

February 20, 2007

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TOWN OF CORNWALL
ZONING BOARD OF APPEALS
FEBRUARY 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 February 20, 2007 meeting of the Cornwall Zoning Board of Appeals will now come to order.

ROBERT_BOSE_-_CONTINUATION _____

MS. RANSOM: The first public hearing this evening is continuation on the request of Robert Bose, 3 Pine Ridge Road. We have received a letter from Carlos Garcia, the contractor, requesting that we hold this public hearing open until March as due to the weather they have been unable to survey the property. Do I have a motion to leave the public hearing open?

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

MS. RANSOM: We'll leave Bose open until March.

PAUL_BARTKO_-_PUBLIC_HEARING _____

MS. RANSOM: The next public hearing is on the request of Paul Bartko, 42 Robert Road seeking a variance to place two storage sheds in the front yard nearer to the street than the principal building.

Mr. and Mrs. Bartko appeared before the board for this proposal.

MS. RANSOM: 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 February 20, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Paul Bartko relating to property located at 42 Robert Road and designated on the tax map as Section 38, Block 1, Lot 25. The applicant seeks an area variance to Section 158-14 (a) (4) of the zoning ordinance in order to allow two existing storage sheds that are 12 feet by 14 feet and 12 feet by 24 feet to remain in a required front yard where they project nearer to the street than the principal building the residence. 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: January 25, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

Mr. Bartko, how are you? Would you like to make your presentation to the board please?

MR. BARTKO: This is my wife, Loreli, good to see you guys again. Thank you for all the help with the porch. I brought some pictures.

MS. RANSOM: Please if you'd pass those around.

MR. BARTKO: I've got two sets, we can go both ways.

The first picture shows going up our driveway and we had a new four car garage approved that was built and there was a shed right there so we had it moved and subsequent we also bought another shed kind of pre-built, just dropped it there. And I guess the source of confusion was our house is clearly as you might of noticed yourself if you drive up the back and you walk around to the front, the architect did like a portico connecting the four car garage on the house so my wife and I just, we didn't really think there was an issue so we put the sheds there. And Gary after a couple inspections on there says we have to move them because it's the front of the house. So I did the permit and he said well, it's the front of the house and I guess we had sort of a source of confusion on that, I'm like well, all right, well, come to our front house and you'll see it's the other side. So, anyway, I said that's fine, even if that's not the case, we really have nowhere else to put them because of where the house is located. And I think, I don't know my rendition here, there's just really, even if we were to put it on the so-called back, what we call our front, there's no room, the pool only has about ten feet so we don't, can't put it there. Now where the four car garage is I gave you some pictures to show that there's predominantly most of the property is a dropoff to a ravine so we can't put them there, so we put them on the flattest part possible and you can't even see them from the road in the winter. So I said all right, we'll explain our case, it's five acres.

MR. DOBIAS: That garage, you're just putting those up, right, have they been--

MR. BARTKO: Well, they're already there and I guess there's a whole series of inspections that went on with the four car garage and there's no contention at that point and only recently Gary says well, you have to move them, they're sort of placed on--

MR. DOBIAS: I've been up to your house.

MS. RANSOM: How long has the one garage been or the one shed been there?

MR. BARTKO: Prior to the construction of the new four car you mean?

MS. RANSOM: Yes.

MR. BARTKO: It was there when I bought it in '99.

MS. REGAN: How long ago did you move it to where it is when you built the garage?

MR. BARTKO: Just as they were pouring the foundation it had to be moved.

MS. RANSOM: There was another shed already there though, right?

MR. BARTKO: Yeah, sort of at the same time, I mean, there's seven kids so there's nine of us in the house and the little shed, you know, the bikes and sleds and all that kind of stuff, so we bought another one so it has the lawn stuff and the sheds and all that we bought the same time we moved it.

MR. LEE: Did you get a permit for that when you bought that and you put it there?

MR. BARTKO: At the time I bought it, no, and, you know, I said to Gary my wife and I, I guess just the ignorance of it, right, we just figured well, it was in the back and we weren't building it so here again, I mean, he's coming back and forth, it wasn't like we were trying to, he's driving by them when he's doing the inspection on the four car garage so and that's why we're a little surprised that it had gone on so long before he finally said you have to move them. But be

that as it may, we filed a permit said it's the back yard anyway and he said no, it's the front yard and we had a disagreement.

