

**ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
June 8<sup>th</sup>, 2021**

Present: David Cooper, Pat Liddle, Christine (Spee) Braun

Others Present: Ginny Nightingale (Town Board Liaison)

Chairman Cooper opened the Zoom meeting at 7:03 by reading the legal notice for the Special Meeting called for the deliberation of Ellen Austin's application File#2021-02, for an area variance. Property located at 1584 County Rt 5 Canaan NY, Tax Map ID#49.1-1-6.

There were five people in the audience; the appellant and her representative, two abutters, and the surveyor of the appellant's property.

David Copper started with some quick notes regarding the file. In December 2020 a complaint was made by the abutting neighbors regarding the encroachment of Ellen Austin's fence on the way. In 2020 the Zoning Officer visited the site which resulted in a violation notice to Ellen Austin. In 2021 Ellen Austin filed an appeal File#2021-01 for an interpretation of a way. The interpretation concurred with the Zoning Officers interpretation with the provision that Ellen Austin could apply for an area variance.

Pat Liddle and David Cooper discussed the timeline of the fence. The current fence was installed in 2019. The lane was paved in 2004. The original fence was installed in 2002.

David Cooper went over his impressions from his site visit. He noted that the trees have been removed from the immediate area on the southerly side of the lane (across the lane from Ellen Austin's property). There is a county-maintained culvert on the southerly side of the lane, and a utility pole right behind the culvert which would prevent expanding the lane to the south without moving the pole, which would be very expensive. He mentioned the boundary dispute regarding the northside of the lane which both the appellant and the abutter are claiming is part of their property.

Spee Braun mentioned that during her site visit, she looked at the site for access. She mentioned the Fire Company's email stating that access is not an issue and she wanted to confirm if that was the only access issue. David Cooper highlighted the original complaint made by the abutters to the Zoning Officer that mentioned the turning radius on the approach is a problem. It is very tight to get into the lane and that when coming from the south on County Route 5 you need to go into the other lane to make the corner, and that you would have to know where the driveway is to prepare to make the turn in advance. Larger vehicles need to jockey around to make the turn.

Pat Liddle talked about the Fire Company and the limitations for properties. Access limitations are not uncommon and that your preplan should include if the longest truck is unable to access your property.

David Cooper noted that the relationship of the neighbors has deteriorated and that the ZBA is unable to put that back together or sort out the boundary dispute, which is a civil matter.

Pat Liddle mentioned that the appellant should have applied for an area variance before building the new fence, and that in her review she looked at the file as if the fence was not already installed. She felt

that there is plenty of room to get into the lane and that she would have approved the fence if the gate was changed to swing into the property instead of onto the lane. Spee Braun mentioned that she would approve if the gate swing was changed. David Cooper said he would like to have the corner rounded off more to create a better staging area for egress and improved visibility. The Board reviewed pictures of the old and new fence. Pat and Spee were not sure if moving the fence would help with the staging issue. David proposed that if the fence went from the 2<sup>nd</sup> or 3<sup>rd</sup> post to where the old fence was, it would allow better access. Spee Braun mentioned that there is a drop off for the culvert on the other side of the fence. David mentioned that in order to make it a more effective staging area the culvert could be lengthened by the county on the north side along County Route 5. Pat mentioned she was willing to allow it and if need be, move the fence from the second post to make more room, and reverse the gate opening.

David Cooper said he would entertain a motion. Pat Liddle made a motion to allow the fence to stay where it is with two conditions:

1. Change the direction the gate swings from outwards to inwards.
2. Change the angle where the fence meets at the corner of the lane, from a straight line from 2<sup>nd</sup> post on County Rt 5 to the 3<sup>rd</sup> post easterly along the lane.

2<sup>nd</sup> by Spee Braun.

The clerk polled the Board at 7:45

David Cooper	Aye
Pat Liddle	Aye
Christine (Spee) Braun	Aye

Pat Liddle made a motion to adjourn the meeting. 2<sup>nd</sup> by Spee Braun. All in favor, the meeting was closed at 7:46.

For the Board,

Adrienne Fletcher, ZBA Clerk