

ZONING BOARD OF APPEALS
TOWN OF CANAAN
COLUMBIA COUNTY, NEW YORK
August 29, 2017

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

Chairman Cooper opened the meeting at 7:00 p.m. with six people in the audience. Motion made by David Cooper with 2nd by Christy Ransford to accept the July minutes as submitted. All in favor. The agenda consists of two files for consideration: **File #2017-7** for a Photovoltaic project for **Malcolm Drummond, 189 Old Hudson Turnpike, Tax ID #49.-2-44** and **File #2017-8** for an above ground pool with a deck and fence for **Nancy Peck and Leigh Rice, 120 Beebe Pond Road Tax ID#50.3-1-25**

7:03 Consideration of file #2017-7

Chairman Cooper began with consideration of File **#2017-7** for a Photovoltaic project for **Malcolm Drummond, 189 Old Hudson Turnpike, Tax ID #49.-2-44**. David introduced the Board to land owner Malcolm Drummond, as well as Andrew Petersen and Jennifer Amerling, who are both from Monolith Solar. He then updated the board that there had been a series of emails back and forth trying to facilitate this file. He stated that both Andrew Petersen and Malcolm had done a lot of due diligence to pull the file together. He also stated that there had been some confusion on his part, partly due to the 2nd page of the original application asking for a Use Variance. That Variance is to be stricken, and the board will only be dealing with a Special Permit.

David read the file for **#2017-7**. The Special Permit is for a ground mount photovoltaic project, located at 189 Old Hudson Turnpike. It is a single-family residence in a RA2 zone. There will be electrical changes made.

Andrew Petersen handed out updated maps to the board. David asked Andrew why there were so many schematics included, and Andrew stated that the Planning Board said they needed to be included.

Malcolm Drummond said that this is a Global initiative and he can't believe the town has such a stringent law. Chairman Cooper said he understood. He said that prior to the enactment of this law it would have required a Use Variance in which the board probably wouldn't have been able to grant. The town did wind power first and then they did solar. David would like to see it be simpler especially for residential uses. David stated that there seemed to be a sense by some of the people that those getting solar were getting something for nothing even though there was a substantial investment being made. A lot of residents had strong feelings on ground mounts. Mr. Drummond said this is a beautiful place, but there are some things here much uglier than a ground mount. David said the law that they came up with took quite a while because there were disagreements.

Mr. Drummond said that as a member of the community he would like to have this in-line with other communities. David told him that he should lobby that with the Town Board. They can't change decisions, but if enough people think the law should be modified or changed they can initiate that.

David said that one of the problems with the ZBA is that it is a little cumbersome. He said we will accept the file and then the hearing date will be set in a month. We will hold the hearing and hopefully close the hearing and deliberate on the same night. He went on to say that the ZBA can't change any decisions that may be made by the Planning Board. Also, no other board can change a decision made by another Board. If anyone wants a change it has to go to court.

David then read the narrative written by Andrew Petersen, which can be found in the file which is available at Town Clerks office. Chairman Cooper made a motion to accept the file as submitted, with a 2nd from Pat Liddle. All in Favor.

David explained that the Public Hearing would be on September 26, 2017. He said that while doing the SEQR he found that this project is in an overlay zone, for the long-eared bat. As a matter of fact, the whole town is in a critical habitat zone for the long-eared bat. The bats come out of hibernation in the summer and have their pups. They particularly like to raise their young in Shaggy trees. (Shagbark hickory). Because of this, there are restrictions on cutting trees in the spring and summer.

7:22 Consideration of appeal #2017-8 for an above ground pool, deck and privacy fence for Nancy Peck and Leigh Rice located at 120 Beebe Pond Road. Tax ID#50.3-1-25.

David read the file. The reason for this appeal is due to density requirements, which need an area variance. David then read the narrative written by the appellants, which can be found in the official file at the Town Clerks office. Because this property is located in a C2 Zone, the setback is 100 ft. This project is also located on a corner lot between Beebe Pond Road and State Route 22.

David pointed out on the map provided where the various roads were located in conjunction with the property. He asked if the measurements were from the center of the road. Leigh Rice looked at the map and said that she believed that it was from the center of the road to a cleared area on the property. David asked where the fence was, and they said it Wasn't there yet because of the setback issues. The problem lies in the fact that this is a corner lot.

David asked who had told them that they needed to come to the ZBA, and they said that the builder said they needed a permit for the deck, and in fact probably needed one for the pool. They then went to ZEO Lee Heim for the permit and were denied.

Sandy Haakonsen read the requirements for a fence and building permits. David read from exempt setback conditions for a fence. He asked if the fence would be 10 feet from both roads. Leigh Said there wouldn't be a fence on the Route 22 side, but rather the Beebe Pond side with a little bit of curve to it. David said that he would get in touch with Highway Superintendent Bernie Meyer, because he would need to give input involving snow removal. Pat was reading the laws and said that a fence couldn't be closer than 25' from the center of the road.

Christy asked if they could bring in a picture of what the property looks like now, instead of the one submitted showing lots of foliage. She stated that this is not what it looks like anymore. Nancy and Leigh said they would submit one.

Sandy said she knew the fence would be on the Beebe Pond Side, but wanted to know if any of it would be on the Route 22 side. The answer was maybe a tiny bit. They just want to block the view a little bit.

Pat wanted to clarify that they were sure that the 22' distance from the center of Beebe pond road to the pool was accurate on their drawing. Pat wanted to know how they thought they could have a fence that was closer to the road. David said they would need a variance for that but for that to happen they need input from Bernie Meyers. Leigh said that no one has ever hit the trees with a plow. Pat asked if 10' was what they were looking for. They said yes, because they are trying to put the fence between the trees that already exist.

David said we would need pictures and asked if there were any other conditions. Pat said she would like to have some flagging to show where they want to put the fence. Christy agreed and said it would help.

Nancy asked that at this point do they have a permit for the pool, to which the answer was no, because we need to have a hearing.

Pat made a motion to accept the file with the conditions that Nancy and Leigh put up flags or other markings to show where the fence is going, along with current pictures of the yard. Sandy with the 2nd. All in favor.

Leigh and Nancy said that they would be out of town for the next meeting. After some discussion, it was decided that the Public hearing will be on October 31, 2017. David informed the Appellants on how to notify abutters.

Pat made a motion to adjourn and Christy with the 2nd. Meeting adjourned at 7:46.

For the Board,
Heather O'Grady
Clerk