

**ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
June 29<sup>th</sup>, 2021**

Present: David Cooper, Pat Liddle, Craig Dillon, Brian Lossow, Heather O'Grady, Christine (Spee) Braun (Alternate).

Others Present: Ginny Nightingale (Town Board Liaison)

Chairman Cooper opened the Zoom meeting at 7:03 PM. There were two items on the agenda;

1<sup>st</sup> Item - The review of Jeffery and Donna Knight's application for an area variance. Property located at 54 Queechy Lake Drive, Canaan NY, Tax Map ID #50.1-2-8

2<sup>nd</sup> Item - The Public Hearing for Rebecca Noaman's application File#2021-03 for an area variance for a setback issue. Property located at 406 Frisbee Street, East Chatham NY, Tax Map ID #48.-1-73

There were three people in the audience; the appellant for the 1st item Donna Knight, the appellant for the 2<sup>nd</sup> item Rebecca Noaman, and an abutter for the 2<sup>nd</sup> item Suzanne Pemrick.

A motion was made to accept the May 25th 2021 minutes. All in favor (one member recused).

A motion was made to accept the June 8<sup>th</sup> 2021 revised minutes by Brian Lossow. 2<sup>nd</sup> by David Cooper. All in favor.

Chairman David Cooper opened the review of the application submitted by Jeffery and Donna Knight File#2021-04, by reading through the criteria that must be proved in order for an area variance to be approved and the cost of the appeal. He then read through the items submitted with in the Knight's application, highlighting the determination from the Columbia County Department of Public Works as to the 19 foot right of way along Queechy Lake Drive (also known as County Route 30) and the Permit from the Department of Environmental Conservation (DEC) to work in the wetlands which is valid till December 2022. Donna Knight Mentioned that she believes the DEC permit is only valid till December 2021. (The permit in the application states December 31<sup>st</sup>, 2021)

David Cooper asked Donna Knight for clarification on the two properties. Donna explained that they own the property across the street from them, which site of the proposed garage was a part (Tax Map ID #50.1-2.8). They just did a boundary line adjustment as of last Monday night (June 21<sup>st</sup> 2021) with their property along the lake (Tax Map ID # 50.1-2-10). David Cooper asked if there was a reason that DEC would not let the building be built further back from the road. Donna provided more information regarding the DEC's requirements regarding being as far away from the lake as possible.

David Cooper requested a descriptive narrative detailing the merging of the two lots and change the designation/nomenclature to match the new lot # for the proposed site. David suggested using the

criteria for an area variance as a guideline for the narrative. Donna mentioned that the propose location of the garage is basically in line with the rest of their property.

Craig Dillion mentioned that the garage looks to be outside of the right of way set by the Columbia County Department of Public Works at 22 feet. Donna explained that they drew an envelope, on the plans, around the building so they have some flexibility in where the building will go as long as it is within the area marked by the envelope. Craig pointed out that on the SEQR the appellant filed out the section which Chairman Cooper needs to fill out.

David Cooper made a motion to accept the file and schedule the hearing for July 27<sup>th</sup> 2021, with the condition that they provide a descriptive narrative and surveys within eight days (by July 7<sup>th</sup>, 2021). 2<sup>nd</sup> by Craig Dillion. All in favor.

Donna had a question regarding if she needed to resubmit the SEQR. David Cooper let her know that was not necessary we will replace the section in question with the copy Chairman Cooper fills out.

Donna Knight left the Zoom meeting.

Chairman Cooper moved on to the second item on the agenda, the Public Hearing for Rebecca Noaman's application for an area variance regarding a setback issue for an above ground pool. Before opening the Public Hearing, he mentioned that one of the abutters felt that they did not get proper service. The issue was checked and double checked by Adrienne Fletcher, David Cooper and the Town Attorney, they found that the appellant mailed the letters by certified mail on June 7<sup>th</sup> in Chatham. They were immediately sent to the facility in Albany and didn't come back to East Chatham for some reason till the 16<sup>th</sup> of June. The abutter had a hold on her mail so they were not picked up till the 19<sup>th</sup> of June. The abutting neighbor had the notice from the 19<sup>th</sup> till tonight (June 29<sup>th</sup>). The Town Attorney says that the appellant performed, in good faith, proper service by mailing the certified letter before the deadline and that we should open the Public Hearing, and if we want to continue, we can always do so at a special meeting or at the end of the month.

Chairman Cooper opened the Public Hearing for the Rebecca Noaman application File #2021-03 for an area variance at 7:24. The SEQR was completed June 15<sup>th</sup> 2021 by Chairman Cooper. The project was identified as a listed Type 2 action, which doesn't require further review. The action involves a setback for a 15-foot diameter above ground pool with a square footage of +/-165 feet, which holds between 5,000-6,000 gallons of water. The yard slopes down toward the rear of the property, after a slight flattening out there is a slight rise, which appears ample to be able to absorb that amount of water should there be a total failure of the pool.

