

ZONING BOARD OF APPEALS
TOWN OF CANAAN
COLUMBIA COUNTY, NEW YORK
February 23th, 2021

Present: David Cooper, Pat Liddle, Craig Dillon, Brian Lossow

Others Present: Ginny Nightingale (Town Board Liaison)

The meeting was held via Zoom. Chairman Cooper opened the meeting at 7:01 PM. There was one item on the agenda; The Public Hearing for Ellen Austin of 1584 County Rt 5 Canaan NY, Tax Map #49.1-1-6 File # 2021-1, for an Interpretations of a ruling. The Interpretation was for Article V.D.I - Fence Setback conditions for a way, and if the ZEO's assessment that O'Grady Road formerly known as Hamilton-Schilling Lane (Referred to in the minutes as the Access until a decision is made) constitutes a way.

There were 7 people in the audience. The Appellant and their representative, 2 Abutters and their representative, and 2 other attendees.

A motion was made by Craig Dillon to accept the revised minutes for the January meeting. 2nd was made by Brian Lossow. All in favor.

The Public Hearing was opened at 7:06 by Chairman David Copper with the reading the Legal Notice followed by a request for any new submissions. There were no new submissions.

The Appellant and her representative were asked if they would like to speak. The Appellant's representative detailed the expansion of the Access, the location of the boundary line in relation to the Access and the fence, the paving of the Access, as well as the impact that it has had on the Appellant's property and her need to protect her property. Followed by the reasons they believe the Access is not a way and should be ruled as a driveway. She cited the survey showing the Access as being 9 feet and the Fire Companies letter was mentioned which states that they do not have an issue accessing the lots on the Access.

The Abutters and their representative were asked to speak. The Abutter's referred to the deed of the Abutters' property and other lots on the Access from the present through 1841, which include details of a way with a permissible width of 18 feet (1 rod).

The Appellant and her representative were asked if they would like to respond. The Appellant's representative pointed out that remainder of the expanded Access is on the Appellant's property.

The board asked for more information on the ownership and maintenance of the Access. It is plowed by the Abutters. There are 3 parcels of land on the Access, which have the right of way to use the Access included in the deeds.

The Chairman asked if any of the other attendees would like to speak. One of the attendees commented that they viewed the Access as a driveway not a way. The other attendee didn't have a

comment but was more interested in the proceedings how it got to this point and what could be done. David Cooper explained how the file came to the ZBA and what the following recourses could be taken based on the ZBA's decision.

Chairman Cooper asked the board if there were any other questions from the board before a motion to close. There were no other questions from the board. The Appellant, Abutters, their representatives, and other attendees made their final comments.

A motion was made to close the Public Hearing of File#2021-1 at 7:53 by Craig Dillion. 2nd was made by Brian Lossow. All in favor.

The Board decided to moved directly into deliberations. The board discussed the historic right of way detailed in the deeds. That the Access is included on GPS maps. That there is more than one lot on the Access with different tax ids.

David Cooper requested a motion to affirm the Zoning Officers interpretation of the Zoning Law that the Access is a way. The motion was made at 8:04 by Craig Dillion. 2nd was made by Pat Liddle.

The clerk polled the Board:

David Cooper:	Aye
Pat Liddle:	Aye
Craig Dillion:	Aye
Brian Lossow	Aye

Carried unanimously.

The Board wanted to reminded Ms. Austin that she can apply for an area variance.

Motion was made to adjourn at 8:07 by Pat Liddle. 2nd was made by Craig Dillion. All in favor.