MRS. BARTKO: That's where our biggest disagreement is.

MS. RANSOM: You feel your home fronts on Ridge Road?

MRS. BARTKO: Yes.

MR. BARTKO: Well--

MRS. BARTKO: The front of the house faces Ridge Road.

MR. BARTKO: It does face Ridge Road, it's the front door but--

MRS. BARTKO: Looking at the pictures of the house you could see the back where the deck is it clearly looks like a back of a house.

MS. REGAN: I think to clarify the situation their drive is off of Robert Road and when you come up it that's actually the rear of their house, you walk around, you walk to the front but there's no access from Ridge to the house. So as you come up, that's actually their rear is my take on it.

MR. BARTKO: That's exactly it.

MS. RANSOM: But the address is Robert Road as compared to Ridge?

MR. BARTKO: Yes.

MR. RODD: You're saying your house is put up backwards?

MR. BARTKO: Yes.

MRS. BARTKO: Exactly.

MS. REGAN: And the whole orientation of the house is like that.

MR. BARTKO: It is.

MR. DOBIAS: You know about getting a permit for putting sheds on the property and all that?

MR. BARTKO: Pardon?

MR. DOBIAS: You know about getting a permit to put a shed on your property?

MRS. BARTKO: No, we didn't know that we needed a permit, honestly, we did not know that we needed a permit to, you know, move that shed or because we weren't building it, we didn't build it, we just bought it and had it placed so--

MR. BARTKO: We heard that if it went in the front yard I guess that's where it sort of triggered in our mind it's, well, it's not the front and here again, I mean, we have a permit to do the four car garage so it wasn't like we were trying to slide anything or, I mean, he literally drove by it for four months.

MRS. BARTKO: When I spoke with Gary, he said that he agreed, like our disagreement is the front yard and the back yard and I said well, that's our front door and he said I agree that is your front door but your front door leads to your back yard. I said then that means our deck is facing, you know, the back of our house is facing our front yard and he said yeah. I said well, that doesn't make sense.

MS. RANSOM: So let's just change it. Is there anyplace in your front yard to put these sheds?

MR. BARTKO: No, that's the problem because there truly isn't the room because of the slope, the trees and then truly we would be on the property line.

MRS. BARTKO: There's absolutely no way to--

MR. BARTKO: We're really cutting it close on the corner of the pool, there's no access around and then there's only about ten feet now we have the ravine next to the new garage so there's no way to even to get a truck to even place it behind there.

MS. RANSOM: So the pine trees and the berm that are in the front of the house are they part of your property?

MR. BARTKO: That's the property line as we see it but they kind of billow over, they're pretty big.

MS. RANSOM: So there's no room in the front of your house also known as the back of your house?

MR. BARTKO: That's correct.

MS. RANSOM: Any other questions up here?

MR. DOBIAS: No.

MS. REGAN: No.

MS. RANSOM: Anyone in the audience like to speak to this issue?

MS. LEWITT: Nancy Lewitt, 22 Hazan Street. Can you tell me where Robert Road is? I know it's up Mine Hill Road, is that correct?

MS. RANSOM: No, it's off Hasbrouck Avenue.

MRS. BARTKO: By the golf course.

MS. LEWITT: So it's before you get up on the hill there where the golf course is?

MS. RANSOM: Yes, you're going up the hill, it's a left off Hasbrouck.

MS. LEWITT: Thanks.

MS. RANSOM: Anything else you folks would like to add?

MR. BARTKO: No, they're nice looking sheds though, aren't they?

MS. RANSOM: Okay, we do not have Planning, County Planning decision, so we can't make a decision tonight so we'll have to hold this over until next month to make a decision.

MR. BARTKO: What then happens, we come back?

MS. RANSOM: You can come back if you'd like or if you have nothing new to add the board can make a decision once we have County Planning decision.

MR. BARTKO: Okay, did not know that but that's all right, okay, thanks for stopping up, by the way, appreciate it. Thank you very much.

