

April 16, 2007

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TOWN OF CORNWALL
ZONING BOARD OF APPEALS
APRIL 16, 2007

MEMBERS PRESENT: LENORA RANSOM, CHAIRPERSON
EILEEN REGAN
MICHAEL MC GUINNESS
TED DOBIAS
WILLIAM LEE

ALSO PRESENT: ADAM RODD, ESQ.
ZONING BOARD ATTORNEY

MS. RANSOM: I'd like to call to order the April 16,
2007 meeting of the Cornwall Zoning Board of Appeals.

LORRAINE_BENNETT_-_CONTINUATION

MS. RANSOM: First item is the continuation of the public hearing on the property owned by Lorraine Bennett. Is there anyone representing Mrs. Bennett?

Mr. Richard DeKay appeared before the board for this proposal.

MR. DEKAY: I'm Richard DeKay, land surveyor and Mrs. Bennett asked me to attend the meeting, see if there was any questions you had about the property line change. It's a pretty much a straightforward thing that she wants to do, just move the property line over a small distance. You have the maps there, right?

MS. RANSOM: Yes. Let the record show that we have received Orange County Department of Planning notification and they have left it to local determination. Any additional questions on the application of Lorraine Bennett? Mike, anything else?

MR. MC GUINNESS: No.

MR. DOBIAS: Is this for residential?

MS. RANSOM: It's the two houses on 32.

MR. DEKAY: It's a business zone, I think it's on the map.

MS. RANSOM: Well, it's in the business zone but right now it's two houses, right?

MR. DEKAY: Right, that's correct, it's the old stone house, you drove by that a thousand times and she wants to put a little bit extra land alongside that, it's a swap with the other land that she owns to add to that parcel, it's a very straightforward thing that she wants to do it to protect it.

MR. DOBIAS: Thank you.

MS. RANSOM: Anything? Any questions, Adam?

MR. RODD: No.

MS. RANSOM: Is there anyone in the audience that would like to speak to this issue? Anything else you'd like to add, Mr. DeKay?

MR. DEKAY: I don't think so, should be straightforward and that's what she wants to do to protect the old house where she lives.

MS. RANSOM: Thank you very much.

MR. DEKAY: Okay. Will you vote tonight?

MS. RANSOM: It's up to the board, we'll have to see how the rest of the evening goes.

MR. DEKAY: Thank you.

MANOR_AT_CORNWALL_LLC_(CHESTNUT_WOODS)_-_CONTINUATION

MS. RANSOM: Our second continuation this evening is on the public hearing of the Manor at Cornwall LLC, also known as Chestnut Woods.

Michael Donnelly, Esq. appeared before the board for this proposal.

MS. RANSOM: Let the record show that the board did receive information from James DeWinter the project manager on the recycling and refuse enclosures that was requested as well as Orange County Planning.

MR. DONNELLY: I won't reintroduce everyone again since we introduced everyone the last time. There seemed to be the one outstanding issue when we left after the last hearing that was our failure to call out on the plans the specific distance and the amount of variance we were seeking for the sidewalk and the dumpsters and as the chairwoman has just mentioned, we have submitted a plan that shows that the sidewalks are in fact 20 feet off the side line and the dumpsters are 15 feet off and we're seeking either an interpretation of the ordinance consistent with the letter I had sent to you or if the variance is required a variance for that setback. The rest of the matter involves as I described it last month a request for a variance so that we can have pitched roofs on the buildings. There is no issue before you regarding the location of the buildings, their setback, their size, their mass or those issues cause they were all issues considered during SEQRA by the planning board and will have to be considered yet again as we complete site plan review. The reason for the variances is to a lower, there to be pitched roofs on those buildings which we think will as you look between the gaps particularly in the Jacqueline Street side and you see these buildings set behind make them very, more of a residential appearance. I think now as you saw in the visual we

had last month we can pull out again I'm sure if you look and you see those buildings in the distance they indeed do look like residential housing, if we didn't have the variance, we could still build the buildings in the same size and location, we'd just build them with a flat roof. We think that would be out of keeping and incongruous with the neighborhood. I would like to point out that we have changed the plans dramatically since those that were first submitted to the planning board. We have made every effort to get the buildings as far away from the Jacqueline Street side as possible. There were a lot of efforts put in to the designing the berm, the fence, the planting and all of those were designed to be put in that area to mitigate or minimize the visual impact on the Jacqueline Street residences. We will make every effort in the field to preserve what significant trees remain in that area and we could work with the tree warden or whoever the town appoints for that purpose and we're certainly not adverse particularly in the area between the roadway and the front of the building we're not adverse to planting some additional trees that might in time grow up and be able to block or mass or buffer somewhat of that roof line from a distance. Recognize however that from the edge of the property line we have to construct the berm, the fence and install the plantings then we have a roadway which was intentionally put on that side so that we could move the buildings as far away as we could and there's a relatively small distance, I think it's 20 or so feet from the edge of that roadway to the start of that building so there aren't a lot of opportunities to preserve trees. There are not to my view at least a lot of significant or meaningful trees in that area, there are a lot of trees but they tend to be somewhat scrubby in that area, perhaps replanting of trees that this time could become more of a specimen variety might be a better choice and we can certainly work with the planning board doing that. I would like to ask A. J. Coppola, the architect, to show you again the