David Cooper asked Rebecca why the pool needs to be located in that site. Rebecca explained that her property is comprised of two lots. The one lot comprises of the house, well, septic and a bunch of trees which makes it unrealistic to put the pool on that lot. The proposed site on the second lot is about the only fairly flat spot which will allow her to minimize the effort involved to level the spot, and leaves a good portion of the yard to be utilized with just grass a scenery. If she goes further to the creek, it levels out and can get mushy in the rain and if she goes further uphill it gets steep pretty quickly.

David asked Rebecca how long she has owned the property and does it flood. Rebecca says it is not in a flood zone, she has owned the property for almost a year exactly, and that she has seen it in all seasons. The creek has not overflowed onto the grassy part of the lawn.

David Cooper asked if any of the board has further questions. Pat Liddle asked if there are any plans to combine the two lots. Rebecca said that in the future they might consider combining the two lots. The only other option would be in the middle of the two lots which would be right in the middle of the lawn, and the proposed spot is the flattest spot on the lawn. David didn't think it would be difficult to merge the two lots but there would be a financial expense. Pat requested that the board look into if you can put a swimming pool on a lot without a house.

Craig Dillon asked how far is the swing set from the property line. Rebecca said that it is probably about 10 feet. Craig asks if the pool will be next to the swing set. Rebecca says it is a little further up due to the forsythia putting at the 15 feet from the boundary line, which is also it is the flattest spot. Craig suggested fill. Rebecca mentioned the extra expense and effort to use fill.

David asked Suzanne Pemrick if she would like to comment on the file. Suzanne read a statement to request a continuation of the Public Hearing to allow her to prepare an adequate response to the application. If a continuation is granted, she will be represented at the continuation by her attorney who was unable to attend since he was in court at the time of the meeting. She mentioned that attorney also requires more time to prepare. David pointed out that she had access to the file since the 19<sup>th</sup> or at the very latest the following Monday. Suzanne says she is not familiar with the property. She mentioned that Rebecca already has an above ground pool close to the road. She is worried about issues regarding insurance, the supporting wall around the pool that needs to be locked, and a child standing on the pool and jumping into her property and getting hurt. David mentioned that 15 feet is a long way to for a child to jump.

Brian Lossow asked Rebecca about installation of the pool and her the timeline for getting it done. Rebecca and her family will be putting up the pool themselves hopefully within two weeks of it being approved by the ZBA. She has already purchased the pool, but she would need to schedule delivery of the sand and water.

Pat Liddle asked if she has given any other consideration to another site and asked her about the above ground pool mentioned by Suzanne. Rebecca explained that that the lot with the house is not an option and that it is the flattest spot on the second lot. Rebecca said that existing pool mentioned by Suzanne is a \$5 kiddy pool from Dollar General, sitting just in front of her well.

Brian asked about the fencing and locking around the pool. David mentioned when he met with Zoning officer regarding the regulations around an above ground pool. In the State of New York as long as there is not a deck around an above ground pool and there is a retractable ladder it is considered as self-fencing.

David asked Suzanne where the above ground pool she mentioned is located. Suzanne said that when you stand on Frisbee Street there is an above ground inflatable pool in front of the house. Suzanne doesn't want the pool to be close to her property. She doesn't want the kids to jump from the pool onto her property. She is worried about increase insurance costs, and that a child might get injured on her property. David asked Suzanne if she is using her barn for storage. Suzanne explained that the barn is a

historic dairy barn. On the back side of the barn there is an understory that she had restored, where the cattle used to go into the barn. Currently there is nothing in the barn. She mentioned that she had the lawn regraded to keep water away from the barn.

David asked if anyone is willing to entertain a continuance for one week for the issues that the board might want to look into. For example, Pat's request to look into if you can have a pool on a lot without a residence.

Rebecca wanted to further clarify Craig's question regarding the location of the pool in relation to the swing set. She mentioned that if she put it by the swings, it would be closer to the property line. David asked if Rebecca knows where the septic and well is. The septic is right in front of the basement door and the well is right in front of the front door and porch. Pat asked if the pool will need power. Rebecca said that they will be using an extension cord that will be about 40 feet. David mentioned that the cord would typically be 10 gauge.

David asked if anyone has any comments about continuing the hearing for one week. Suzanne wanted to know if the continuation could be held at the same time as the Public Hearing for the Knight's application. David mentioned that given that she has known about this since the 19<sup>th</sup> that one week is enough notice to be prepared. Suzanne was not sure if her attorney will be able to attend. David suggested if he cannot attend, that between now and next Tuesday, writes down his thoughts so she can convey them to the Board.

Craig mentioned that we need to go back to in person since the Governor has rescinded the State of Emergency.

David proposed a motion to continue the Public Hearing next Tuesday on the 6<sup>th</sup> of July at the Town Hall. 2<sup>nd</sup> by Pat Liddle. Four in favor and one non-vote.

Rebecca may not be able to attend. David requested that if she cannot be there if someone else be there for her that knows the property.

Pat Liddle made a motion to adjourn. 2<sup>nd</sup> by Brian Lossow. All in favor.

For the Board,  
Adrienne Fletcher, ZBA Clerk