

June 18, 2007

1

TOWN OF CORNWALL
ZONING BOARD OF APPEALS
JUNE 18, 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 June 18, 2007 meeting of the Cornwall
Zoning Board of Appeals will now come to order.

FIELDSTONE_ACRES_DEVELOPMENT_CORP._-_CONTINUATION

MS. RANSOM: Our first public hearing is the continuation of Fieldstone Acres Development Corporation Rieger Homes. We had left it open for the applicant to provide a map to the board showing the sizes of the properties in the subdivision as well as Orange County Planning and Orange County Planning has come back and left it to local determination.

Mr. Stephen Rieger appeared before the board for this proposal.

MR. RIEGER: Again, my name is Stephen Rieger, I was here last month, you asked us to submit a map which showed more clearly the size of the neighboring lots so that they can be compared to the lots that we're proposing. We submitted that in both tabular form and in map form and you'll see that the, our lots, our proposed lots are larger but on both on gross acreage basis and on net acreage basis to the neighboring lots.

MS. RANSOM: So the lots that are across the street from your proposed lots are all under an acre except for the one?

MR. RIEGER: That's right, there's one lot which is 1.1 acres, the other lots are all under an acre, I think there's about 10 or 11 lots that we listed and the average gross acreage is .91 and the average net acreage is .779 with the largest lot being 1.1 in gross and net, our lots, again, one lot has no deductions, it's 1.41 gross and net and the other lot is 1.42 gross and 1.15 net. So our lots again are substantially larger than the neighboring lots which is not surprising because going back in the history of the subdivision there was existing zoning in the '80s when this project was originally approved, at that time, there was a note on the subdivision plan relating to the parcel that we're proposing, a 2 lot subdivision

for which said not to be subdivided into more than four lots. A number of years ago we came back to the town and asked for a 3 lot subdivision, the zoning had changed and we came to the ZBA, you gave us a variance, we went to the planning board, got preliminary approval but we never finalized that approval and since that time the zoning has changed again, now we're asking for a variance to do a 2 lot subdivision.

MS. RANSOM: Just to the homes that are going to be built here are going to meet all the bulk requirements?

MR. RIEGER: All the bulk requirements, yes.

MS. RANSOM: And the lots on the other side of the open space easement only one is the same size as the two lots you're doing the other two are smaller?

MR. RIEGER: That's right.

MS. RANSOM: And the bigger lots are around the corner from where you're proposing these lots you go around the circle?

MR. RIEGER: Right, there are some larger lots back on the other side, those have conservation easements in the rear and they don't have more frontage per se, they don't appear larger but they are larger because they're deeper.

MS. RANSOM: Eileen?

MS. REGAN: No, it's okay.

MR. MC GUINNESS: No questions.

MR. DOBIAS: No.

MR. LEE: No.

MS. RANSOM: Okay so and you had testified before that the open space easement that 1.266 acres is going to remain wooded, nothing will change there?

MR. RIEGER: Right, that 1.266 acres is under an existing conservation easement which protects that.

MS. RANSOM: Is there anyone in the audience who'd like to speak to this issue? Any other questions up here? Anything else you'd like to add?

MR. RIEGER: No, thank you.

MS. RANSOM: Hopefully we'll make a decision this evening.

MR. RIEGER: Thank you very much.

MICHAEL_MOUACDIE_-_CONTINUATION

MS. RANSOM: Request of Michael Mouacdie. This was also left open, we asked the applicant if he would consider revising the size of the house and we also required Orange County Planning, Orange County Planning has been received, they have left it to local determination.

Mr. Michael Mouacdie appeared before the board for this proposal.

MR. MOUACDIE: Hello, my attorney is not here, he has a hearing tonight so I'm just here.

MS. RANSOM: Okay, your attorney sent us a letter indicating you would be willing to shrink the house and that you were just going to provide us with a revised plot plan as soon as your surveyor had that done. Were you able to do that?

MR. MOUACDIE: Well, as I know it, we weren't going to do it until we got told that that's what, before we go changing everything we wanted to know whether we got, we would get an approval because we'd have to go to the architect and have him redo the plan, we're taking two feet off the back of the house.

MS. RANSOM: So then the house would be 40 by?

MR. MOUACDIE: We showed the, we brought the plan in to the building inspector and showed it to him and he gave it back to us and told us to come to this meeting.

MS. RANSOM: So the house size that's on your map right now is what?

MR. MOUACDIE: Well, I don't have the plan, I have the house, I didn't know if there was anything that I could add.

MS. RANSOM: The house we have now is 40 x 42, you're proposing to make it 40 x 40?

MR. MOUACDIE: Yes, 40 x 40 without hurting the house, just have smaller rooms but it wouldn't change the whole thing and it would be easier.