renderings just so you have a feel and see if you have any questions in that regard and Jim DeWinter as well can show you what I just tried to describe in words, that's what exists from the Jacqueline side as we move forward toward building and any one of us can answer any questions that you have. A. J. could you show the--

MR. COPPOLA: Real quickly again what we're talking about is primarily our roof lines proposing 4 on 12 roof pitch for the buildings, we have 6 buildings, 3 of the buildings have portions of those buildings which would contain 3 residential floors so that is part of our request, that's a function of the earth falling down more than anything else. I have two sets of material selections here cause I don't, cause the board asked about last month I'll just hand these out, what these are is this is something that's been already given and reviewed by the planning board and this has two sets of colors on it, so that all the building are not the same. And basically those materials shown on there show the siding, they show the roofing, they show the cultured stone and they show an accent such as the shutter and I have those here if anybody wants to take a closer look at that. But effectively what's rendered here which is building 7 this is the building at the top of the ridge is one of I think that's actually what we have rendered here is the first color selection, the cultured stone, the siding, the roofing and the accent and the shutter. So again we have spent a lot of time and a lot of effort with the planning board prior to coming to the zoning board on these color selections, I'd be happy to answer any question or review them with you but that's essentially what we're doing and again building number 4 here, this L-shaped building, the building that's closest to Jacqueline Street that's just two stories, we have elevations for that if you'd like to see that. This is building 7 here which is also two story building but again because of the grade it appears a little bit higher from the rear.

MR. DONNELLY: If I can ask Jim DeWinter to show you what land is available between the Jacqueline Avenue property line and the start of the building. Building 7, the one at the top of the slope also as we worked with the planning board that building has been moved significantly and we believe to the maximum extent possible, not even practicable to get it away from the hill slope, it's been turned, it's been twisted, it's been moved, retention basin has been moved and we have really done everything we can to get that as far from that slope so there will be no disturbance and the potential view of it from down in the valley or gully area there be minimized. Jim?

MR. DEWINTER: Along Jacqueline Street residence approximately 20 feet of area where the berm and the fence as Mike described plus the plantings on the top side of the berm were going to be placed, then we have the roadway which is approximately 25 feet wide and then it goes to the building which is an additional 20 feet so between the building and naturally the property line we're, actual property line we're talking from the closest point 75 feet depending on the jog to 85 feet between these buildings and the property line again there's 20 feet in here was designed to have this berm with the proposed fence and trees that would act as a buffer between the residences and the buildings and again the road is 25, we have nothing, no control on the width of the road but and this was required by the fire department so they have circular access all around the buildings.

MR. DONNELLY: Are there any other questions of any of the members?

MS. RANSOM: I think that there was some issues that we heard from the public last month about clear cutting the whole parcel, is there any way that some of those mature trees that have been there for a long time can

be preserved?

MR. DEWINTER: The majority that are really mature trees are on this slope, this has a little bit more of the grading and so forth. We're not touching any of the trees from just, there's a stone wall that runs along the top of the ridge where the steepness comes in, there are very mature trees on this slope, we're not touching anything on that slope, that's all staying as is. There are trees in here that we have indicated there's some disturbance line in here but for the most part these trees in this area are going to pretty much be preserved. We also have a, there's also, to make sure we have this preservation the planning board required that we place a, actually a fence along this edge so that there's no disturbance down below so any sort of debris should blow off, it doesn't go down the bank during construction as well as they asked us to leave it there afterwards but and then there's extensive plantings of our own that we're putting in there as well throughout the whole site. But in order to meet all the other regulations from fire department, grading and so forth we're going to try to preserve whatever we can in there as we're going along but--

MS. RANSOM: Cause having walked the site during the balloon test there seems to be an awful lot of very mature trees not just on that bank and I kind of heard last month that everything was going.

