

ZONING BOARD OF APPEALS
TOWN OF CANAAN
COLUMBIA COUNTY, NEW YORK
August 28, 2018

Present: David Cooper, Sandy Haakonsen, Christy Ransford, Jack Steffek, Heather O'Grady
Absent: Pat Liddle

Chairman Cooper opened the meeting at 7:00 p.m. with 22 people in the audience.

Motion made by David Cooper to accept as submitted the July meeting minutes as well as the special meeting minutes from the August 7, 2018 Public Hearing. 2nd was made by Sandy Haakonsen. All in favor.

There is one public hearing on the agenda.

David read the legal notice for the public hearing on file #2018-5, Raymond and Bridget Cappo 365 Schillings Crossing Road, Tax map ID # 49.-1-1.

Mitch Khosrova who is the lawyer representing the Cappos turned in the receipts for notification to abutters as well as the \$25.00 Special Permit fee.

Chairman Cooper read the SEQR part 2 with all answers being little or no impact. Part 3 of the SEQR written by Chairman Cooper stated that the project sponsor has requested a modification to an approved site plan and special permitted use. Part of that request may necessitate modification of an onsite potable water supply for public use and possible upgrade of onsite septic system. Both systems have been reviewed by Columbia County Health Dept. and system upgrades have been recommended by that agency. The original approvals were for a private school and the sponsors have requested a modest increase in scale.

David went on to read a letter from the Planning Board Chairman Pierre Gontier', that stated: Please be advised that on our regular August 20, 2018 Board meeting we approved the Site Plan for Super Soul with a Condition that the plan must meet all recommend upgrades for Water and Sewerage as proposed by The Columbia County Health Department.

David asked Mitch to explain the site plan. Mitch stated that they had two meetings with the Planning Board because the board had asked for extra details to be added. He said the Planning Board changed some of the parking, and there are no changes to what is being asked of the Special permit. The main change from the Planning Board is that there cannot be any temporary structures for water or sewage. They had received a letter from Michael DeRuzzio from the Health Department and we understand that there are special certifications that will be required from the county in regards to the water and septic. The Cappo's engineer has also told them that they will probably need DEC certification on the septic as well, which they plan on following through with. There is also no off-street parking at other locations and that is fine because it is not needed as there are 46 spots on the site plan.

David asked how the Special Events that may be held three times a year will be set up, and Mitch said there would be bottled water and the food will be catered as always. There will also be a tent approximately 60 feet x 40 feet in size, and the event will only be for one day lasting until 8:30 or 9:00 at night. The people coming to the event will be from the city and will most likely be carpooling or taking Amtrak, so there will not be too many cars.

Chairman Cooper mentioned events that were listed on the website but didn't happen and Mitch said that there were too many people so they held the events elsewhere. David mentioned that Schillings Crossing was a dirt road and increased traffic could cause concerns. He then asked the Highway Superintendent Bernie Meyer how they keep the roads so good. Bernie stated that different topography required different material and that speed was an enemy to the roads. Mitch stated that the Capps tell all of their guests that the speed limit is 20 mph. Bernie stated that the speed limit is actually 55 because the road is not posted.

Christy Ransford asked what the lighting was going to be for the special events as well as noise control, and Mitch stated that there shouldn't be any extra lighting because the fundraiser would be over before dark, and as far as noise goes there will be no amplified music. Everything that the Capps do is about sustainability.

Sandy Haakonsen asked for clarification of what the Planning Board said as far as temporary structures. Mitch said that the Planning Board didn't want any temporary structures for anything so we need to make sure we have all the County certifications.

Jack Steffek asked if there would be porta potties for fundraisers only, and the answer was yes.

David opened the **Public Hearing at 7:16**

Steve Schwartz who owns the farm on the end of Schillings Crossing Road read a letter that he had written which is included by reference. He said that since buying his property in 2014 his property used to flood once a year, but now the stream overflows its banks at least 4 times a year. He believes that the worst possible property in the town of Canaan to enable the public to gather is 365 Schillings Crossing Road. Included with his letter are also a topography map, the Columbia County soil and water conservation commission soil map, and pictures of his flooded property.

Chairman Cooper mentioned that the Capps' property has been commercial for years. The property used to house Book Creations Inc. All of the people who had looked to buy the property had found it unmanageable. Prior to the Capps' purchasing it a gentleman had purchased it and was doing rentals. The property then began to crumble. The Capps are trying to provide for the maintenance of the property.

Bernie Meyer wanted to make sure there were not going to be any buses for the fundraisers, because they would really do damage to the road. Mitch stated that there would not be buses, but some SUV's.

Carl Trinkle, a neighbor wanted clarification to make sure that no one would be trespassing. Mitch said they would not let people be hiking on their own. The classes will take up all of their time.

Josh Wood stated that the Capps are great neighbors and as far as traffic goes on the road, they see it all. He said that he can mostly tell when someone is going to the Capps because they are creeping up

the road. He said they are doing great stuff over there. Theresa Wood said that they are always asking if the Woods need anything, and will always tell them when there is an event.