MS. RANSOM: So 40 x 40?

MR. MOUACDIE: We couldn't really make it any smaller than that because then the rooms wouldn't be big enough.

MS. RANSOM: And this is?

MR. MOUACDIE: It's 40 foot front width is not a wide big house, I mean, houses, that's a small house, it just happens to be you've got the square footage because of the depth and the two story.

MS. RANSOM: And how big was the deck off the back?

MR. MOUACDIE: I don't know, I just came out of the hospital this year, this spring, I had a new valve put in, so I don't know anything that's go on except that I'm trying to straighten out my life. I'm almost 83 and it's time to get rid of some of these properties.

MR. DOBIAS: You're a young fella.

MS. RANSOM: I have the house plan but the deck doesn't seem to have any dimensions on it.

MR. MOUACDIE: It's not a big deck I'm told here it's 10 feet by--

MS. RANSOM: By 12 so it's a 10 x 12 deck?

MR. MOUACDIE: I think so.

MS. RANSOM: And the deck is, and now where the deck is going, is that what's going to be, is that part of the wetlands that's being filled in or that's not part of the wetlands?

MR. MOUACDIE: No, the wetlands they allow you to fill in this much and use it in anyway, we could have, I guess we could have taken that piece that's on the side which is not in the wetlands and if we realized we were going to have all these problems we could have exchanged it and gave more land here but I'm just trying to--

MR. MC GUINNESS: What's he mean, parcel 11?

MS. RANSOM: What he's saying is that he he could have exchanged the piece across 94 that a third of an acre could have exchanged it for a third of an acre of wetlands.

MR. MC GUINNESS: Okay.

MS. REGAN: So what was the size of the proposed house now if you take two feet off?

MS. RANSOM: Forty by 40, 40 across the front, 40 deep. But it's all part of the same lot though, it's not--

MR. MOUACDIE: Yes because the state took the piece out of the middle, I guess the lot must of went through, in fact, there was a viaduct back then when I bought there was a viaduct here and the land was open underneath and then they did the highway over and filled it all in.

MS. RANSOM: Bill, any questions?

MR. LEE: No.

MR. DOBIAS: No.

MS. REGAN: No.

MS. RANSOM: So the, Eileen was just mentioning that the legal notice says the house is 40 x 44 but your plan says 40 x 42, what does your plan say?

MR. MOUACDIE: Here's the plan right here, it was 42 and it's changed to 40, 40 x 40.

MR. RODD: I'm just a little confused.

MR. MOUACDIE: That's including the garage.

MR. RODD: Sir, your attorney submitted correspondence to the board saying that we'll provide a revised plot plan as soon as we receive it from the surveyor.

MR. MOUACDIE: Well--

MR. RODD: So we don't have that plot plan tonight, correct?

MR. MOUACDIE: No, but we don't want to change the plan or spend the money to change the plan if we're not going to be allowed to build.

MR. RODD: Well, I assume you're proposing.

MR. MOUACDIE: I don't want to spend anymore money.

MR. RODD: Well, I can't help you with that but I assume that the proposed, the revised plot plan is what you're proposing to build on the property, correct?

MR. MOUACDIE: Right.

MR. RODD: I think we need to see that.

MR. MOUACDIE: Well, we would bring it into the

building inspector, that's for sure.

MR. RODD: Well, your attorney has wrote to the building inspector saying we'll provide a revised plot plan.

MR. MOUACDIE: We brought him a plan showing it but he gave them back to us and told to us come to the meeting tonight. I didn't tell the engineer to change it because we didn't know whether we were going to get approved or not approved.

MR. RODD: Well, you're representing that you're going to provide a revised plot plan, we would need to see that revised plot plan.

MR. MOUACDIE: Whatever, that's easy.

MS. RANSOM: Thank you. Is there anyone in the audience who'd like to speak to this issue? Can we have your name?

MR. KEARNS: Dennis Kearns, 25 Meadowbrook Lane. We still haven't addressed the variance on the side of the plot, we're talking about shortening, he's talking about shortening the house, making it smaller but the easement and the road frontage and the size of the half acre property is that still being addressed?

MS. RANSOM: That's the 60 feet down to 43, yes, that's still part of this application, absolutely.

MR. KEARNS: I just didn't know whether we were talking about that, I had looked at that property couple of times over the years to buy and I thought it was a bad business move at that point and I think that's all this turned out to be was just a bad business move on his part, I know what you know, it's not a buildable piece of property, it's much smaller than the town has allotted or you say it should be so that's all. Thank

you.

MS. RANSOM: Thank you.

MR. MOUACDIE: That's a letter to, I think that's my neighbor the one complaining that we weren't surveying.