MS. RANSOM: Thank you.

KELLER_-_PUBLIC_HEARING

MS. RANSOM: Our next public hearing this evening is on the request of Matthew and Kim Keller, 15 Dogwood Lane. 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 February 20, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Matthew and Kim Keller relating to property located at 15 Dogwood Lane and designated on the tax map as Section 25, Block 1, Lot 8. The applicant seeks an area variance to Section 158-12, Part One, SR-1 District, Use Group C, Column #5 and 6 of the zoning ordinance in order to construct a 22' x 24' attached garage with a 7' x 13' breezeway with insufficient front yard and total side yard. The ordinance requires a 50' front yard with a total side yard of 80' and the applicant proposes a front yard of 37' and a total side yard of 75'. 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: January 29, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

Mr. Matthew Keller appeared before the board for this proposal.

MR. KELLER: I have lived at 15 Dogwood Lane for about ten years now and I have been a lifetime resident of Cornwall as has my wife. I'm seeking a variance because the proposed addition exceeds the total side setbacks by five feet which I don't feel is a very significant number when you look at the total being 80. I've looked at a lot of different ways to place the addition to meet the setbacks along with the architect but there was really no viable way to do that. I have a drawing here of the property and its setting, Dogwood

Lane is a private road off of Cedar Lane, Quaker would be up here and Angola would be down here and you've got quite a distance before we get to the house along the private road. The part that's in red would be the section that's the addition for which I seek the variance. As you can see, the closest dwelling to the addition is approximately 150 feet away. In the front yard, the right-of-way here is 50 feet so that's unusable space for my neighbor anyway so the front yard, and as far as the side yard the closest dwelling would be over here and again that's more than 150 feet away. Just to kind of give you an idea of the property itself and its surroundings, this is what each distance each side I took a photograph of each side going around the property so you can see that my property's pretty much surrounded by very tall trees, so the addition would not be an encroachment on anyone's visibility, it wouldn't be an encroachment upon any other dwellings. There's not going to be any significant obstruction or redirection of runoff, there's no excessive lighting that's planned for the addition and let me make sure I covered everything. That's pretty much it. Oh, when the home is finished, it will match all the surrounding homes in the area. Most of the neighbors that I have spoken with I have spoken with some of my neighbors about it and everyone I have spoken to has only given me supportive comments as far as putting the addition on.

MS. RANSOM: So there's a line of fairly tall trees between your property and Mr. Burdesky's property?

MR. KELLER: Burdesky, yes, that's an empty lot, that's a flag lot attached to Cedar but these pine trees along here that's what you're speaking of?

MS. RANSOM: Yes.

MR. KELLER: They're approximately 30 feet tall, this photograph will show you.

MR. LEE: What's Mark got a double lot there?

MR. KELLER: His parents own the flag lot which is actually in between and his shed is actually on that flag lot plus he has three large maples there too and I have a large oak in between those properties as well as this one, let me show you. That's this section here, that's my large oak there, he's got the three large maples, none of these trees are going to be removed for the addition. There's also a large cedar here on the side for Pandeliano, those pines are in excess of 40 feet in height and they create quite a barrier, there's a gap in between those trees but I have put up a privacy fence in that section so he has a pool, Mr. Pandeliano put up a pool and to kind of give us a little privacy I put that section of fence up.

MS. RANSOM: Why have you decided to put your new garage forward of your house, is that a topography issue or--

MR. KELLER: That's a septic issue. Directly behind, my septic tank is located directly behind that garage so to try to push it back any further, I'm going to interfere with the septic tank and I chose this side, that's where we're parking now anyway, so seemed most logical to put the garage where we're parking our cars and I can't move it any further back because of the septic tank, the breezeway is there cause the garage floor will actually be four feet lower than the main floor so I need an access to the garage and the breezeway offers me a set of stairs to get in and out of the garage as well as a set of stairs to get up into the storage area above the garage.

MS. RANSOM: There'd be even less room on the other side of your house, right?

MR. KELLER: That's correct, you'd also be interfering

with the well line.

MS. RANSOM: So your well is on the other side as well?

MR. KELLER: Yeah, the well is here in the back corner which is the highest part of the property to come into the house.