Marko Galjasevic said that he and his wife have known the Capps for about 10 years and they are impeccable people. They are bringing revenue into the town and you can't argue that. We are fully supportive of anything they do.

Mrs. Schwartz said that she would like some clarification because currently they are allowed to have fourteen overnight guests. Does that include the presenters and the clients or just the clients? If there are five presenters and the minimum number you are asking to attend is twelve on weekends Friday through Sunday. The other question is if you ask for hours to begin at 7:00 but the first program starts at 6:30 isn't this a violation to their site plan. I understand from the code enforcer that there are violations. What has been done about the violations that have occurred. Chairman Cooper said they have been issued a notice to remedy the violations and that is why they are here to modify their special permit. Mrs. Schwarz said that they are then asking for more even though they already have violations. David said that is absolutely correct.

Mrs. Schwartz said that she hadn't been able to see the minutes from the second Planning Board meeting and we were asked to come to a public meeting 4 days prior to the meeting and the minutes from the July Planning Board meeting were just posted 2 days ago and we as a public can't prepare. If there are violations in the future then what are the consequences. We had this concern in 2014 and wanted to know if there were violations would they be enforced. David said they are and Mrs. Schwartz said they are not because now on their website they are asking for another event with more people. Heather O'Grady asked when that would be held and the answer was in September. Mitch said that there are no violations right now because they were told to get the application in to the boards which they have done.

Mr. Schwartz said that the last part of his presentation is that they have a horse farm and rely heavily on the stream to feed their animals. The biggest threat to our business and our animals is the human activity above us. If you invite 60 cars and 50 neighbors and one radiator leaks antifreeze into the stream it will kill a horse. Some of these horses are worth \$60,000-\$70,000 and who is going to be responsible for my wellbeing.

Mitch said that he wanted to address this and that Steve had some valid points. He said this is a school for environmental education and they are experts in permaculture. Everything being done is contrary to harming the environment. As far as the septic is concerned there has to be State and County oversight.

Mrs. Schwartz said she had spoken with Mike at the Health department and he had told her that as far as he is concerned what is going on there is in violation. That is before any expansion happens. People also walk down the road and come to the barn and ask to pet the horses. It is very difficult to say no, but we don't want people coming in to pet the horses. At one of the workshops there is three hours a day when they can go and do things. No one has answered my question about 14 people. Is it 14 including presenters and clients or total. David said that they are allowed to have 14 overnight guests regardless of clients or presenters.

Ben O'Shaughnessy said he moved here to Canaan two years ago and for half of that time he has been on active duty in Africa. I have been a student of Mr. Capps in Chatham as well as attending events here in Canaan. When I told Mr. Capps that I was military I was welcomed with open arms. While I was

deployed I was practicing yoga on my own and it sparked the interest of other soldiers who were having back problems and other aches and pains. I established a yoga program and I credit Mr. and Mrs. Cappel with giving me those tools.

Chairman Cooper asked the Cappos what their experience had been the last few weeks with the 5 inches of rain. Ray Cappel said that the creek was high, but it didn't overflow the banks. David then asked Mr. Swartz if the stream flattened out down by his property and he said yes, but the vortex is really on the Cappel's property.

Bernie Meyer said that in 1972 the bridge at the entrance to the house ended up in his barn. He said the stream is very volatile and the water can come up quickly. The person at the end of the road gets the brunt of it.

Bernie said that the Cappos had been good neighbors so far, but that much additional traffic could be expensive for the town. That is from the highway standpoint. The speed limit on the road is 55.

Jen McDonald who lives on Schillings Crossing had a concern about the traffic and asked if the road could be widened in the middle. She said it gets to be virtually impossible to have two cars pass one another.

Owen Calhoun said that there are 22 helicopters available in case of emergency. If the land becomes inaccessible there can be help in 20 minutes. If there is a flood go to high ground.

I love these guys. They have supported me for 10 years. The VA said they could fuse my neck and these guys helped me heal for free. They have helped me with my PTSD, and to have a great marriage.

Mrs. Schwartz asked if Mr. Cappel's band was going to be any part of the fundraisers and the answer was no.

David asked how imperative the number 3 was in regards to the fundraisers and Mitch said that it was very optimistic but they wanted to put it on the upside so they didn't have to come back. The Cappos don't believe there will be 150 people but we are hoping. David wanted to make sure the fundraisers were one day events and Mitch said yes.

Mr. Schwartz said he wanted it known that no one was questioning the character of the people and we are just trying to find if this is a good fit for the neighborhood.

Bernie Meyer said he was on the emergency management team and many times what they are dealing with is not what it is, but rather what happens if it doesn't work. A type of response plan should be in place in case something goes wrong. I think it should be something that is incorporated with the Town's emergency plan. David said it is equivalent to a building evacuation plan.

Susan Baer who is the CPA for the Cappos said that she goes to events and is a yoga teacher. A couple of years ago there was an event that the participants were taught how to stay warm in the winter. Recently there was an event where she learned some new music. When she was leaving Ray told her to be careful of the cyclists. She said she had been thinking about the difference between the gatherings at the Cappos where people chant and loud drunken parties with loud music. She also stated that she has horses and there are vehicles parked near her well that probably have leaked antifreeze and oil, but her horses are fine.