MS. RANSOM: So you're saying to us that the maps are accurate and require no change?

MR. MOUACDIE: Right but that there was an error and they picked it up that both deeds are correct.

MS. RANSOM: So this map is correct?

MR. MOUACDIE: Yes, that's what he's saying right there the engineer is saying.

MS. RANSOM: Thank you.

MR. MOUACDIE: I think in the middle.

MS. RANSOM: Survey controlled points used by my crew stake the line originally had been placed by others and recently found to be incorrect. Adam, do you need to see this? Can we make this part of the record?

MR. RODD: Is that your only copy?

MR. MOUACDIE: Well, he sent it to me.

MR. RODD: I'm saying--

MR. MOUACDIE: That's the only one I have.

MR. RODD: Why don't you do this, why don't you make a copy and bring it to the next meeting of that along with the revised plot plan.

MR. MOUACDIE: Okay, thank you.

MS. RANSOM: Thank you.

MS. ROURKE: Kelly Rourke, I'm at 25 Meadowbrook Lane, 31 Meadowbrook Lane, sorry. I'm one lot away from that and I just wanted to point out I don't think any of the original issues have changed from last month, two feet on the house doesn't affect the footage, he still doesn't have the footage and he still doesn't have the lot acreage that he didn't have last month, by changing the house by two feet and like Mr. Kearns said there's a lots of us in this room that have made a bad business decision, we bought something, thought we could make a lot of money and didn't turn out that way. So I just don't think it's up to the, I don't think it's the town's responsibility to bail him out I think he didn't have the footage, he didn't have the lot acreage then so he still doesn't have it. I don't think anything's changed with this two feet whether it's a smaller house or not.

MS. RANSOM: Well, the board had asked if he would consider a smaller dwelling and so this is in response to the board's request for a smaller dwelling but thank you for your comments, we appreciate it. Anyone else like to speak? Thank you.

WILLIAM_G._ROMAS_-_CONTINUATION

MS. RANSOM: Request of William Romas, 9 Gayton Drive.

MR. KELSON: Good evening, my name is Todd Kelson, I'm an attorney with offices in New Windsor. I'm here this evening on behalf of Mr. and Mrs. Romas. You should have before you correspondence that I forwarded to Miss Ransom dated June 12 on this application, comments were made by the public at the prior meeting and the applicant although they don't completely agree with some of the comments they recognize the public interest should be properly addressed. And based upon that, the applicant is prepared to make several amendments to the application. They are prepared to reduce the overall size of the house, the length of the house, willing to reduce substantially the width is problematic because it would be unwise to have less than three feet on either side of the overhead door. They are prepared to do some landscaping and we have a map to show where that would go, make some architectural changes or enhancements if you will to the building, such as installation of windows to make it look more like a small cottage or structure of that nature. And they are really open to anything in that regard. My clients brought a few things to my attention since the last meeting. First thing that probably everybody is wondering where would they put the screening and they brought a few pictures and I think these pictures are sort of interesting and Mrs. Ostlund had some objections, said there was no screening for their home and the proposed shed there's some pictures which we can pass around to show that almost from the road line of these folks' driveway on is completely wooded and we can pass that around if you wish. If you turn it to the side on some of these it's very hard to see there's a black circle which is roughly the area.

MS. RANSOM: Are these pictures from last month?

MR. KELSON: No, these are different but they serve the same purpose, the area's very heavily wooded surrounding it. We can pass them around if you want to take a look. The other comment made an interesting comment after the meeting and that was although it's not strictly a zoning issue there's an equity issue, the Ostlunds actually you have the little map attached, some highlights added approximately 30 x 30 covered porch, an octagon sitting areas which is very visible from my clients' house. Fortunately for the Ostlunds it's permitted under the zoning so it's a non-reciprocal right to an impeded view. So the Ostlunds are objecting to what my clients are trying to construct but they have done something and it's their right and my clients did not object to it because they feel that the screening is adequate, they have added substantial structures to their home, that's fine, that's their right, we'll assume that those structures are code compliant but the Ostlunds have made those improvements and the applicants have made improvements substantially less and have objected and I just think that equity should play a role in this board's deliberations.

MS. RANSOM: But if that was totally within the zoning code why would that have any bearing on this?

MR. KELSON: It has a bearing because the board should take, I think the board should take into account what people do. The Ostlunds are objecting because it's an unfortunate circumstance of my clients' lot where the house was placed and people are objecting to something where they have done something equal, I'm not saying that it has any bearing, as I've said, the Ostlunds have the right to put what they did and that's fine. My clients don't object. But they're simply pointing it out that the shoe is on the other foot and the Ostlunds have objected to it. On the small map that's being passed around my clients note where they would put the screening to hopefully address the Ostlund's

concerns which they're prepared to do on the map, there's two small squares and what they have tried to do is delineate the areas, they could be made larger if the board wanted but those are the areas that would really block the view of this structure from that property, you couldn't put it anyplace else, you couldn't put it on the other side of the driveway, it's completely wooded already so those small areas they could be enlarged, they could be made pretty much whatever the board would want, the proper vegetation and so the Ostlunds would end up looking at a small pine or fir or spruce planting area that would be the I suppose the objective if it was successful.

