliberation: David moved to approve Boundary Line Adjustment and make an aggressive statement that this is not creating a new lot and didn't need to come before this Board and is not a variance. It would seem irrational not to accept this and it is a listed type II for SEQR. Pat Liddle 2nd.

John stated that these adjustments are always looked at on a case by case basis and asked that if we go along with this are we setting any kind of precedent. David stated no it wasn't. He said he would make sure the decision is specific to this case, and this is in fact a Boundary Line adjustment and no parcel is becoming substandard according to the town laws. He also stated that he would like to send a Cover

Letter stating they are allowed to have a house on the commercial property and there can be more than one use.

David asked the clerk to Poll the board:

David Cooper: Aye

Pat Liddle: Aye

Sandy Haakonsen: Aye

Christy Ransford: Aye

John Stelling: Aye

Approved unanimously 7:40

David mentioned that the schedule for summer classes was here and he would put it down at the Town Clerks office.

David made motion to adjourn with a 2nd from Pat Liddle. All in favor 7:41

For the Board,

Heather O'Grady,
Clerk