MR. DEWINTER: Well, there's a lot, there's a lot of, there's no two ways about it, we've got to tell you that, you know, when you have a road that has circled the outside you have to clear the road.

MR. DONNELLY: We'll certainly pledge to work with the planning board on that score. But with all due respect the issue of where the buildings are and the other matters are not really related to the roof pitch which is what the variance is about but certainly we proposed

with the planning board to replace plantings wherever we could, a lot of those trees because they're crowded by others might look impressive now but when you thin out that forest and put in buildings they may not be the kind of trees you want to see preserved, certainly we can work with them.

MR. DEWINTER: As Mike was saying as you're doing the construction root structure will be damaged and everything else so that many times within building areas your mature trees are damaged, they may not look damaged as you first start but a year down the line they die so--

MS. RANSOM: But I mean I think we're going to go back to the roof pitch, I mean, I think that we want to try and mitigate the appearance of massiveness as much as possible, so I think that the plantings do go to the variance request.

MR. DONNELLY: Certainly that exists between public viewsheds and where the buildings are, I would agree with you that does make sense and again, our suggestion is we can replace some trees in that area and we'll certainly work with the tree warden to preserve those that we can but we're trying to point out we had to remove a lot of trees because the planning board required us to put in a berm and a fence and plantings and we thought and we followed their lead that the newer plantings and the created buffer was better than leaving the existing vegetation as it was and we can't undo that, that's really the direction that we want to go, certainly we're willing to preserve what trees we can in that area and to work with whoever the town appoints. I think a better choice might be to plant some type of the trees in that 20 foot area between the roadway and the building that would grow up along the face of that building and could provide some kind of buffering or screening in future years cause I don't think that most of what's there if preserved is going

to do that as well as new plantings would but we'd certainly preserve what trees in this area could be preserved and work with whoever the town wants to appoint.

MS. RANSOM: For the variance request for the paved areas, what kind of buffering are we going to see along the property line again to, around the dumpsters as well as the concrete sidewalk?

MR. DONNELLY: Do we have the landscaping plan here? Recognize there's nothing for hundreds, hundreds of feet beyond that site, it was not a major area of the Planning Board's concentration, I don't know if we have a landscaping plan.

MR. DEWINTER: I think Frank was going to bring it with him, he's gotten tied up with roadway, but I know he does have--

MR. DONNELLY: No, there are perimeter plantings throughout but I don't know what there is.

MR. COPPOLA: This is probably those are screened. These are dumpsters and if you follow this legend that would be underneath there.

MS. RANSOM: Evergreens and shrubs?

MR. COPPOLA: Yes.

MR. DEWINTER: And this is the sidewalk that we're talking about in here and he has--

MS. RANSOM: So he has deciduous trees all along?

MR. DEWINTER: All along the property line.

MR. COPPOLA: And screening around the dumpsters.

MR. DEWINTER: This is the sidewalk that we're concerned with.

MR. DONNELLY: But there are trees the entire line evergreens screening and there's an enclosure for the dumpster.

MR. DEWINTER: Yes, evergreens and shrubs.

MS. RANSOM: When you say enclosure?

MR. DEWINTER: It's a polyethylene fence, you know, so like it's not going to be, we aren't proposing stockade type, it's a polyethylene.

MR. COPPOLE: Like a board and batten.

MR. DEWINTER: Yes but it would be like a privacy fence.

MS. RANSOM: So that's going to be there then you're going to have these evergreens and deciduous trees as well?

MR. DEWINTER: Correct.

MS. RANSOM: That's around each of the dumpsters that are on that back line.

MR. COPPOLA: There's going to be three, correct.

MR. DEWINTER: Three, three.

MS. RANSOM: Thank you.

MR. RODD: If I could ask just so the record is going to make sense if you could just indicate for the record what screenage there will be in the area of the property line by the sidewalk and by the dumpsters?

MR. DONNELLY: I think we submitted this, if not, we'll submit it as part of the record.

MR. RODD: I want it described so it's in the record, I'm not sure it was done.

MR. DONNELLY: Along that property line for the entire property line are deciduous trees that are spaced on center in a fashion that their canopies will touch or nearly touch. In addition at the area where the dumpsters are located, the dumpster will be surrounded by a permanent enclosure and then surrounding that enclosure toward the outside property line will be a U-shaped series of evergreen shrub plantings that fully block its view from outside the property line and that's the case with each of the dumpster areas.

MR. DEWINTER: The trees that are going along the property line there's pin oak in there, the pine trees are spruce, white spruce and then he also has a dogwood where the other dogwood as well around the dumpsters.