MS. RANSOM: Is this the neighbor's house?

MR. KELSON: Yes, through the woods, this time of year you couldn't even see them, can't even see the house right now.

MR. ROMAS: There's zero visibility right now.

MR. KELSON: Yes, zero.

MS. RANSOM: And just to clarify there's absolutely no place else on this property that this can be placed if it's not for automobiles, it's for tools?

MR. KELSON: It's for tools, absolutely not for automobiles.

MR. ROMAS: Strictly for household storage.

MR. KELSON: Snow blower, what have you. The back of the house has, there are steep slopes, there are wet areas and there's the driveways serving the garages that are attached to their home. If the house was that close and I think if the house were set closer to the cul-de-sac they wouldn't have this problem, I think they are being penalized because they have a house with

a nice deep setback. And that's one of the reasons I think that they should be afforded some relief, their house, the fact that their home is way set back is certainly a benefit to their neighbors and this is, I suppose if you would ask the neighbors would you rather have them move their whole house 50 feet closer so they can put their shed in the back the answer would be no, of course they wouldn't, they'd rather have the house further away and in the back, the way the planning board set this up and given the topo and configuration of this lot, the house was in the best place really only place it could be and there's really no place else to put it.

MS. RANSOM: So now the original application was for a 14 foot by 22 foot detached garage, what are you willing to bring that down to?

MR. KELSON: Certainly reduce the length to 20 feet without I think without hesitation and would clearly make it 20 feet.

MS. RANSOM: So it would be 14 x 20?

MR. KELSON: Yes.

MS. RANSOM: What size is a normal garage?

MR. CASS: Usually 12 1/2 x 20 or if it's a two car garage it's a 20 x 30.

MS. RANSOM: So if a normal garage is 12 1/2 x 20, why couldn't this be 12 1/2 x 20 instead of 14 x 20?

MR. CASS: That would be difficult for the doors and the storage.

MR. KELSON: So a normal garage wouldn't be 12 1/2?

MR. CASS: No, you need the storage and everything.

MR. KELSON: So 12 1/2 when it's built into a building?

MR. CASS: Yes, when it's considered on the common wall.

MR. KELSON: The chairperson's question is a freestanding garage, freestanding building what would the typical size be?

MS. RANSOM: What would a freestanding garage single car freestanding garage be?

MR. CASS: It would be 14 x 22 pretty much but you could still scale it down because you're not going to be putting a vehicle, you could scale it down to 20.

MS. RANSOM: So a normal freestanding garage is 14 x 20?

MR. CASS: Twenty-two, actually.

MR. ROMAS: That's the size of my existing two bays on my house, 14 x 22 each bay.

MS. RANSOM: And for lawn tractors?

MR. ROMAS: Ladders, tables, furniture.

MS. RANSOM: You need something 14 x 20, you can't consider not doing an overhead door?

MR. ROMAS: In the winter six, eight inches of snow it's almost impossible to open up doors that swing this way, I've got to get the snow blower out in addition to the tractor, it doesn't make sense to have that.

MS. RANSOM: What else are you proposing then to do to this to make it more aesthetically pleasing?

MR. KELSON: We're prepared to put some windows, either double hung style or other windows to match the architectural features of the main dwelling, they'll put some blackout curtains so you don't see what's going on.

MR. ROMAS: Do you want me to get a landscaper to certify to your requirements that he put exactly 3 feet? Whatever you need I'll get.

MR. KELSON: They're really very open to whatever.

MS. RANSOM: So then you would also do year round screening, evergreen screening?

MR. KELSON: Yes.

MS. RANSOM: Could you tell us about that, please?

MR. KELSON: Yes, on the map that's being passed around there are two little triangles and those triangles depict the areas that we believe, we're certainly open to other suggestions, that we believe will best screen the property, screen the actual building from the view of the Ostlunds, they're pretty much right adjoining the building so that pretty much no matter where they move back and forth on their own property it would screen it, I mean, the further away you would get there might be issues of where they're all the way over here they can see it if they're all the way over here they can see it, it's brought down within three or four feet of the building itself, we would plant these, we'll put substantial evergreen plantings, spruce, fir, other spruces that the board has, arborvitae, I hate arborvitae, if there was a preference we'd look into it or be prepared to do it but an evergreen screening.

