



Town of Canaan

Zoning Board of Appeals Regular Meeting Minutes –
September 30, 2024

Present: David Cooper, Chair
Patricia Liddle
Heather O’Grady
Craig Dillon
Kevin Mulholland

Absent: Christine (Spee) Braun

Others Present: Kristine Sigler, Zoning Board of Appeals Clerk; 9 Audience

I. Meeting Called to Order

- David Cooper called the Regular Meeting of the ZBA to order at 7:00 p.m.

II. Minutes Review/Approval

- The minutes of August 27, 2024 meeting were approved by motion made by Craig Dillon and seconded by Heather O’Grady. The vote carried, as follows:

David Cooper	Aye
Patricia Liddle	Aye
Craig Dillon	Aye
Kevin Mulholland	Aye
Heather O’Grady	Aye

Motion Passed

2024-3 – Public Hearing 2024-2 area variance, 202 Queechy Lake Drive, Canaan

Reading of Public Hearing notice regarding date change and not special meeting. Due to vacations and need, the date was changed as the Appellants deserved a full Board.

Appellant, Peter Doyle submitted a response from NYS DEC that has boilerplate information. David Cooper read the Application and the permit approval by NYS DEC. Permit on file at the Town Clerks office..

Appellant Doyle addressed the Board indicating that he has received an article 24 permit with drawing the Boards attention to the last page where this information is provided. Mr. Doyle also indicated that they had conversations with the DEC. Doyle modified the size of the structure from 18x26 to 16X24 which was approved by the DEC. Mr. Doyle is requesting to lessen the variance and move the garage 15’ instead of the original 12’ from the side lot property line on the west, as well as moving the structure north 10’ which will be a total of 20’ from southern. Mr. Doyle pointed out a picture which he said is important as it is demonstrating why the site was chosen. Mr. Doyle indicated that if moved the garage 10’ more it would cover the boat launch which has been useful to the

community and provides accessibility to the DEC and others, which he believes was important to the DEC in their decision.

Mr. Doyle also indicated that he was aware of concern for the character of neighborhood and this is considered in his plan. Based on a current permit, a large house could be built which would block more of the viewshed than the garage. Mr. Doyle indicated that in his planning, he felt other options would involve more excavating and disruption to soil.

Mr. Doyle references the DEC's approval and, in that, they have indicated that their plans will not cause an environmental impact.

David Cooper asked Mr. Doyle, is driveway deeded and do any other properties have access. Mr. Doyle said that no others have access and there is a pedestrian right of way which is 4' and is deeded to the LLC. His wife Claire is sole member of the LLC which is the owner of both parcels. One parcel with the house and the other vacant parcel.

David Cooper asked, Does anyone in gallery want to speak on the matter.

William Wallace who previously attended, reminded the Board of information provided at the August 30, 2024 meeting while indicating that he believes that approval would lead others to believe there are no restrictions on variances.

William J. Better, Esq. who also attended the August 30, 2024 meeting indicated that he appreciates there has been action to reduce and modify their plans. However, based on this modification, it appears that another 3 feet has been added, measuring by percentage which remains a significant percentage. He believes that the applicant is saying, we want to do what we want to do, where we want to do, thereafter indicating the criteria. Even if moved a few feet, the conditions remain, and Mr. and Mrs. Wallace are impacted. Saying that it is because of the boat ramp that they need to place the structure where planned while they continue to have the option to make building smaller or move boat ramp. He believes that this decision creates a precedence and that it will lead to others asking for more, which will erode neighborhoods. He believes that the applicant could move the structure another 5' and things would be fine. This is the applicant's choice; is there another way yes, just move the building. This is not discretionary for the board it is mandatory. Worried about how you say yes to them and no to the next guy.

David Cooper asked if there were any other comments or questions from the Board

Patricia Liddle asked, this building has been reduced but is it still two stories.

Mr. Doyle responded, yes with a high pitch ceiling.

Patricia Liddle asked Mr. and Mrs. Wallace, what are your thoughts on a solution.

Mr. Wallace responded, abide by what zoning has in place 25' and believes they could put the structure somewhere else and abide by zoning.