MS. RANSOM: So the only place that you can place your garage--

MR. KELLER: I've placed the garage as far back as I can and in the spot where it offers me the most space and in a spot that's where we park our cars now so the garage would only be covering the area where I put the cars in the first place.

MS. RANSOM: So you're putting the second story on your house and the garage all at the same time hopefully?

MR. KELLER: Yeah, I have the, I already have a permit to put the second story on cause it's going to follow the same footprint of the house, this addition, the two car garage would be, is bumped out from the house.

MR. DOBIAS: The area was where the truck was parked?

MR. KELLER: We have two cars, that's where we park them now, yes, when you came up to visit that's where the truck was parked. I did have it staked out, were you able to see the stakes? I happened to mark them with white tape which probably wasn't too smart given the snow storm so but I did mark out all the stakes so you could see where the garage will be and for the neighbors, Mr. Reynolds came over, Mr. Pandeliano came over, they all checked it out and they all gave very supportive comments.

MS. RANSOM: Any questions?

MR. MC GUINNESS: How high is the roof going to be on the garage?

MR. KELLER: No higher than the roof of the house is going to be when we put the second story on, it's actually lower because the floor of the garage like I said is four feet lower than the main floor of the house so that top of the peak of the garage is going to be at least four feet below the peak of the house when it's finished but I'm not obstructing anyone's view of anything cause we're surrounded by trees anyway and even if you leveled all the trees there's really nothing, maybe Storm King.

MS. RANSOM: You're not planning to take any of the trees down?

MR. KELLER: Absolutely not.

MRS. KELLER: There's actually no trees, we would actually plant more trees would be the only thing we'd do.

MS. RANSOM: So the tree that's kind of on the corner of the garage close to the front of the property that's not going anywhere?

MR. KELLER: The cedar you're talking about? That's staying. That's probably about how old would you say?

MRS. KELLER: It's a very old cedar that only obstructs Mr. Reynolds' view who has three pines in front of his property, he's down the slope so he can't really he can't see our home now, we can't see his, he planted his trees, we planted ours sort of for that reason.

MR. KELLER: Here's where we're pulling in, show you this photograph, here's where we're pulling in the garage, you can just see the fringe of the cedar tree here and these are pines on Mr. Reynolds' property, you

can't even see his house from my driveway.

MS. RANSOM: Okay.

MR. KELLER: And that would be this lower one down here.

MS. RANSOM: Would anyone in the audience like to speak to this issue? Any other questions up here? Again, we can't make a decision tonight, we do not have County.

MR. KELLER: We do.

MS. RANSOM: We didn't get it.

MRS. KELLER: Diane has it, she told me the County called and said it was up to local ordinance and it was already filed.

MS. RANSOM: Well, she didn't leave us a copy so unfortunately without that information we can't make a decision until next month. Adam, is there anything we can do?

MR. RODD: Were you planning on starting construction?

MRS. KELLER: Our builder, Doug Spaulding, had requested that we try and get the variance as soon as possible because he would like to start both at the same time, obviously, he wants all the materials to be delivered at the same time, he would like to be able to store some things in the garage as he's building so we would like to do both at the same time. He's starting in the next two weeks.

MR. KELLER: Our worst case scenario as far as construction is concerned brings us into August and it's, we have three small children at home all going to school so the reason we're anxious to get started is so we finish before the end of the school year because we

have to move out of the house, we have acquired an apartment in Schunemunk Meadows still in the Cornwall School District and we're going to live in that until we have a chance to get back in the house. But like I said, worst case scenario would be into August with a start date in March if we postpone it another month that potentially puts us into September.

MS. REGAN: Is there any way it can be conditional?

MRS. KELLER: Diane did call me on Friday from upstairs and said that the County, Matt hand drove everything to the County and spoke with the County person and he said he would have it in by the time of the meeting and Diane called me on Friday and said just to let you know the County has sent everything in and he had left it up to local ordinance.

MS. REGAN: Local determination.

MRS. KELLER: Yeah.

MR. RODD: But Diane apparently has that report?

MRS. KELLER: Yes.

MR. RODD: That she has it?