MS. RANSOM: So some of the other deciduous trees that are going to be along the property line are dogwood and what else?

MR. DEWINTER: Pin oak.

MS. REGAN: What size are they?

MR. DEWINTER: Pin oaks are 3 1/2 inch caliper.

MR. COPPOLA: There may be a colored landscaping plan.

MR. DEWINTER: Dogwood are 12 to 14 foot height, the white pines are between 8 and 9 foot in height at planting and 12 to 14 for the dogwood.

MR. COPPOLA: So those 12 to 14 foot dogwoods are also going to be in front of the short leg of building 4 on

Jacqueline.

MR. DONNELLY: And if you look at the Jacqueline Avenue side there are a number of deciduous trees planted along the roadway as well.

MR. DEWINTER: Also talking about white pine and white spruce along that berm on top of the berm is a combination.

MR. TURNER: I think the landscape architect when he designed the plan tried to get some mixture in so that there was not the same species throughout and because there's also the risk of disease and so on so he tried to maintain the viability of the planting.

MS. RANSOM: So there's on the berm along Jacqueline there's going to be the evergreens and then there's also going to be another row of deciduous trees between the road and the building?

MR. DEWINTER: That's correct and there's also other plantings between the evergreen trees and the road as well.

MR. DONNELLY: There are foundation plantings along the building face.

MR. DEWINTER: That's correct.

MR. DONNELLY: So there's quite a bit of planting there.

MS. RANSOM: Okay.

MR. DONNELLY: To preserve trees we'd have to do that instead of the planting cause you really couldn't put those plantings under trees, we can do that if that's the desire of the town to substitute maintaining some of the existing trees for those and I think that's

easier done in the field than it is on paper.

MS. RANSOM: Thank you.

MS. REGAN: What sort of fence are you putting up in the rear that the planning board asked you to put up during construction and that you're going to leave up?

MR. DEWINTER: Talking about along the ridge?

MS. REGAN: Yes.

MR. DEWINTER: They requested and what we decided to do was put a black vinyl coated chain link fence so you see right through and you don't even see it, the black almost hides.

MS. REGAN: That's perfect, that's good. Has the planning board seen this version of the latest version of the plan? Are we all working with the same thing?

MR. DONNELLY: Landscaping, there's a building that has been removed that they have not yet, well, they may have, they haven't seen it as a planning board as a group.

MR. DEWINTER: As far as the location of the buildings 2 through 7 which you have seen they have seen that.

MR. DONNELLY: And that landscaping plan they have seen as well.

MS. REGAN: And who is going to make the final determination on selection one or two?

MR. COPPOLA: No, they're both, it's both, so that you don't have 6 buildings, identical buildings.

MS. REGAN: No, they're very nice colors, I like them.

MR. COPPOLA: Thank you.

MS. RANSOM: And by approving the variance then we go from flat roofs to have the asphalt shingled roofs?

MR. COPPOLA: Right. By right we could build this right now which is a flat, it's a membrane roof, you know, a flat roof, what we'd prefer to build and what I think makes much more sense is a low sloping gabled roof like we pictured here.

MR. DONNELLY: Would be the asphalt shingles that you've seen in those renderings.

MS. REGAN: Now by the flat roof versus the pitched roof does it impact the people living in those buildings? Does it put them at a higher level overlooking the Jacqueline Street houses or are the windows and views remaining the same just the roofs are changing?

MR. COPPOLA: Only the roofs, it's only the roofs.

MS. REGAN: So the windows, everything would be the same height?

MR. COPPOLA: Yes, that's exactly correct.

MS. RANSOM: Ted, any questions?

MR. DOBIAS: No.

MR. LEE: Yeah, I have one. What's the height of the fences you're going to have around there?

MR. DONNELLY: The fence on the top of the berm or the one behind the building?

MR. LEE: Any one of them?

MR. DEWINTER: The one behind.

MR. COPPOLA: The one at the top of the hill I think is 4 feet, is that correct?

MR. DEWINTER: It's 4 or 6, I don't recall.

MR. COPPOLA: And I think the other one is 6.

MR. LEE: Cause you do have a 6 foot limit.

MR. DEWINTER: No, we would stay within the requirements.

MR. DONNELLY: Otherwise we'd have to come back.

MR. DEWINTER: But to compensate for the height that's why we have the berm and that gives approximately--

MS. RANSOM: Yeah, there was testimony that the fence on top of the berm was going to be 8 feet.

MR. COPPOLA: No, I don't think, that's not allowed.

MR. LEE: That's what was said last month, that's why I asked the question.