David Cooper asked everyone to keep in mind that once a variance is approved, it stays with the land so if the Doyles were to sell the variance is still there.

David also reminded everyone that there once stood a single family residence that burned down, if acted on time they could have rebuilt the structure.

Craig Dillon asked, what is the width of driveway

Mr. Doyle indicated that he does not have exact dimension. He said that while in planning, if the project was moved to the other side of the current boat launch, it would require moving the driveway and cutting a large maple tree.

Craig Dillon said that it seems the other side could be used without a variance.

David Cooper – anyone else? Feel free to comment

Craig Dillon, Motion to close Hearing

Patricia Liddle Second

All in Favor hearing closed 7:36

Deliberation

A lot of flat land, Right of way on western edge and additional right of way – there are two

Craig Dillon, not a lot of options and Variance is forever and possibly supersedes the first.

David Cooper: House remains on the survey from previous owners. Those owners had waited too long after the fire and did not meet the setback to rebuild. If they had rebuilt immediately, they wouldn't have needed a variance. DEC approved the buffer area and the variance for the front yard setback is still in place.

Review Standards for Area Variance.... Patricia Liddle said yes

David Cooper said that he is sympathetic to ascetics and that it is not up to the Board to develop a rationale for the variance.

Is variance substantial – Appellant has modified rear setback and now the variance is for 5 feet. David asked if even with the modifications is the variance still substantial. Heather said that in fact it is substantial because the project could be moved and wouldn't need a variance at all.

Physical or environmental impacts– important from Doyle's presentation that DEC has examined and found it to not have substantial environmental impact and project is entirely in buffer area. All factors need to be considered. Some may be in favor and some may not. Board's obligation is to weigh all of those factors and overview from site visit.

Area variance has more discretion

The Board believed that the Appellant chose where the structure would be placed based on their perception of where the structure best suits them without consideration for the variance guidelines making this self-created.

David Cooper indicated that while he believes the applicant made the best choice for them, it is necessary to follow the variance guidelines which he thereafter read one by one

David Cooper addressed the Board asking if the Board was in a position to make a decision

Craig Dillon made a Motion to deny the variances even with modifications. Patricia Liddle, second.
The clerk Polled the Board
David Cooper: Aye
Heather O’Grady: Aye
Pat Liddle: Aye
Craig Dillon: Aye
Kevin Mulholland:Aye

Area Variances denied

5 minute break requested

7:56 reconvene – 3 audience

Appeal 2024-04

David Cooper indicated receipt of cover letter, application, survey, building permit and denial from zoning officer, short form SEQR part one.

David read and reviewed application of Bonnie and Francis Amlaw for a front yard Area Variance to build a 26’x26’ garage at 54 MacNeil Road, Canaan, NY 12029, tax ID #60.-1-22.1, in a C2 Zone.
The garage will have electricity but no septic or water.

David Cooper asked Applicant, how many trees are you cutting down. Response one – roots are disturbed and will not live. David referenced white nose syndrome of long eared bats who are endangered and live in large trees. He stated that the project maybe in the area where they hibernate and they may need to wait to cut the tree until bats go into hibernation. Heather O’Grady believes cutting season is soon (October).

The Board requested location of utilities, septic and well be put on survey map. David Cooper said that more information on the map is a critical factor as it is not up to the Board to provide the rationale for the variance and the more information provided by the appellant the better.

Patricia Liddle indicated that she would like to know the distance between the house and garage and requested all measurements be added to the map.

David indicated that providing the information is helpful to the applicant and it would be helpful for her to provide a narrative to describe plans. A plot plan was requested and handouts were given to applicant with details of what is needed.

Applicant provided a larger map with more scale and plot plan. David indicated that she could write and provide the additional requested information on the larger map to support her application.

David made Motion to accept file conditionally – need it completed with all added documentation coming in before October 9, 2024.

Second- Craig Dillon
All in favor

David Cooper asked applicant if she knew the abutting neighbors and Applicant indicated she was aware of one neighbor. Heather O’Grady will provide a list of the abutters that need to be notified.

Motion to adjourn – Craig Dillon

Patricia Liddle second

All in favor

II. Meeting Adjourned at 8:28 p.m.

Submitted by Kristine Sigler, Clerk
