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TOWN OF CORNWALL  
ZONING BOARD OF APPEALS  
AUGUST 20, 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: The August 20, 2007 meeting of the  
Cornwall Zoning Board of Appeals will now come to  
order.

JOHN\_&\_CYNTHIA\_LATIMER\_-\_CONTINUATION

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MS. RANSOM: We have a number of things on tonight's agenda. The first one is the continuation of the public hearing on the request of John and Cynthia Latimer, 10 Sugar Maples. Let the record show that the board received correspondence from Cathy and Craig Ellick (phonetic) and Helen Schutt (phonetic), Roaring Brook Road along with a copy of the deed and we have also received correspondence from John Latimer requesting additional time to get engineering information together. He's asked to be held over till the September meeting. Do I have a motion to leave this public hearing open till September?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

(Whereupon, Ms. Regan entered the room.)

MS. SCHUTT: My name is Helen Schutt, I live at 15 Roaring Brook Road and my question is that we've had several instances where Mr. Latimer has had perc tests done and surveying things that have been done that have destroyed our road and have crushed the culverts and he has at no point has he ever made any monetary contributions to the maintenance of Roaring Brook Road. And we would like to be notified if possible if there's going to be another perc test because of the unwitnessed perc test in May so that we can be there to maintain the structure of our road. Is that unreasonable to ask?

MR. RODD: That's something that's beyond the zoning board's power to control. We have absolutely no control over when he does a perc test when he has to notify people or anything of that nature. He's simply asking us for variances pursuant to the code. We can't control what he does with respect to the road.

MS. SCHUTT: Could you explain to me then what we can do to prevent further damage to our road? Is there nothing? Do we call the police and say, you know, there's this truck that's crushing our culvert and when the truck leaves and we physically and monetarily have to fix the road to prevent severe runoff problems, I mean, do we have, you know, we're set at bay here, we're just looking for some answers.

MR. RODD: Unfortunately, we can't give legal advice about property damage that the claim is being caused by your neighbor. We're the Zoning Board of Appeals, we hear appeals from the grant or denial of building permits or referrals from the planning board.

MS. SCHUTT: As I understand he can cause as much damage to neighboring property.

MR. RODD: Ma'am, that's not at all what I'm saying. I'm saying--

MS. SCHUTT: I'm hearing what you're saying is that you have no control over it because you're the zoning board so I'm asking you where can we go, what, where can we go? I'm asking you.

MR. RODD: I would, if you feel that there's certain issues with the road perhaps you can contract the building department to see if there are any issues that they could address, you can consult your own counsel. We can't give you legal advice about something that we're completely unaware of and otherwise not empowered

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to act on anyway. I don't want to sound unsympathetic or like I'm trying to dodge the issue, there's certain things that we can do and certain things that we just can't do and you're asking one of the can't do items so--

MS. SCHUTT: Thank you very much.

PATRICIA\_GILARDO\_-\_CONTINUATION

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MS. RANSOM: Next public hearing is the continuation of the request by Patricia Gilardo, 194 Sycamore Drive requesting the area variance for a covered porch with insufficient front yard setback.

MR. SANDRIDGE: My name is Joseph Sandridge (phonetic) from Coppola Associates representing the Gilardos. And we were here for the meeting last month and that meeting was brought to this month due to an issue with the driveway and the wall there in front of the driveway which is shown here. This is the driveway and there is a wall comes across here and there needed to be, that needed to be looked at by Orange County and based on their decision and we can go forward with the area variance.

MS. RANSOM: Orange County Planning has left the area variance to local determination. Let the record show that we have received that information from the Orange County Department of Planning. Okay, so, do you have any new information you'd like to add?

MR. SANDRIDGE: No, it's all the same as it was the month before, just this front yard setback here, same design, nothing's changed.

MS. RANSOM: So now there was a question, the legal notice said that the covered porch was going to be 7 x 38, then there was testimony that it was 6 x 38, is 6 x 38 is the correct number?

MR. SANDRIDGE: Yes, that's correct.

MS. RANSOM: And the ordinance is requiring 30 feet and you're proposing 12?

MR. SANDRIDGE: That's correct.

MS. RANSOM: Questions up here? Mike, anything?

MR. MC GUINNESS: No.

MS. REGAN: No.

MR. DOBIAS: No.

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

MR. SANDRIDGE: Just that, you know, this is the porch is just to enhance the property and, you know, give the homeowners a little extra added value to their home and I think it will bring some character to the neighborhood as well so it would be muchly appreciated if you would grant the area variance.

MR. DOBIAS: The stone wall that's on your property right?

MR. GILARDO: Yes, I had Bob out there twice.

MR. DOBIAS: I was out there today and it's a nice stone wall, I was just wondering if you, there's any of it on the road.