David asked Mitch what the Planning Board meant by no temporary structures and Mitch said it was porta potties.

Mrs. Schwarz asked if there was no camping allowed. David responded that he believed that the Zoning officer had made the determination that camping was allowed. Heather O'Grady said she believed that is what the Planning Board said as well. Mrs. Schwartz said that talking to Mike (Department of Health) today he said camping was not allowed. That was part of his letter. Mitch said there is no camp ground allowed. As long as we have enough septic and water the County gives a certification and we are allowed up to 13 tents in designated areas. Mrs. Schwartz stated that is not what Mike said. He said anything more than 5 is a campground. Chairman Cooper said we would sort that out.

David asked if anyone else had anything to say, and Bridget Cappo said as far as the stream on the roadside of the property, I am working with the DEC who has a program called Trees for Tribes and on October 26th, there will be a planting day to reinforce the stream where the road runoff is. We have already done the other stream on the property and planted 196 plantings. David asked if they took and Bridget said that most of them did.

Tom Essick (sp) said he came in to support the Cappo's. They are good people and he is sure they are going to do the right thing. David said no one was questioning their integrity. He thinks everyone has an interest in this, but these are all concerned neighbors. We live in the community and are just trying to figure out what this is and what it is going to mean. We are also trying to anticipate what is going to happen, and try to prevent problems.

8:09-David made a motion to close the Public hearing with a 2nd from Sandy Haakonsen.

Deliberation: Chairman Cooper stated that the Board had 60 days to come up with a decision but we deliberate and try to form a consensus.

Sandy Haakonsen thought there were concerns that need to be addressed. The first one being the starting time and the number of people. Initially I don't think there is a material difference between just a half hour and 3 or 4 extra people so I don't know if we specifically need to address that particular concern, but maybe the overnight guests. Chairman Cooper said he thinks the dormitory things are very specific and they will stay specific because they require approval of conformity to the applicable laws. Also, there is consideration of the septic and potable water. Also, Columbia County license all the restaurants and caterers.

Christy Ransford said that the biggest concern is traffic, now and for the future because it is more of a cost for the town. That is a lot of traffic on a dirt road. I think what they are doing is fabulous, but that is a lot of traffic. Chairman Cooper said that the major functions which are possibly totaling three per year are limited as to how many cars can be there. David pointed out that when this was a business, there were cars in and out of there every day. In all fairness, there is a lot of woods on that road that may not remain static. The actual amount of land that is developed is minimal, but there is a lot of land there.

Christy wants to know what happens if they do break the rules, and David said that the Zoning officer had brought this up and through his diligence he had set these orders because he felt they were in violation of their original permit.

Mitch asked if he could speak and said that there was a disconnect between the people who do the booking and the website and that is what was brought to our attention. That has been rectified. Lee Heim the Zoning Enforcement Officer has been on the property many times. Also, I just want to put out there that unlike a restaurant that would have 12 cars in and out every day, this is coming in on Friday and leaving on Sunday.

Chairman Cooper thought that the idea Bernie brought up about an evacuation plan was really valid. It is relatively simple to do. It would be easier to cope with that now rather than later. I am a little troubled by the larger events because it is a tight community. The mitigating thing is that they are limited and the type of events that they are having is based around yoga.

Christy said it has been a commercial property, so people should be used to that. David said it has seemed to be an unmanageable property since Book Creations have left and these folks seem to have come up with a formula and would like help to assure they can continue to provide for the stewardship of the property. I may not agree with all of the scales, but the dormitory aspect is certainly big enough if the septic and the water supply is adequate and approved by the Board of Health. The building is capable of handling it, but everything needs to be done according to code.

Christy said her last concern is foot traffic. The neighbors brought up the point that guests were approaching their property and that is unwanted. David said it is public road and people are entitled to walk it, but not walk on others property. I think that the owners have addressed that and maybe that needs to be reinforced.

Jack Steffek asked if there would be dogs allowed, and if so would the leash law be enforced. Bridget Cappo said that there are not usually animals there because not all people like animals, so this is not a problem.

Sandy asked if it would be beneficial to have road signs like road narrows. I know changing the speed limit is a Herculean task, but maybe something could be done. David said he found the road very functional until climbing the hill. The other upper end of the road seems worse.

Sandy asked if the flood issues need to be addressed. David said they are doing a green scape which seems to be at least stabilizing the stream. The banks are well established and seem to be doing ok.

Heather made a motion to approve the file with the conditions that there is consideration of an evacuation plan put into place, that the Fundraising events end by 9:00 on Saturdays, and are limited to three times a year. The maximum guests on fundraising days is 150 people. With appropriate county approval, overnight guests in the summertime only will be raised from 24 to 50. The 2nd was from Christy.

The acting clerk polled the board.

David: Aye

Christy: Aye

Jack: Aye

Sandy- Aye

Heather: Aye

Approved unanimously.

Chairman Cooper made a motion to adjourn, with a 2nd from Christy.
Adjourned 8:38

For the Board,

Heather O'Grady,
Acting Clerk