MR. DONNELLY: Well, correct, that 6 is the limit, it will be 6 but it will have more of a screening affect than that because it sits on top of the berm.

MS. REGAN: Is the fence in the rear of the property by the ridge, is it just going across or is it going to meet up with something else and be enclosed?

MR. DONNELLY: Well, the planning board asked for it for two purposes then I'll try to answer your question. They were concerned with construction debris that if it would fall it might roll down the slope so our proposal was to put it covering the area that reasonably would

achieve that. The thought was we could put up a sturdy but not perhaps attractive barrier during construction but the planning board felt that a permanent fence to help catch blowing litter and bags and papers to prevent those from going down would be a good idea but we want it to be invisible but with the color and style as well as the plantings which would consume it, we decided on that black style I think it just runs the length of the building.

MS. REGAN: Cause my thought there is the deer coming up, you know, and 4 feet they'll just jump right over that and they'll eat all the new plantings.

MR. DEWINTER: No, we're only going the width of it.

MR. DONNELLY: Realistically they'd come in from some other angle too, I don't know.

MR. DEWINTER: They'll go around it one way or the other.

MR. DONNELLY: If you think it makes sense for that fence to be longer we have no opposition to it, I don't know if it will achieve the objective.

MS. REGAN: I didn't know if a little higher would deter the deer or not.

MR. DONNELLY: Two things on that, one is they're going to be heavy and eventually have tall trees there and there's the fence is right up against where their branch line would be. So I don't know particularly once they start growing how they'd be able to get in, the fence is fairly near where the dropoff begins so to jump over it you'd be at a very steep point, I think it might be difficult.

MR. TURNER: Couldn't get a running start.

MS. REGAN: Thank you.

MS. RANSOM: Anything else up here?

MR. MC GUINNESS: I have a question. I want to go back to the dumpsters, you're showing three different sites for building 2, 3, 4, 5, 6 and 7?

MR. DEWINTER: We have some other dumpsters within the site I believe but had nothing to do, it wasn't part of this variance so we haven't really shown them.

MR. DONNELLY: Only several of the dumpsters have a need for a variance.

MR. DEWINTER: Yeah, there's three that need the variance, that's why we kind of highlighted those.

MR. MC GUINNESS: How big is this area? It shows like maybe 2 1/2 parking spaces.

MR. DEWINTER: Usually give it about a, yeah, it's usually about 20 x 12, something like that, so you have a large commercial dumpster maybe two in there like two alongside each other to be able to take the refuse.

MS. REGAN: Are those going to be screened in the same fashion?

MR. DEWINTER: That's what we're talking about before as far as what it is.

MR. DONNELLY: They all have that screening.

MS. REGAN: And the plantings as well?

MR. DEWINTER: Yes.

MS. RANSOM: Okay, would anyone in the audience like to speak to this issue?

MR. VINSON: Gary Vinson, property owner, 56 Jacqueline Street. I've heard all this, their testimony, I want to go on the record that I object to the variances, one for the height, two for the number of stories and three for the pavement within the 25 foot area. My big concern is that they're talking about clear cutting this property, they're talking about putting up a berm, they're talking about putting up a fence, it's not adequate screening, trees that are there now, they of their own testimony have said they don't think they're very nice, they don't live there, they haven't seen it. Can they give us an inventory of the trees that are there within 20 foot of the property line? Can they tell us what type of trees, the size of them, have they really, really looked at these trees? So I object to the variance and I would ask the board that in their own testimony they said they can build these buildings, Miss Regan asked the question will the windows or the height of the ceilings in these change at all. No. So their own testimony is they can still do this project without the variances, but for the parking, the purpose is if we have 4 on 12 pitch with a nice roof it's gonna look a lot nicer. I will agree to that but what about the existing residents? Can't we require a 20 foot? If you look at the width of this room they're one foot tiles approximately 20 foot, let's, I'm asking the board to put a condition, grant them, if you grant them the variance that they must not, they'll try not, that they'll see what we can do but they must maintain maybe call it a conservation easement or something, keep a 20 foot area on the Jacqueline Street side. No one's going to argue about the hillside and the black vinyl fence, it's a great idea, keep the garbage from blowing down but they're going to fence this entire property on all sides. You asked about animals, you have all kinds of development occurring, if you look at the existing neighborhood there are no fences, no one in this existing neighborhood has fences. The wildlife can come and go. We're talking deer, we're talking