MS. RANSOM: And the doors still face the garage or the driveway?

MR. KELSON: The doors face the driveway, the doors are away from.

MR. ROMAS: Towards the rear and tilted.

MR. KELSON: Nobody except them will be able to see the overhead door.

MS. RANSOM: Is there a regular door anywhere on the building?

MR. ROMAS: No need to if I have an overhead door.

MS. RANSOM: So is there anything else that you would do to mitigate the appearance of this in the front yard?

MR. KELSON: I think they'll do some generic landscaping of flowers.

MR. CASS: Pines and stuff, just put a layer of pines and dense them up so that--

MR. KELSON: The property's pretty heavily landscaped, it's very heavily wooded and some of the pictures you see that they have left everything that didn't have to be taken down to do what they did or have their driveway they left it fallow and they're letting it grow back up so I think over time an additional--house is how many years old?

MR. ROMAS: Five years April, 2001.

MR. KELSON: They're not doing anything in the woods, you're basically leaving them to their own devices.

MR. CASS: It's wetlands area.

MR. KELSON: They're not doing anything to it, I think over time nature's going to cure a lot of this.

MR. KELSON: So you're going to put double hung windows on the three sides is that the proposal?

MR. ROMAS: Whatever is satisfactory, if you put full size it's going to be hard like maybe smaller size like a bathroom type.

MS. RANSOM: And make it more like a house to match the house?

MR. KELSON: I think at the end of the day the look they'd go for is to make it look like a little cottage.

MR. CASS: It's supposed to be the vinyl siding is going to be identical to the house, the shingles are going to be identical to the house so that's--

MR. KELSON: Windows are going to match the house.

MS. RANSOM: Can we have your name?

MR. CASS: Frank Cass.

MR. KELSON: He's the builder.

MR. RODD: On this map is that distance of 115 feet is that property that's on your clients' property line?

MR. KELSON: Yes, what Mr. Rodd is referring to is this dimension right here, this is 115 feet from the corner of the proposed building as it exists right to the property line of the, this is, these are the neighbors, these are the Ostlunds that we're trying to mitigate against so they have 115 feet of woods, 115 feet from the corner. How wide is your driveway, 20, 30 feet?

MR. ROMAS: It's twelve feet.

MR. KELSON: So they have 90 feet of woods that our

client owns, that's correct.

MR. MC GUINNESS: What's the dimension of the existing slab right now?

MR. KELSON: Existing slab is?

MR. ROMAS: 12.22.6.

MR. MC GUINNESS: Not 14 x 22?

MR. ROMAS: It's 14 x 22 foot six inches so there would be no concrete, the original intent was to have it flush.

MR. CASS: We're going to make it up true so it didn't look gaudy and concrete hanging out.

MR. KELSON: You're going to get rid of the, you're going to cut the slab down as necessary.

MR. CASS: Yeah, if necessary, we'll use it also as the back side and entrance if we push the building back two feet then you can use the front as entrance, an apron so he can get his mowers in.

MR. KELSON: So that would be the front, the extra concrete will be an apron where the overhead doors are so the visible part of it will have the pad flush with the structure.

MS. RANSOM: Then you'll have to build some sort of ramp to the concrete?

MR. CASS: Yeah, that would be very minimal, it's all non-visible from anybody's eyes except for maybe Chris, that's it cause it's all facing back to them.

MR. KELSON: You'd just build it up with shale.

MR. CASS: Yeah, just shale or stone.

MR. KELSON: Whatever local material.

MS. RANSOM: Okay.

MS. REGAN: Nothing.

MR. MC GUINNESS: Nothing.

MR. DOBIAS: When was the concrete built?

MR. CASS: When was it poured? Last year.

MR. KELSON: There's a reason for the pour, everybody said why did you do that first, that's always a good question, you did other work on the property, what was the other work that you did on the property?

MR. ROMAS: Sidewalk.

MR. KELSON: They did sidewalks and the truck was there and they had to dump the concrete, they said stick it over here, that's what they did. That actually came up after the meeting last week, that's a good question.

MS. RANSOM: Is there anyone in the audience who'd like to speak to this issue? Any additional questions up here? Anything else you'd like to add for the record?

MR. KELSON: No thanks, ma'am.

MS. RANSOM: Thank you very much.

LYNN_THOMMEN_-_CONTINUATION _____

MS. RANSOM: Next we have Lynn Thommen.

MS. REGAN: Let the record reflect that I'm going to recuse myself.

Charles Frankel, Esq. appeared before the board for this proposal.

MS. RANSOM: The board voted last meeting to reopen the hearing at the request of the applicant to modify the conditions of the variance. It's my understanding tell me if I'm wrong that you're asking us to lift the height and square footage conditions that were approved in our decision keeping the house in the same footprint and that the size of the house will not go beyond the applicable code provisions as they exist now?

