

**ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
July 6<sup>th</sup>, 2021**

Present: David Cooper, Pat Liddle, Craig Dillon, Brian Lossow, Heather O'Grady

Others Present: Ginny Nightingale (Town Board Liaison)

Chairman Cooper opened the Special Meeting for the Continuation of the Public Hearing for Rebecca Noaman's application at 7:01. The application File#2021-03 is for an area variance regarding a setback issue for a 15-foot above ground pool. Rebecca Noaman's property is located at 406 Frisbee Street, East Chatham NY, Tax Map ID #48.-1-73.

There were three people in the audience; the appellant Rebecca Noaman, an abutter Suzanne Pemrick and her representative Bob Lindell.

David Cooper started the Public Hearing by reading the Public Notice for the Special Meeting which was posted at the Town Hall. He proceeded to share the results of his research into the question as to if a pool can be installed on a lot without a residence. He read the sections of the Zoning Code pertaining to Use, Use Permitted, and Accessories. He found that it is possible to use a lot for accessory use, such as a residential pool, if the use of that accessory will not supersede the allowed primary uses for the lot or prevent the lot to be used in the future for a primary use. The lot is designated as use district RA-2 which includes a pool as a permitted use in for the zone. He also mentioned that the Zoning Officer had already reached a decision that the pool was a permitted use for the lot. Heather O'Grady mentioned she also talked to the Zoning Officer and he explained it in a similar way.

Suzanne Pemrick brought up that she is still unhappy with the current method of determining sufficient notice and feels that the ZBA should require appellants to mail their certified letter from East Chatham. Post Mistress told Suzanne that if the letters were mailed in East Chatham they wouldn't need to go to Albany for sorting and could be delivered to the abutters within two days.

Bob Lindell, Suzanne Pemrick's representative, provided a statement regarding the Zoning Laws and how they are intended to preserve the tone of the community. He read through the requirements that need to be proven to get an area variance and provided an argument against granting an area variance. In their judgment, the abutter and her representative, felt that there was not an unusual situation, that the proposed pool location would alter the tone of neighborhood, and that they feel that the need to intrude on the setback is self-created. Based on the criteria he didn't feel that there was a need for an area variance to be granted. He mentioned that the unevenness in the ground could be leveled with the use of the clear sand needed for the base of the pool without needing to regrade.

Suzanne Pemrick mentioned that in the Public Hearing Rebecca Noaman has already admitted that the swing set is 10 feet from the property line putting it in the 25-foot setback and that she wants it to be

removed. She then showed David Cooper two pictures on her phone, that were too dark to see properly, however David assured her that everyone on the board should have already visited the site and is aware of how it looks from the road. She pointed out that Rebecca has been putting emphasis on the first lot and why it cannot go there but there is room on the second lot for it to be in a different location outside of the setback.

Suzanne then mentioned that she spoke to an environmentalist and that they told her a pool in this region would need to be treated either with chlorine or salt or it would be overrun with bacteria and algae. David replied that the treatment of the pool was covered in the SEQR and that in his additional research as to what happens if there is a total pool failure, he included the products used in treating pools and how they will affect the environment. His research showed that within a year the products break down into a urea which will fertilize the yard making it greener the next year.

Davis Cooper thanked Rebecca for laying out the pool so that it was easier to visualize the placement on the lot. David asked Rebecca why the pool needs to be in that particular location. Rebecca replied that it is the highest point of the lawn and that it would not be covered by trees in that location. Craig Dillon pointed out that if she moved it by 10 feet it would be in code. David mentioned that when he visited the property, he used a macro GIS Maps to map the property and if it was moved to the middle of the lot, it would satisfy all of the setback requirements and then it would only require a building permit. Rebecca replied that the Zoning Officer mapped it as well and said to her that the area variance is needed since the lot may not be the full 65 feet at that point.

David Cooper explained the process for the closing of the meeting and that they will go round and ask for questions several times so that everyone has a chance express any comments or questions.

Rebecca Noman said that if she moved the pool by just 5 feet it would reduce the need for fill. David Cooper replied that an area variance is usually granted for bigger issues such as major rocks that cannot be coped with and that the site is rather flat. Suzanne stated that she doesn't want the pool to be at 15 feet but wants it to be the full 25 feet from the property line and mentioned again that she wants the swings removed.

A motion to close the Public Hearing was made by Pat Liddle at 7:39. 2<sup>nd</sup> by Heather O'Grady. All in favor

The Board started deliberations. Pat expressed that she was for keeping the 25-foot setback. Craig was also for a 25-foot setback and mentioned that while the property abutting the lot currently has a barn at a future date it could be torn down and a residence put up making the pool an issue. David mentioned that a pool is more than a temporary structure but can still be easily removed at a later date unlike a concrete block, and if moved over slightly it would better balance the property. Brian questioned that if the property is not the full 65 feet at the site for the pool would Rebecca need to reapply for an area variance. He then suggested that if the lot is not the full 65 feet, any infringement on the setback could be moved to the other side of the lot towards Rebecca's other lot. David said he would approve if the pool was moved to the center with the setback preserved on the easterly side (along Suzanne Pemrick's property) and any infringement of setback due to the size of the lot at that point be applied to the westerly side (along Rebecca Noaman's other lot).

Brian Lossow made the motion to approve the area variance for the westerly side of the lot, with the 25-foot setback preserved towards the easterly side of the lot. 2<sup>nd</sup> by Craig Dillon

The Clerk polled the Board

David Cooper	Aye
Heather O'Grady	Aye
Pat Liddle	Aye
Craig Dillon	Aye
Brian Lossow	Aye

All in favor.

David Cooper made a motion to close the meeting, 2<sup>nd</sup> by Pat Liddle. All in favor.