wonderful animals that live that have to move. You put up a fence they can't get over it, maybe one or two will jump but the herds of animals and wild turkeys that roam the land, you've got the Moodna, the water, you've got the hillside in which they can all go be free and that no one bothers them. So if you grant, if you find that you need to grant the variance to make the buildings look nicer, put a condition that they have to maintain some of the existing vegetation, I'm talking the mature trees, they can do some other plantings, they might have to rearrange their plan a little bit but what about the existing neighborhood, the residents that have lived there. I'm the only one here tonight. The flooding that's occurring, the residents that have water, when they berm this and they raise it, it's gonna cause problems on the adjoining, they can develop their property but let's require some natural screening, let's keep some of these trees to try to shield the size of these buildings. They talked about in their own testimony about the height of a single family and this in the scheme of things, a house high little width versus the long width of this building and the height of it, they're contrasting when you looked at their diagrams and you saw that the description of Knox Village and you saw these big blurs then you looked at the area of Truex Drive and Marshall Drive where the houses were and they blended in with the natural landscaping. And I understand that we're, they're trying to do a nice thing, I just think it's taking advantage of the existing residents. I'd like to see at least on the Jacqueline Street side an area identified to try and preserve the natural vegetation. Will it be perfect, I don't know, but it's gonna be better than any kind of tree they can plant, it will take, who knows, maybe we'll have a bad winter and they'll all die, maybe Eileen's right that the animals are gonna eat them, they're going to put up a fence, let's not put up a fence, let's do that, that's what I have to say. Thank you.

MS. RANSOM: Thank you. Anyone else like to speak to this issue? Anyone else have any questions up here?

MS. REGAN: Did anybody ever inventory the trees and the vegetation on that property?

MR. DONNELLY: I don't believe we did an inventory in the sense that you mean counting and size of them. The planning board was familiar with the area and did a site visit and early on there was talk of trying to preserve what was there and I certainly am not against the suggestion that Gary has made, frankly from the applicant's point of view nothing would be better than for us to simply preserve what's there. But the planning board pushed us toward this alternative and a berm and a fence and plantings and trees and landscaping and I don't want to see the boards working at cross purposes here. There certainly were some trees that were identified.

MR. DEWINTER: At the request of the planning board we did a tree inventory along this area in here.

MR. DONNELLY: Indicating the area at the top of the hill.

MR. DEWINTER: By building 7 and where the--

MR. VINSON: But nobody lives there, that's the top of a bank, that's not a house.

MR. DEWINTER: I'm just saying that was at the request of the planning board because they felt that the rest of, they recognized the rest of it was going to have substantial amount of construction and that this was the area that could possibly save some additional trees besides the ridge.

MS. REGAN: You know the sad thing is I happen to know that property because there was the old house there and

it was a historic property, there's some very unusual and antique plantings on there and they're just gonna be lost forever so--

MR. TURNER: During the Planning Board's, during the SEQRA review there was a vegetation survey that was incorporated into the environmental analysis, now it wasn't a tree by tree inventory as you're suggesting but there were, there's a survey in there that shows the groups of vegetation and so on the planning board was apparently I think the zoning as well I think you had looked at that document, I don't know.

MS. REGAN: It was so long ago.

MR. TURNER: Yes, it was while ago.

MR. DONNELLY: Well, if there aren't any further questions, we would ask you then to close the hearing and we'll leave you of course to your deliberations.

MS. RANSOM: Okay, anything else? Anyone else like to speak? Okay, thank you very much.

BRIAN_&_KATHERINE_BACHER _____

MS. RANSOM: Next is Brian and Katherine Bacher. Notice is hereby given that the Zoning Board of Appeals of the Town of Cornwall, County of Orange, State of New York will hold a public hearing at the Town Hall, 183 Main Street, Cornwall, New York on April 16, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Brian and Katherine Bacher relating to property located at 10 Hamilton Place and designated on the tax map as Section 13, Block 4, Lot 30. The applicant seeks an area various to Section 158-21 (k)(1) of the zoning ordinance in order to install a 21 foot by 40 foot above-ground pool with insufficient rear yard. The ordinance requires 20 foot and the applicant proposes 14. The zoning board will at the above time and place hear all persons interested in the application. All written communication should be received by the board at or prior to the hearing. Dated: March 26, 2007, by Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson. And let the record show that we did receive one piece of correspondence on this, we have received a letter from Catherine Murphy, 10 Frost Lane, Cornwall, New York and that letter's here if anyone wishes to take a look at it. Would you like to make your presentation to the board, please?

Mr. and Mrs. Brian Bacher appeared before the board for this proposal.