MRS. KELLER: Yes.

MR. RODD: What I think we can do is if you're comfortable we can vote on this, I will doublecheck with Diane and make sure I get a copy of it to confirm that it is received and they don't have an issue with it and then I can just prepare the written findings of fact and decision and send it directly to Gary for you to sign. Obviously, if it's not in and we really do this for your protection because jurisdictionally if it is not in and it's not received even if we're to grant it it would be null and void so that would be a real

hardship especially if they did have an issue with it and someone objected, you wouldn't have any recourse to say well, gee, we started building.

MR. KELLER: So you could vote on it conditional that the paper from Orange County is in, could you do that?

MR. RODD: Yeah, I mean, just assuming that it has been received, you can vote on it but obviously the finding of fact and decision won't be signed and filed until we receive confirmation that it's been received.

MR. KELLER: And that would mean you wouldn't have to wait until the March meeting, right?

MR. RODD: Right.

MR. KELLER: That's acceptable to me.

MS. RANSOM: Well, the board will talk about it. So do you have anything else you'd like to add?

MR. KELLER: No, just that I thank you very much for your time and consideration.

MS. RANSOM: Thank you.

REGULAR_MEETING _____

APPROVAL_OF_MINUTES _____

MS. RANSOM: The minutes of the December and January meetings have been distributed, just one correction in the December meeting, it's a back lit wall sign, wall facade, not a hall facade sign on page 58. Any other additions or corrections to the minutes? Do I have a motion to approve the minutes as corrected?

MR. MC GUINNESS: 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 consult with counsel on items we heard this evening?

MR. MC GUINNESS: So moved.

MR. DOBIAS: Second it.

(Whereupon, the board went into executive session.)

(Discussion was held off the record)

DAVIDSON_-_DECISION _____

MS. RANSOM: Our first decision tonight is on the request of Gene and Aileen Davidson, we need to vote on the findings of fact and decision that were prepared. Can we just vote, we don't need to go through this all again, do we?

MR. RODD: No, absolutely not.

MS. RANSOM: Do I have a motion to approve the findings of fact and decision as prepared by counsel on the request of Gene and Aileen Davidson?

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

THOMMEN_-_DECISION _____

MS. RANSOM: The next one is on the request of Lynn Thommen.

MS. REGAN: Let the record reflect that I recuse myself.

MS. RANSOM: Okay, to vote on findings of fact and decision and there has been an addendum added to this incorporating the landscape plan into the variance. Do I have a motion to approve the findings of fact and decision as prepared on the Lynn Thommen request?

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	ABSTAIN

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BARTKO_-_DECISION

_____ - _____

MS. RANSOM: Next hearing this evening was on Paul and Loreli Bartko, we'll hold that over until we hear from the County Planning.

KELLER_-_DECISION

MS. RANSOM: On the request of Matthew and Kim Keller relating to property located at 15 Dogwood Lane, let's take the criteria, 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.

MR. MC GUINNESS: No, they have adequate screening and they testified that they're going to add more.

MS. RANSOM: And none of the neighbors came tonight and they had mentioned that they spoke to the neighbors and no one had any issues with the addition. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance?

MS. REGAN: No.

MR. MC GUINNESS: No.

MS. RANSOM: No, I think they testified very clearly that because of the well and the septic that these were the only places that this particular structure could go. Is the requested variance substantial? We're talking about a front yard variance of 13 feet and a total side yard of five feet.

MS. REGAN: Not really.

MS. RANSOM: Not really, especially since there's not going to be any 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. DOBIAS: No.

MS. RANSOM: No, garages normally go with homes. Is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes, it is self-created but because there's not going to be an undesirable change in the character of the neighborhood and this is the only place that this structure can be placed, I don't feel that that particular requirement 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. 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 approve the request by Matthew and Kim Keller relating to property located at 15 Dogwood Lane requesting area variances for front yard and total side yard making the approval conditional on receipt and verification of the referral from the Orange County Planning Department?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: We'll let the building department know tomorrow what transpired and what may need to get to Adam so he can do that. Thank you. Anything else to come before the board? Motion to adjourn?

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

Respectfully Submitted By:

Frances Roth
Stenographer