MR. FRANKEL: That's exactly correct.

MS. RANSOM: What would you like to add?

MR. FRANKEL: To be honest, I understood that we were coming back because the board was going to request comments from the Orange County Planning Department.

MS. RANSOM: And that was received and they have left it for local determination.

MR. FRANKEL: Under those circumstances, I think I made my presentation, there's really nothing more to add. Thank you.

MS. RANSOM: Any questions before we move on?

MR. MC GUINNESS: No.

MR. DOBIAS: No.

MS. RANSOM: Thank you.

MS. RANSOM: Anyone in the public?

MR. SCHLEMMER: Doug Schlemmer, 36 Long Hill Road. Me being a neophyte may I ask questions? Am I allowed to ask a question of the board before I offer a comment?

MS. RANSOM: Sure.

MR. SCHLEMMER: Because I was a little confused last week, the board went from not wanting to hear it again to opening it up, what happened, what was the change?

MS. RANSOM: The board considered all the options and felt that it was in the best interest of the town and the board to hear what Mr. Frankel had to say.

MR. SCHLEMMER: Wasn't that considered the first time though?

MS. RANSOM: I'm sorry?

MR. SCHLEMMER: Weren't they considered the first time when it was brought up months and months ago and then the size was changed?

MS. RANSOM: Well, I think that they had put a home on the map and the board chose to have them add that as a condition and now they're asking us to review that and so the board has agreed to hear what Mr. Frankel had to say and what they're asking is to put the house in the same footprint and to use the applicable zoning that means the height so the board chose to re-hear this hearing and to take this under advisement.

MR. SCHLEMMER: If we use the applicable zoning then it wouldn't go through anyway because of all of the easements that they're asking for in the first place.

MS. RANSOM: Okay, no, they have already shown that they could have built this by right under the current zoning because it has, it's a pre-existing non-conforming lot.

MR. SCHLEMMER: I guess my only comment would be that this is obviously something that's being built as a revenue maker, not something that they're choosing to live in and being someone who's lived on that road all their life I see where their choice of how it would look and that kind of thing would be somewhat skewed because they're not going to be there anyway. A lot of the neighbors are worried about that, I'm a little ashamed that they're not here tonight to voice their opinion but I can't, there's just no way and me passing that road for the last, that piece of property for the last 39 years I can't imagine where that wouldn't greatly impact the look of the road cause it's the first thing that people see when they get on to the road, number one, and just the whole character of the road cause it seems like an awfully big structure for a small piece of property. That's all I've got.

MS. RANSOM: Thank you. Is there anyone else who'd like to speak? Anything else you'd like to add?

MR. FRANKEL: No, thank you.

MS. RANSOM: Anybody else?

MR. MC GUINNESS: No.

MS. RANSOM: Thank you very much.

TEK_STUDIOS_-_CONTINUATION

Ms. Aggie Kimple appeared before the board for this proposal.

MS. RANSOM: And this application is to open a dance school in the former Canterbury Presbyterian Church. Okay, let the record show that the Orange County Planning has left this decision to local determination. Do you have anything else you'd like to add from last month?

MS. KIMPLE: I don't think so, no.

MS. RANSOM: Okay, couple of questions about the parking. When I reread the minutes you said that you had spoken with a paver and he thought that he could get 14 spaces, is that 14 spaces including the horseshoe?

MS. KIMPLE: Yes, oh, I see, there would be no parking, I understand, sorry, the parking would be drive-thru within the horseshoe shape, he thinks he can get 10 and then he thinks he can get 4 double parking for teacher on the side of the building.

MS. RANSOM: So you feel that you can get 14 on site parking spaces?

MS. KIMPLE: He does, yes.

MS. RANSOM: He didn't give you a plan or anything to that effect, this was just kind of eyeballing the property?

MS. KIMPLE: It was when we were doing estimates as to whether or not we could afford the property and the improvements so when he gave me a quote as to how much it would cost to put a lot in the front that was his estimation of how many spots he could get, that's how

he came up with the price he gave me as an estimate.

MS. RANSOM: So he gave you an estimate for putting 14 lots or 14 parking spaces and a horseshoe driveway?

MS. KIMPLE: Yes.

MS. RANSOM: If there's not enough parking is there going to be a tendency for parents to leave their car in the horseshoe?

MS. KIMPLE: I don't think so.

MR. KIMPLE: We wouldn't allow that, it would create major hazards.

MS. KIMPLE: There's some on-street parking, not a lot but I think if my 14 didn't cover everything the couple that might overflow could do the on-street parking that's available and if necessary I spoke with the owners across the street at its the daycare center now the Butterhill Day School and we would be there during the hours that they would not for the most part and we could do overflow there we've been told.