MR. BACHER: Simply put, the variance is asking for a rather than a 20 foot buffer between the pool and the property line we're looking at about a 14, I think 14 is probably asking for too much, I wanted 14 just in case we needed to move the pool due to a rock or any other kind of obstacle. It's probably not going to be the 14 that we're looking at. In regards to the letter I did take a couple pictures to show that there is a very nice wooded area between our property and their

property which I did bring pictures of for anybody who didn't get to the property.

MS. RANSOM: If you could pass those around we'd appreciate it.

MR. BACHER: Sure. The white line is from the survey from the pool company when they came and painted it so if you see the white line that's according to where they're going to put it.

MS. RANSOM: Can you kind of describe the trees that are between your back yard and the neighbor's back?

MR. BACHER: There are quite a few established trees as well as some very nice probably 10, 15 foot heavy bushes, forsythia and come summer you can't see two feet beyond it.

MS. RANSOM: Are the trees on her property or your property?

MR. BACHER: Her property. If I remember right, I did stop by the building inspector's office on Friday, the letter stated that the homeowner was concerned about property value decreasing because of our pool. So the last two pictures there do show that of my five adjacent neighbors three of them do have pools.

MR. DOBIAS: Are you going to move the trampoline?

MR. BACHER: Without a doubt, yes, and I don't feel that our property value decreased with their pools being up so I don't know how her property could be affected by ours.

MS. RANSOM: Are you planning to plant anything along your property line to screen the pool on your property since the plantings belong to her?

MR. BACHER: If need be we'd be happy to.

MRS. BACHER: We're not adverse to doing anything.

MR. BACHER: We're planning on putting the deck but the deck is going to be on the house side not the property line side but that won't be until next year.

MS. RANSOM: And what kind of plantings would you be agreeable to planting on your property line to try and mitigate the, what she can see?

MR. BACHER: Well as of right now she shouldn't be able to see anything, if she were to clear cut her land, I would put probably very close to the same things that are there now so when we're swimming we're not affecting her, she's not affecting us, I'd be happy to put forsythia bushes, I'd be happy to put a couple pine trees that would grow together and shield it completely.

MS. RANSOM: Any questions?

MR. MC GUINNESS: We see in the neighborhood just about everybody has a pool.

MR. BACHER: Yes.

MR. LEE: No, I was up there, I saw it.

MS. RANSOM: Anyone in the audience like to speak to this issue? Is there anything else you'd like to add?

MR. BACHER: No, that's it.

MS. RANSOM: Thank you very much.

MR. BACHER: Come back next month?

MS. RANSOM: Let's see, do we have, we don't have

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county, we don't have the county determination yet, you probably don't have to come to the meeting but we'll leave the public hearing open to receive that information from the county.

MR. BACHER: I'll be back next month. Thank you.

REGULAR_MEETING

MS. RANSOM: Thank you. Okay, the minutes of the March 19 meeting have been distributed, are there any additions or corrections? Do I have a motion to accept the minutes as submitted?

MR. LEE: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MS. RANSOM: Do I have a motion to meet with counsel to discuss items we heard this evening?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

(Whereupon, the board went into executive session.)

(Discussion was held off the record)

LORRAINE_BENNETT_-_DECISION _____

MS. RANSOM: The first public hearing we had this evening was on the request of Lorraine Bennett seeking an area variance to shift the lot line separating lots 3 and 4 a total of 25 feet to the south. Do I have a motion to close the public hearing?

MR. MC GUINNESS: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. MC GUINNESS AYE

MS. REGAN AYE

MR. LEE AYE

MR. DOBIAS AYE

MS. RANSOM AYE

MS. RANSOM: Why don't we take the five factors for grounds for relief on this application. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated?

MS. REGAN: No.

MS. RANSOM: No, she already has two non-conforming lots. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance?

MS. REGAN: Not really.

MR. MC GUINNESS: No.

MS. RANSOM: Not really, she's trying to increase the lot size for the house that's on the National Register

so that will only benefit that piece of property. Is the requested variance substantial?

MS. REGAN: No.

MS. RANSOM: Not really, the fact that it won't have an undesirable change in the character of the neighborhood. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

MS. REGAN: No.

MR. MC GUINNESS: No.

MS. RANSOM: Not really, it's two residences at this time. Is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes, but it doesn't weigh a lot in that there would be no undesirable change in the character of the neighborhood. Do I have a motion that this is a Type 2 Action under SEQRA?

MS. REGAN: So moved.

MR. DOBIAS: I'll second.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MS. RANSOM: Do I have a motion to approve the request for an area variance by Lorraine Bennett for a lot line change?

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MR. LEE: So moved.

MS. REGAN: Second it.