MR. GILARDO: No, I took it by the telephone poles except for when it sits back because we had trouble with rocks but I took it by the telephone pole up and down the line and I pulled it to that side, there's about this much off of the road.

MRS. GILARDO: It actually sits behind the mailbox.

MR. DOBIAS: It's a nice wall.

MS. RANSOM: Okay, anything else? Thank you very much. Hopefully we'll be able to make a decision this evening.

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MR. SANDRIDGE: Thank you.

EDWARD & ALICIA HUGHES

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MS. RANSOM: Next public hearing is on the request of Edward and Alicia Hughs. 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 August 20, 2007 at 7:30 p.m. or as soon thereafter as the matter can be heard on the application of Edward and Alicia Hughes relating property located the 113 Weeks Avenue and designated on the tax map as Section 19, Block 2, Lot 1. The applicant seeks an area variance to Section 158-12, Part 1, SR-1 district, use group G, column number 7 of the zoning ordinance in order to construct an 18 feet by 12 feet rear deck with insufficient rear yard. The ordinance requires 30 feet rear yard and the applicant proposes 22 feet rear yard. 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: July 19, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson. Mr. and Mrs. Hughes, would you like to make your presentation to the board please?

MRS. HUGHES: Thank you. I'm Alicia, this is my husband, Edward. You said so much of what I was just going to say. We just propose to construct a simple 12 x 18 deck. The ordinance is for 30 feet, we propose 22 feet. It's just for outdoor dining to add to the value our house and be able to enjoy the back yard.

MS. RANSOM: I was at your home yesterday, no one was home, is the deck on the ground floor or on the second floor?

MRS. HUGHES: It's second floor, it's a bi-level house so yes, it will be coming out the back porch to the, at the same level.

MS. RANSOM: Why don't you tell us a little bit about what's behind your house that would shield your neighbors from seeing your deck.

MRS. HUGHES: Sure, what appears to be the property line is actually looks like there's more, like we have the 30 feet because at that point there are a line of shrubs and trees so it does give us privacy between our property and the neighbors.

MR. HUGHES: Plus some low branches from a maple tree that's right close to the deck just off the deck and another enormous tree behind us and there's a fence off to the left, it's an irregularly shaped lot.

MRS. HUGHES: As you can see if you all have a copy of the survey that I put in the application it's an odd shaped lot that's why where the deck would come out to it gives us the shorter distance to the property line but we feel it provides that we do have privacy because of the shrubs and trees.

MS. RANSOM: Are you taking any of the trees down to install the deck?

MRS. HUGHES: No.

MS. RANSOM: To make the deck any smaller would render it not very useful.

MRS. HUGHES: Exactly because of the width of the deck being 12 feet in order to make, I mean, if we had to make it 8 feet shorter we would only have 4 feet then to put table and chairs and it just wouldn't be possible.

MS. RANSOM: Other questions? Mike?

MR. MC GUINNESS: No.

MS. REGAN: No.

MR. DOBIAS: Nice looking place.

MRS. HUGHES: Thank you very much.

MR. LEE: I was there this morning.

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

MR. HUGHES: Not really, I mean, if you'd gone around the back because of the odd shape of the property it would have probably fit had we gone straight across instead of, you know, at an angle, it would probably wouldn't even be an issue.

MR. LEE: Well, it's the property that's on the right as you face the house that kind of cuts you off.

MR. HUGHES: Exactly, that's what happens.

MS. RANSOM: How tall is the fence behind the house?

MRS. HUGHES: That's another thing we're actually there's two, the property, our property line is split kind of by another property, if you go to the back of our property there's one section belonging to the Creedmores, another section to the Hudsons. The Hudsons have the fence that runs from here to here, the Creedmores, the whole back of the property is large forsythias, like I said, the trees and the giant tree in the back.

MRS. HUGHES: It's about 6 foot.

MR. LEE: Six foot six.

MS. RANSOM: Have you spoken to any of your neighbors about your construction of this deck?

MRS. HUGHES: Just briefly to the Creedmore/Sherry residence, they have two lot names.

MS. RANSOM: Are they the people directly behind you?

MRS. HUGHES: They're the ones most in line with the deck, yes.

MS. RANSOM: And they had no objections?

MRS. HUGHES: No.

MS. RANSOM: Any other question? Okay, thank you very much. So hopefully we can see about making a decision. Do we have Orange County Planning?

MR. MC GUINNESS: Local determination.

MS. RANSOM: Let the record show that we have received Orange County Planning, they have left it to local determination.

MR. HUGHES: Thank you very much.