MS. RANSOM: And I was a little bit confused about the hours, there was testimony that the hours were 3 to 8 on Monday through Friday and 9 to 5 on Saturday but then you went on to say that there are other programs in the mornings so basically what are your hours of operation?

MS. KIMPLE: On two mornings a week from 9:30 till about noon or one we have a music program, a Mommy & Me music program that rents space from us.

MS. RANSOM: So then but you don't foresee the property being used passed 8 o'clock at night?

MS. KIMPLE: Oh no, no.

MS. RANSOM: Okay, what kind of lighting had you planned for the outside? Are you going to change the lighting?

MS. KIMPLE: There's lighting on the porch, I guess it's like the entrance to what they call Hagen Hall looking at the building on the right-hand side there's a porch lamp there which covers from where the front of the entrance for us would be to the horseshoe shape so I think we were just going to leave it at that.

MS. RANSOM: Now, are you using the sanctuary or going to change it into a studio?

MS. KIMPLE: We'd use it as a studio, we wouldn't be removing any of the stained glass or any of the structures, we would remove the pews and put up some mirrors.

MS. RANSOM: Had you thought about signage?

MS. KIMPLE: For the studio?

MS. RANSOM: Yes.

MS. KIMPLE: No.

MS. RANSOM: Do you have a sign now?

MS. KIMPLE: We do we have a sign on the front of the building, it's a big metal flat sign that we got a permit for, I remember I paid a fee for it and the sign guy made sure it fit within the town's requirements.

MS. RANSOM: So are you planning to move that sign to your current location?

MS. KIMPLE: I don't think that because it's kind of long and thin and it fits where we are now, I don't

think it would fit on the building we have now because I think the only place we might be able to put it would be on the bell tower and I think it would be longer than the bell tower is wide, I think we'd have to do something else.

MS. RANSOM: So signage is something you hadn't really considered at that time?

MS. KIMPLE: No.

MS. RANSOM: But you're planning to have a sign?

MS. KIMPLE: I probably should, yes, it took us a very long time to get a sign we've had.

MR. KIMPLE: Twenty years.

MS. KIMPLE: So it wasn't actually one of the things I considered first.

MS. RANSOM: Is the building used at all on Sundays?

MS. KIMPLE: Private lessons and we have not ever Sunday and it's usually one or two students and no more.

MS. RANSOM: So then parking on Sunday wouldn't be an issue at all?

MS. KIMPLE: No.

MS. RANSOM: Okay, other questions?

MS. REGAN: No.

MR. MC GUINNESS: No.

MR. DOBIAS: Most of your students will be dropped off by the parents, right?

MS. KIMPLE: Yes.

MR. DOBIAS: So that would leave the problem out of the parking.

MR. RODD: Now, your project is before the planning board, right, that's a referral from the planning board?

MS. KIMPLE: I went on one evening and did a planning board meeting and then they referred me here, yes.

MR. RODD: So you would ultimately need site plan approval from the planning board?

MS. KIMPLE: For minimal changes, we're not changing any structural walls, the vestibules on the front of the building are condemned and we would be removing them and rebuilding them, so I think that's the only thing we'd need.

MR. RODD: Understood, but the approval that you need from the planning board is site plan, correct? I could confirm that myself.

MR. KIMPLE: I believe so. I think so, I'm not sure what falls under that category, meaning I would have to have an engineer come in and draw up plans for the removal of the vestibules and how they'd look when we rebuilt them?

MR. RODD: I'm not sure what the planning board is exactly doing, I assume it's not--

MS. KIMPLE: They said come here first and they didn't go much further than that they should, I should come speak with you and after everything goes through come back.

MR. RODD: Okay.

MS. RANSOM: Any other questions? Anyone in the audience like to speak to this issue? Anything else you'd like to add?

MS. KIMPLE: I don't think so.

MS. RANSOM: Thank you very much.

REGULAR_MEETING

APPROVAL_OF_MINUTES

MS. RANSOM: Okay, the minutes of the May 21 meeting have been distributed, are there any additions or corrections? Do I have a motion to approve the minutes as submitted?

MR. DOBIAS: So moved.

MR. LEE: Second it.

ROLL CALL

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

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

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

(Whereupon, the board went into executive session.)