ROLL CALL

MR. MC GUINNESS AYE

MS. REGAN AYE

MR. LEE AYE

MR. DOBIAS AYE

MS. RANSOM AYE

MANOR_AT_CORNWALL_LLC_-_DECISION

MS. RANSOM: Our next public hearing this evening was on the request of Manor at Cornwall LLC, also known as Chestnut Woods. Do I have a motion to close the public hearing?

MS. REGAN: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MS. RANSOM: We're being asked to approve two area variances this evening, area variance for the building height and for the paved areas around the dumpster and the sidewalk. So why don't we take the factors one at a time. I will also let the record show that we have received Orange County Department of Planning notification and they have left it to local determination. Why don't we start with the building height first. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated?

MS. REGAN: No, not really, it will be more attractive than the flat roof.

MS. RANSOM: Right and it will look more like residential buildings.

MR. DOBIAS: Right.

MS. RANSOM: And as was testified to they can build flat roofs without a variance. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance?

MS. REGAN: Not really.

MS. RANSOM: Not really, as was stated, they can build without a variance, only probably would not fit in as well in the neighborhood. Is the requested variance substantial? The code has 25 feet, they're proposing two buildings with 29 feet and four buildings with 31 feet so we're being asked to approve area variances from 4 to 6 feet, is that substantial?

MS. REGAN: Under the circumstances, no.

MS. RANSOM: Okay. Again, because it doesn't impact in the neighborhood.

MR. MC GUINNESS: With the flat roof, I mean, this is only adding a small variance.

MS. RANSOM: Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district? I think that they have presented a plan that helps to mitigate the sizes but the plantings, the berm, the fencing, they have certainly gone to great lengths to make the plantings different as was testified to with deciduous trees, with evergreens. So I think that they have done a good job in making it fit so that mitigates the appearance of the size of the building. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MS. REGAN: Yes.

MS. RANSOM: Yes but we won't put a lot of weight on

that as the other factors have been met. Okay, let's take the variance now for paved areas, the dumpster area to be, placing the dumpsters and the sidewalk within 25 feet of the property line. Let's take the factors again one at a time. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated?

MR. MC GUINNESS: No, the nearby property is over 400 feet away.

MS. REGAN: And the screening should help.

MS. RANSOM: And again there's a, the screening is adequate for that area. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance? Not really. There are dumpsters within the complex but then you need a sidewalk and as was testified to the nearest property's over 400 feet away. Is the requested variance substantial? I think they've got what, 15 feet or 20 feet and they're, so we're talking about a 5 foot variance.

MS. REGAN: No.

MS. RANSOM: That's not really substantial in the scheme of things. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or the district?

MS. REGAN: No.

MS. RANSOM: No. Again, the nearest property's quite a ways away. Is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes. Okay, I'd like a SEQRA motion, a motion with respect to

the variances sought from this board, the same represents Type 2 Action under SEQRA and this board refers the remaining SEQRA review, if any, to the planning board as lead agency. May I have a motion to that affect?

MR. DOBIAS: So moved.

MR. LEE: Second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MS. RANSOM: Do I have a motion to direct counsel to prepare a findings of fact and resolution on the variances, the area variances sought by Manor at Cornwall LLC?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MR. DONNELLY: Can I ask one clarification? Buildings needed both a height variance as well as certain locations, a three story where two is required variance and I don't know if your discussion--no, it didn't, that's part of the application, they're highlighted on

the plan, there's several areas where because of the topo it's technically three stories and that variance was sought.

MR. RODD: You can just indicate that the variances sought by the applicant as referenced on their plans, maps and submissions is granted in connection with.

MS. REGAN: Or the February 27, '07 version, right?

MS. RANSOM: So can we use what you just said or do we need to restate it?

MR. RODD: They're directing me to prepare a resolution which I will prepare hopefully by next meeting and then the board is going to vote on it while dotting the Is and crossing the Ts.

MR. DONNELLY: Very good.

MS. RANSOM: Okay, so we're good with this or we need to do something else?

MR. RODD: Just so the variance was for the standard is no greater than 25 feet for the buildings or two stories and here they're proposing certain buildings that exceed both the height limitation and the story limitation.

MS. REGAN: But the roofs are all going to be level, it's not dropping down or it's uniform.

MR. COPPOLA: That's correct.

MS. REGAN: It's just the topography and it's--

MR. COPPOLA: Right.

MS. RANSOM: Okay.

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MR. RODD: Yes.

MS. RANSOM: Okay, anything else to come before the board tonight? Motion to adjourn.

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. MC GUINNESS	AYE
MS. REGAN	AYE
MR. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

Respectfully Submitted By:

Frances Roth
Stenographer