CARLOS\_GARCIA

MS. RANSOM: Okay, the next thing we have is a letter from Carlos Garcia regarding 4 Pine Ridge Road. He's sort of asking us if he can put a patio around the pool that we gave him a variance for. And basically they need to go through the application process again because I went through the original application and there's nothing about the patio, simply the pool. So we'll let the building department know that because he was hoping that we could just do it without--

MR. GARCIA: So I have to apply for a permit and apply for the whole thing?

MS. RANSOM: Yes, you do. We can't just, the original application says nothing about a patio, so you have to go through the process again.

MR. GARCIA: Right, I mentioned it to Gary about the deck, about the patio going around it and it was on the plans itself but he said because it wasn't on the permit itself that I could come down here and ask you guys for permission.

MS. RANSOM: This board never addressed that and we have to go through the public hearing process again, you can't just amend it, you would need to go through the process.

MR. GARCIA: Wow, okey-dokey, thanks.

MS. RANSOM: You're welcome.

REGULAR\_MEETING

MS. RANSOM: The minutes of the July 16 meeting have been distributed. Are there any additions or corrections?

MR. DOBIAS: I don't think so.

MS. RANSOM: Do I have a motion to approve as submitted?

MR. DOBIAS: Yes, so moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: I'd like to make a motion that the board go into closed session to address legal issues with the board's counsel.

MR. MC GUINNESS: So moved.

MS. REGAN: Second it.

ROLL CALL

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

(Whereupon the board went into closed session.)

(Discussion was held off the record)

GILARDO\_-\_DECISION

MS. RANSOM: First public hearing this evening was on the request of Patricia Gilardo. Do I have a motion to close the public hearing?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: What I'd like to do is they're requesting an area variance to construct a 6 foot by 38 foot covered porch with insufficient front yard. The ordinance requires 30 feet in the front yard and they're proposing 12 feet. We'll take the grounds for relief 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?

MS. REGAN: No, I don't think so, it will enhance it.

MS. RANSOM: It will enhance the home and the neighbor that came to voice their concerns had no opposition to the porch itself. 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: No, where the house is situated in the back yard it drops off pretty severely. Is the requested variance substantial? I mean the size is fairly large but I think that it's not going to have an adverse affect on the other homes in the neighborhood. I think it will enhance the house so I don't feel that it is a large request. Anyone else have any comments? 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, I think it will enhance the appearance of the house. There are other homes with porches in the area. Is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes but again I feel that there will not be an adverse impact, it won't, there won't be an undesirable change in the character of the neighborhood. They're looking to enhance their property by adding this front porch. Anyone else have any comments? Do I have a motion that this is a Type 2 Action under SEQRA?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to grant the area variance request of Patricia Gilardo to construct a 6 x 38 foot covered porch with insufficient front yard

where the ordinance requires 30 feet and the applicant proposes 12?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: So we'll let the building department know tomorrow so you can get your permit.

HUGHES\_-\_DECISION

MS. RANSOM: Next hearing was on the request of Edward and Alicia Hughes relating to property located at 113 Weeks Avenue. Do I have a motion to close the public hearing?

MR. LEE: So moved.

MS. REGAN: Second it.

ROLL CALL

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

MS. RANSOM: We'll take the factors one at a time for an area variance. 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, I don't think so.

MR. MC GUINNESS: No.

MS. RANSOM: No, they testified that there was fairly good screening with mature trees as well as a 6 foot 6 fence and also rather mature shrubbery and the forsythia. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance?

MS. REGAN: No.

MS. RANSOM: Not really.

MS. REGAN: It's an irregular shaped parcel.

MS. RANSOM: Right. Okay, is the requested variance substantial? It's an eight foot variance, the ordinance is requiring 30 feet and the applicant is proposing 22. Based on the fact that there's screening, a fence, I don't feel that the 8 feet is substantial.

MS. REGAN: No.

MS. RANSOM: 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.

MR. MC GUINNESS: No.

MS. RANSOM: No, there's several other houses right nearby that have decks.

MS. REGAN: It's typical for the neighborhood.

MS. RANSOM: Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MS. REGAN: It is but they really don't have a choice.

MS. RANSOM: Exactly and since it will not produce an undesirable change in the character of the neighborhood I don't feel that that should carry a lot of weight. Do I have a motion that this is a Type 2 Action under SEQRA?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to approve the request by Edward and Alicia Hughes relating to property located at 113 Weeks Avenue to construct an 18 x 12 foot rear deck with insufficient rear yard where the ordinance requires 30 feet and the applicant proposes 22?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: We'll let the building department know tomorrow.

MRS. HUGHES: Is there an expiration date on a variance?

MS. RANSOM: One year. You need to get a building permit within one year, otherwise, you have to come back.

MR. HUGHES: Thank you.

MS. RANSOM: Motion to adjourn?

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MR. DOBIAS: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth  
Stenographer