(Discussion was held off the record)

FIELDSTONE_ACRES_DEVELOPMENT_CORPORATION_-_DECISION

MS. RANSOM: Our first hearing tonight was on the Fieldstone Acres Development Corporation Rieger Homes. The applicant is seeking an area variance, proposed lot number 1 will have a gross and net area of 1.4 acres where two is required and the applicant proposes that lot 2 will have a gross area of 1.424 acres and a net area of 1.155 acres. Shall we 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, there are similar larger and smaller lots and this is--

MS. RANSOM: And the map that was presented tonight shows that the houses in the immediate area across the street are all one acre or less and these are of equal or greater lot area. And they're proposing to put homes on them that meet all of the other setbacks which would certainly be in keeping with the rest of the neighborhood. Can the benefits sought by the applicant be achieved by some method feasible by the applicant other than an area variance?

MS. REGAN: Not really.

MS. RANSOM: Is the requested variance substantial?

MS. REGAN: Not really.

MS. RANSOM: Not based on the fact that the other homes and lots in the area are going to be, are smaller or of approximately the same size. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district? No, again, it's a

subdivision of homes and these are going to be two additional homes added to the subdivision. Is the applicant's alleged difficulty complying with applicable zoning self-created? Yes, it is. Do I have a motion that this is a Type 2 Action under SEQRA?

MS. REGAN: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to approve the request by Fieldstone Acres Development Corporations Rieger Homes for an area variance for 2 lot subdivision with insufficient acreage?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

June 18, 2007

34

MICHAEL_MOUACDIE_-_DECISION

MS. RANSOM: Our next public hearing was on the request of Michael Mouacdie and we're waiting for a revised plot plan for a smaller house on that one.

WILLIAM_G._ROMAS_-_DECISION

MS. RANSOM: Our next hearing this evening is on the request of William G. Romas seeking an area variance for a garage in the front yard. Mr. Romas, the board would like to do a site visit so what we'd like to do is to have you provide the building department with some dates that would be convenient for you to have the board visit your property. Most of us saw the property but we felt that we kind of stopped at the slab and we would like to get a better view of the entire property. So if you could provide the building department with some dates then the board will get together and we'll descend upon you if this is agreeable?

MR. KELSON: Just call Diane?

MS. RANSOM: Yes, please.

MR. ROMAS: Thank you.

LYNN_THOMMEN_-_DECISION _____

MS. RANSOM: Okay, so okay our next hearing this evening was on the request of Lynn Thommen.

MS. REGAN: Let the record indicate I'm going to recuse myself.

MS. RANSOM: The applicant is seeking to lift the square footage height and square footage conditions that were imposed in our decision keeping the house in the same footprint and not going beyond the applicable code provisions relative to height and square footage. Do I have a motion that this is a Type 2 Action under SEQRA?

MR. MC GUINNESS: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to grant the applicant's request to lift the height and square footage conditions imposed in our decision keeping the house in the same footprint and not going beyond the applicable code provisions relative to the height and square footage?

MR. MC GUINNESS: So moved.

MR. LEE: Second it.

ROLL CALL

June 18, 2007

37

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

TEK_STUDIOS_-_DECISION _____

MS. RANSOM: Next hearing was on the request of Tek Studios seeking a use variance for a dance studio in the former Canterbury Presbyterian Church. We'll take the grounds for relief one at a time. Do the applicable zoning regulations substantially deprive the applicant of a reasonable return or benefit from the property, has the applicant submitted financial evidence establishing such deprivation? I think we've heard that the structure does not lend itself to be used economically in the uses that are permitted in that area which basically are residential uses. It is a church that's on the National Register. Anything else to add?

MR. DOBIAS: No.

MR. MC GUINNESS: No.

MS. RANSOM: Is the alleged hardship unique to the property in question and does not apply to a substantial portion of the district or neighborhood?

MS. REGAN: Yes.

MS. RANSOM: Absolutely, it's unique, there's not too many churches that are vacant. They also testified to the fact that they assume the cemetery and that they would take care of the cemetery. Will the use variance if granted alter the essential character of the neighborhood?

MS. REGAN: No.

MS. RANSOM: I mean the church has been there since what, the 1800s. The character of the neighborhood will basically remain the same. They have testified that there's on-street parking, should there be any overflow they also testified that they could possibly

use some of the space at the Butterhill School as well as on-street parking is also available. Is the alleged hardship self-created? Well, it's a church, it's been there for several years and this is a good fit in the neighborhood, the fact that it has limited hours of operation. Anyone else have anything else they'd like to add to this?

MR. DOBIAS: No.

MS. REGAN: It's a good use of the building.

MS. RANSOM: Do I have a motion that this is an unlisted action under SEQRA and that we issue a negative declaration?

MS. REGAN: So moved.

MR. LEE: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to approve the use request, the use variance requested by Tek Studios relating to property located at 44 Clinton Street and also known as the Canterbury Presbyterian Church?

MR. MC GUINNESS: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MS. REGAN	AYE
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June 18, 2007

40

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

MS. RANSOM: Anything else to come before the board?
Motion to adjourn?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer