

May 21, 2007

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TOWN OF CORNWALL
ZONING BOARD OF APPEALS
MAY 21, 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 May 21, 2007 meeting of the Cornwall Zoning Board of Appeals will now come to order. We have an ambitious agenda this evening.

BRIAN_&_KATHERINE_BACHER_-_CONTINUATION

MS. RANSOM: The first order of business is the continuation of the public hearing on the request of Brian and Katherine Bacher located at 10 Hampton Place. Is Mr. Bacher here? Okay, the reason that this was left open was to receive the information from the Orange County Planning Department. Let the record show that the Orange County Planning has left this open or has left this to local determination.

FIELDSTONE_ACRES_DEVELOPMENT_CORP./RIEGER_HOMES,_INC.

MS. RANSOM: Our next public hearing is on the request of Fieldstone Acres Development Corporation/Rieger Homes, 65 Brook Hollow Drive. Okay, we'll read the public notice. 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 May 21, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Fieldstone Acres Development Corporation relating to property located at 65 Brook Hollow Drive and designated on the tax as Section 44, Block 1, Lot 30. The applicant seeks an area variance to Section 158-12, Part 1, SLR District, use group B, column number 3 of the zoning ordinance in order to subdivide an existing parcel into two lots with insufficient lot areas. The applicant proposes that lot number 1 will have a gross and net area of 1.41 acres where 2 acres is required. The applicant proposes that lot 2 will have a gross area of 1.424 acres and a net area of 1.1551 acres where two acres is required. 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: April 25, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, chairperson.

MR. RODD: Before we get started on this hearing, I just want to disclose that another attorney in my law office is apparently on the mailing list of this application. So I just wanted to disclose that. With the above said, I have not communicated with that attorney nor will I in connection with this application and I otherwise feel that I can represent this board as counsel objectively in this application.

MS. RANSOM: Thank you.

MR. S. RIEGER: My name is Stephen Rieger, I'm with Rieger Homes, my brother, Ian, is here as well. And we have owned this parcel for a number of years. We purchased, short history lesson, we purchased a portion of the Otterbrook subdivision when it was developed, it had, a prior owner had gotten the approval and we purchased most of the lots after, the road was in and we, and then we built out that subdivision. The Otterbrook subdivision map had a section in the center which was not subdivided at that time and was a note on that original subdivision plan which said not to be subdivided into more than four lots. And a few years after that we commenced an application before the planning board that zoning had changed at that time and we no longer could get the four lots that had been available to us when the Otterbrook subdivision had been done and we applied for three lots and that three lot subdivision we required a variance from the zoning board which we and we came before the zoning board and that variance was granted. We went back to the planning board, received preliminary approval but we never finished the subdivision approval, we never received final because of issues with our engineer and so that application remained open, when the zoning was changed again requiring larger lots and having changing the standards and so we rescinded that application and we submitted a new application asking for rather than for the three lots we're now asking for two lots. That application went to the planning board, the planning board referred us so the zoning board and we're here tonight asking for a variance so that we can have a two lot subdivision on that parcel where we had preliminary approval for a three lot subdivision a few years ago. As I said, the property is 2.83 acres, the lots that we're requesting meet all of the bulk requirements, that is front yard, rear yard and side yard that apply, we just, the only requirement we don't meet is that relating to the size of the lot itself. The area is serviced by public water, it requires individual

septics and the lots that we're requesting are larger than or at least as large as the lots that surround it. And so we come tonight asking that that variance be granted.

MS. RANSOM: What are the sizes of the lots around it? Our map doesn't really show that.

MR. S. RIEGER: Most of them are, well, I have a list here but I don't want to speak inaccurately, as part of the application, we did attach a copy of the tax map, the numbers are small, you may be able to read them.

MR. I. RIEGER: Many of them are under an acre, across the street the bigger ones are 1.11, 1.4 but by and large most of the ones directly across the street are under an acre.

MS. RANSOM: Now, the net area on lot 2 is because of the drainage easement?

MR. S. RIEGER: Yes, there's a drainage easement, there's an existing easement, we don't propose to change anything in the easement itself but it's an existing easement that was part of the original subdivision application.

MS. RANSOM: Now, the open area behind this is that going to remain wooded?

MR. S. RIEGER: There's a conservation easement, there's an area which, well, there's a small stream back there and we don't intend to go back into that.

MS. RANSOM: And how large?

MR. S. RIEGER: I'm sorry, there's the original subdivision plan had conservation easements attending to it and so that area there's an area there which is actually mostly off of these two lots, it's the rear or

the lots that back up to these lots that are encumbered by that.

MS. RANSOM: I have that map, I was just looking for--

MR. I. RIEGER: That open area is not part of this, is two lots, it's like a buffer.

MR. S. RIEGER: It was placed on the rear of the lots that back up to these lots.

MS. RANSOM: But that buffer then is going to remain, you're not proposing to develop that at all?

MR. S. RIEGER: Right.

MS. RANSOM: How large are the houses that are proposed for these lots?

MR. S. RIEGER: Well, we haven't decided that for sure but we certainly will keep within the sizes that are in the neighborhood, I mean, if I were to guess at this point I would say somewhere between 2,800 and 3,500 feet, something like that.

MS. RANSOM: Any questions? Is there anyone in the audience that would like to speak to this issue. Can we have your name and address for the record?

MR. SCHWARTZ: Ed Schwartz, 64 Brook Hollow Drive, right across the street. I'm curious, what's the variance now for the lots, what size are you guys requesting?

MS. RANSOM: Okay, the zoning ordinance are 2 acre zoning in this area now.

MR. SCHWARTZ: So why would you have anything less than that?

MS. RANSOM: That's why a zoning board is here, that's why we're listening to their presentation and your comments.

MR. S. RIEGER: The zoning changed, that's kind of why.

MR. SCHWARTZ: You mentioned 28 to 3,500 square feet?

MR. S. RIEGER: Her question was size of the homes that we were proposing to build and as I said, we don't really have firm plans on that but that's the range that I would anticipate.

MR. SCHWARTZ: The 3,500 would be a lot bigger than the houses directly across the street.

MR. S. RIEGER: Some of the houses--

MR. SCHWARTZ: The houses directly on Brook Hollow Drive, all the houses--

MR. S. RIEGER: There are some homes in Brook Hollow quite large.

MR. SCHWARTZ: On the other side.

MR. S. RIEGER: The other side, yeah.

MR. I. RIEGER: Around the corner.

MR. SCHWARTZ: That's it.

MS. RANSOM: Anyone else?

MR. MERRITT: Paul Merritt, 108 Brook Hollow Drive. I have three concerns, one, there is a stream that runs adjacent to the property so I'm concerned about the environmental issues that if you put two lots on there, two on the eastern end of that there's also an active spring which gives you standing water all the time on

that piece of property and it's always draining out on to the road. So you have an issue with whatever kind of septic system that you're going to put in there. The third issue that I have is that previously when Rieger had sought to get the lots approved he had indicated that the variance change that may be true but I know one of the problems they had was passing the perc test and there was a time after that when they didn't pass the perc test, they came in and installed what I'll call a french drain system underneath the ground and brought in fill on top of that. I don't know if that's appropriate as far as the engineer's concerned in the town but I know in a lot of cases you can't do that, put in a system prior to receiving an approval on a perc test but drainage system was put in and then the fill was brought in over top of that.

MS. RANSOM: Thank you. Anyone else like to speak to this issue? Can we have your name and address?

MR. BILLICK: Phil Billick, 76 Brook Hollow Drive. The first issue is again the stream, I'm concerned with the environmental impact the stream will have once the development comes into play. As the gentleman mentioned with the spring, the spring drains directly into a drainage point across from my house and I would be concerned that what building may impact on that. And thirdly is, you know, it's a cul-de-sac, with the construction vehicles coming I would have a concern for the children and pets in the surrounding neighborhood.

MS. RANSOM: Thank you. Anyone else like to speak to to issue? Questions up here?

MR. MC GUINNESS: No.

MS. RANSOM: Let the record show that we have received correspondence on this from Mr. Peter Newman. If anyone would like to review that the correspondence is here. Bill, any questions?

MR. DOBIAS: No.

MR. LEE: No.

MR. SCHWARTZ: Can we come up and look at that correspondence?

MS. RANSOM: Sure.

MS. REGAN: I do have a question. Are any portions of those proposed lots wetlands?

MR. S. RIEGER: Yes.

MS. REGAN: What percentage of it is wetlands?

MR. S. RIEGER: I'm not sure I have the specific answer to your question on the lot which is lot 2--oh, yes, I do have the answer, lot 2 there's .17 acres of wetlands.

MS. REGAN: But the gross area is 1.424 and the net is 1.15.

MR. S. RIEGER: So the difference between the 1.424 and the 1.15 are .17 acres of wetlands and .09.

MS. REGAN: So that's decreasing the buildable area and we're talking about a lesser acreage that's buildable.

MR. I. RIEGER: The net area is 1.1551 so those two, the wetlands and the easement have been deducted from the gross lot area.

MS. REGAN: Yes, but if you add the two net areas together, it's less than the 2.8335 indicated on the application so you're seeking a greater variance.

MR. S. RIEGER: Well, it appears not to add up exactly

but we'll have that checked.

MS. REGAN: Well, my point is that it's, you need a greater variance than is indicated because we have to deal with the net, not the gross.

MR. S. RIEGER: The question is which number is incorrect. I believe that the net area is correct, there must have been one of the other two numbers, the easement size or the wetlands size that's incorrect but I'll have that checked.

MS. REGAN: So lot number 1 does not have any wetlands on it, just lot number 2?

MR. S. RIEGER: That's right.

MS. REGAN: Okay, thank you.

MR. S. RIEGER: And again, you know, we, since the original subdivision was approved and it has a loop, it's all of the surrounding property, the zoning has been changed twice now requiring larger and again larger lots. And the basis of our of the request that we're, the basis of our request is that the lots that we have net area alone is as large or larger than the surrounding lots, so we feel that it will, what we're proposing does comply what the neighborhood consists of. And to buttress that argument is the fact that we came to this board a number of years ago and asked for three lots and that variance was requested, the board at that time felt that that was acceptable in keeping with the character of the neighborhood, now we're asking for one less because of the superseding change in zoning.

MS. REGAN: Okay, thank you.

MS. RANSOM: Are you planning--

MR. RODD: Can you supply us if it hasn't already been supplied with the lot areas for lots numbers 5 through 12?

MS. RANSOM: I can't read this at all, yeah.

MS. REGAN: Yeah, I would like to see that as well. No, we would like to see them.

MR. I. RIEGER: Well, I'll give it, we'll get it for you exactly but that's on lots 5 through 12 what, when it's more than an acre under the lot number it says one point, like on lot 4 says 1.48, 1.4 acres on lot number 4.

MR. RODD: I'm looking at the subdivision map.

MR. I. RIEGER: Okay, but this is the tax map so this is 1.4, these are all under an acre and then this one as 1.1 so lots 5 through 9 are all under one acre, if I'm reading this correctly, but we can get you that information.

MS. RANSOM: I think that the board would like to see. Are you planning to leave any of the large vegetation on these lots?

MR. S. RIEGER: Yes.

MR. I. RIEGER: Yes, especially in the area backing up to the conservation easement and the stream that's an important way to create an erosion control barrier is to leave the natural growth there so we'll be doing that as well as putting in temporary silt fences as well.

MR. S. RIEGER: Of course we're going to be assuming we receive the variance the next step in this process is for us to go back to the planning board and pursue subdivision approval and so we're going to have to be

dealing with the planning board and the planning board consultants on these issues.

MS. RANSOM: And you're going to go through the whole process this time?

MR. S. RIEGER: We certainly intend to, it's, this is fun but it's not that much fun.

MS. RANSOM: Any other questions up here? Anyone else in the audience like to add anything? Okay, so we're going to hold the hearing open to receive a map that the board can read.

MS. REGAN: A tax map.

MS. RANSOM: Indicating the sizes of the various lots and to just make sure that the arithmetic as far as gross area and net area add up.

MR. S. RIEGER: I think that number is right.

MR. SCHWARTZ: Still open for another comment? What about the sizes of the houses, does that have anything to do with it if we're dealing with 2,400 square foot house and they put up a 3,800 square foot house?

MS. RANSOM: They testified to the fact that they did meet the bulk requirements, that's what they need to be able to do.

MR. S. RIEGER: On the question of the math, Ian points out we did check it and if you added it up with a calculator it would, it does add up.

MS. REGAN: What adds up, the gross or the net?

MR. S. RIEGER: If you start with the net area and you add on the size of the easement and the size of the wetlands, the total is gross area.

MS. REGAN: That's not what I'm looking at, I'm looking at lot 1, 1.41 and lot 2, 1.15 and when I add those numbers together, I get 2.66, not 2.83.

MR. I. RIEGER: Right, cause you're adding a net number.

MR. S. RIEGER: The 2.83 is the gross area.

MS. REGAN: Correct, oh, yes.

MR. S. RIEGER: If you add 1.41 and 1.15 and then you added the deductions between that net and gross which is .09 and .17 you'd get to that 2.83.

MR. I. RIEGER: You'd get to the gross number.

MS. REGAN: I understand but we have to deal with the net.

MR. I. RIEGER: That's why it's shown as a net number. Am I misunderstanding that?

MS. REGAN: Well, I was just under the variance sought it says--

MR. S. RIEGER: You're looking on a different form, okay.

MS. REGAN: So that's an accurate statement that the parcel is that size, it doesn't indicate whether it's net or gross.

MS. RANSOM: The numbers in the little notes are correct?

MR. S. RIEGER: Correct.

MS. RANSOM: Thank you very much. We'll see you next

month.

MR. S. RIEGER: Thank you. I believe that the planner's letter the referral from the planning board said something about the county as well.

MS. RANSOM: Yes, we'll need County Planning determination.

MR. S. RIEGER: So do you send that to the County now or--

MS. RANSOM: Yes. So you need to initiate that, yes, you initiate that through the building department.

MR. S. RIEGER: Okay, great, thanks.

MICHAEL_MOUACDIE

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 May 21, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Michael Mouacdie relating to property located at 21 Meadowbrook Lane and designated on the tax as Section 4, Block 2, Lot 27. The applicant seeks an area variance to Section 158-12, Part One, SLR District, use group B, column numbers 2 and 5 of the zoning ordinance in order to construct a 40' x 44' two story frame dwelling with insufficient lot area and front yard. The ordinance requires a lot area of 2 acres where the applicant has a gross area of 7.66 acres and a net area of .51 acres. The ordinance requires a front yard setback of 60' and the applicant proposes a front yard of 43' to the right-of-way of the private road. 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: April 5, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, chairperson.

MR. BERTOLINI: Good evening, my name is Daniel Bertolini, B-E-R-T-O-L-I-N-I, I'm an attorney largely because I wasn't smart enough to get into medical school. My office is at 407 North Highland Avenue, Upper Nyack, New York 10960. And I do represent the applicant, Michael Mouacdie who's standing next to me. But before I make my opening remarks, I wonder if I can make a part of the record a brief memorandum of fact and law and I do have enough copies for everybody. This is an application by my client, Mr. Mouacdie who has owned this parcel for 20 years. He bought it in 1987 to construct one single family dwelling on the parcel. It is a parcel of 7.96 acres and I know the

chairperson referred recently to 7.66 but I believe the correct acreage is 7.96, almost 8 acres. Obviously, we wouldn't ordinarily be standing before a Zoning Board of Appeals to be able to construct a single family dwelling on such a large parcel, an 8 acre parcel, but because the property is largely wetlands, in fact, other than the half acre piece that we intend to utilize for the construction of the house, it is wetlands, and that's the reason we need two variances. Specifically, we need a variance from the overall bulk requirement which in this zone SLR I believe the zone is would require two acres which by the way when the property was purchased was only a requirement of one acre. So the bulk requirements did change. And the other variance we need in addition to a variance from the 2 acre requirement is a variance for front yard setback that also changed at the time that the property was purchased by Mr. Mouacdie in 1987 the requirement was for a setback of 50 feet and that changed to 60 feet which is what it is today. The specific variance we're requesting is to construct the house on the half acre piece which is outside of the wetland area and also to construct, to locate the house such that front yard setback would be 43 feet as against the current requirement of 60, the previous requirement of 50. That's essentially a brief opening statement. And I have given the board a memorandum of fact and law and I refer first in my memorandum to the law regarding zoning ordinances, in particular, I'm sorry, area variances, I used to refer to it as the new law in 1992 but it's not new anymore, it's 15 years old. So now we can say the old law, the legislature in New York as the board I'm sure knows codified the existing law as it pertained to area variances then enacted Section 267 of the Town Law, New York State Town Law and essentially made the criteria which had existed in decisional authority black letter law in 1992. And I have indicated what the criteria are and I know that the board is well familiar with the criteria, so I won't bore you by reciting the criteria, but I do think I

need to make a record which addresses the criteria by having Mr. Mouacdie testify briefly about each of the statutory criteria if I may. I don't know if the board requires the testimony to be sworn or no?

MS. RANSOM: No.

MR. BERTOLINI: Mr. Mouacdie, try to keep your voice up, okay? Are you the owner of this parcel?

MR. MOUACDIE: Yes.

MR. BERTOLINI: When did you purchase it? When did you buy it?

MR. MOUACDIE: 1980 or before that, I don't remember.

MR. BERTOLINI: You have to try to remember, when did you buy it, do you remember?

MR. MOUACDIE: About '78.

MR. BERTOLINI: How about '87?

MR. MOUACDIE: '87.

MR. BERTOLINI: What's the parcel? Is it vacant?

MR. MOUACDIE: Yes.

MR. BERTOLINI: What's the topography generally of the parcel?

MR. MOUACDIE: Wooded.

MR. BERTOLINI: Is it heavily wooded?

MR. MOUACDIE: Pretty heavily wooded.

MR. BERTOLINI: And your application is to do what,

what are you trying to do on the property?

MR. MOUACDIE: I want to build a one-family house.

MR. BERTOLINI: What would the size of the house be?

MR. MOUACDIE: It's not a very big house.

MR. BERTOLINI: Approximately, how many square feet, 2,600?

MR. MOUACDIE: About 25, 2,600.

MR. BERTOLINI: Are you able to utilize the entire parcel to locate and construct the residence?

MR. MOUACDIE: No.

MR. BERTOLINI: Why is that?

MR. MOUACDIE: Because of the wetlands.

MR. BERTOLINI: And how much of the property is designated as wetlands?

MR. MOUACDIE: Most of it.

MR. BERTOLINI: Except for the half acre piece?

MR. MOUACDIE: Yes.

MR. BERTOLINI: And the portion of the property that's outside the wetlands--

MR. MOUACDIE: There's another piece as part of that parcel that's across 94 which is another half acre.

MR. BERTOLINI: Okay, is the--

MR. MOUACDIE: There's a second half acre that's

outside the wetlands.

MR. BERTOLINI: Is the portion across the road inside or outside the wetlands?

MR. MOUACDIE: Outside.

MR. BERTOLINI: But you're not proposing to construct anything there, is that correct?

MR. MOUACDIE: No.

MR. BERTOLINI: Only be one house constructed on the entire 8 acre parcel including the piece that's across the road, is that correct?

MR. MOUACDIE: Yes.

MR. BERTOLINI: And are you aware of any adverse environmental or physical impacts either upon this property or upon the surrounding properties by virtue of your proposed construction of a single family dwelling?

MR. MOUACDIE: No.

MR. BERTOLINI: With respect to the area which you propose to construct the house, have you done any work on that area?

MR. MOUACDIE: We did with the engineer.

MR. BERTOLINI: What did you do?

MR. MOUACDIE: I'm just recovering from something. The engineer had us designing the septic, put a system in to lower the water table in that area.

MR. BERTOLINI: Was that done with the permission of the municipality?

MR. MOUACDIE: I think so, I think the building inspector knew about it because I think the engineer who designed it discussed it with him.

MR. BERTOLINI: And in 2004, did you have any communication with the United States Army Corps of Engineers?

MR. MOUACDIE: We applied and they sent us back a letter saying that the boundaries that we had put on the map was correct and that we did not need a permit to fill that small area.

MR. BERTOLINI: When you say that small area, is that the area which includes the half acre piece that you're proposing to construct the house?

MR. MOUACDIE: I don't think so, that's beyond that to have a little back yard, a little on the side yard.

MR. BERTOLINI: And the back yard crosses the wetland line, is that correct?

MR. MOUACDIE: Yes.

MR. BERTOLINI: Is there any way for you to be able to construct the single family dwelling without the necessity of requesting any variances?

MR. MOUACDIE: No.

MR. BERTOLINI: Okay, and are the variances that you are requesting the minimum variances that you need in order to construct a modest size house?

MR. MOUACDIE: I'm told that.

MR. BERTOLINI: Can you tell the board what the character of the neighborhood is specifically it's a

neighborhood of what, what's in the neighborhood?

MR. MOUACDIE: Fairly small houses.

MR. BERTOLINI: On what size lots?

MR. MOUACDIE: Smaller than--

MR. BERTOLINI: Smaller than the house proposed?

MR. MOUACDIE: Yes.

MS. RANSOM: Smaller than a half acre?

MR. BERTOLINI: Smaller than 8 acres because of course even though we're only if we received the variances we're requesting even though we'll only be utilizing half acre it will still look like and it will still be an 8 acre parcel, it's just that it will have a house on half of an acre but it will still be 8 acres, it's just that 7 1/2 of the acres, we'll not be able to utilize because of the wetland designation.

MR. DOBIAS: Is he going to live in the house or going to sell it?

MR. BERTOLINI: It would be constructed for resale.

MR. DOBIAS: What do the neighbors say about that?

MR. BERTOLINI: Well, I think we'll probably hear that in a minute if some of them are out there in the audience. I don't know what the neighbors say, I guess we'll hear their comments in a minute.

MS. REGAN: Did you say in '84 the Army Corps of Engineers, when did they write that letter?

MR. BERTOLINI: I hope I said 2004.

MR. DOBIAS: Yes, you did.

MR. BERTOLINI: In 2004.

MS. REGAN: Okay.

MS. RANSOM: Okay, so you're going to fill in more of this lot is that what I'm hearing?

MR. BERTOLINI: Is there anymore fill that's going to go into the half acre?

MR. MOUACDIE: Just backfill around the house.

MS. RANSOM: It's fairly low, the road is up here, this property's down here, right?

MR. MOUACDIE: Right, well, there may be a little bit in the front so we can get rid of all the holes and stuff.

MS. RANSOM: Okay, now, the deck of this proposed house is going to go right up against what's considered wetlands, is that this dotted line that I'm looking at?

MR. MOUACDIE: Well, the dotted line is what they allow you to use of the wetlands without permit.

MS. RANSOM: Is a piece of this house going to be sitting on wetlands?

MR. MOUACDIE: No.

MS. RANSOM: So the dotted line area is the only space that's not considered wetlands?

MR. BERTOLINI: There is a construction limit line shown on the map, it's not a dotted line, it's sort of a solid line with what looks like some boxes along it, see that, that's the construction limit line but the

dotted line itself is the demarcation of the wetlands.

MS. RANSOM: As far as the trees that are on that lot on the half acre are they staying?

MR. BERTOLINI: We're only talking about looks like three trees, is that fair to say, if you don't count a piece of one tree, looks like the trunk would be in the wetlands area but the three trees clearly within the half acre that the house would be constructed or they're going to remain.

MR. MOUACDIE: I don't think these will remain because the septic is in this area here.

MR. BERTOLINI: Mr. Mouacdie is indicating that the two trees that appear on the map closest to the proposed dwelling would probably not remain because of the location of the septic but the other tree furthest away which is designated as a 26 inch maple would remain.

MR. MOUACDIE: If they didn't interfere with the septic or the construction of the house they would stay.

MS. RANSOM: So I'm still a little confused, you're not going to bring any fill in then to raise this property?

MR. MOUACDIE: Very little or if it's just to backfill the foundation, I mean, when we dig the foundation we might have enough to do it and to make the driveway.

MS. RANSOM: Okay, did you have anymore to add?

MR. BERTOLINI: That's our presentation, we'd be happy to entertain comments from the audience.

MR. MC GUINNESS: So the second part of the variance is that it's going to be 50 feet, it's not going to meet the setback requirements?

MR. BERTOLINI: The second variance that we need is front yard setback requirement which originally was 50 feet in the bulk table but now is 60 feet. If you look at the proposed setback you'll see that it is actually 50, 5-0 feet if it's measured from the center line of the road see that but if it's measured from the property line and not the center line of the road you'll see that the road actually encroaches onto the property, see that, so if you actually measured to the property line which appears to be about the center line of the road it will be 50 feet and therefore requiring only a variance under today's bulk table of 10 feet.

MS. RANSOM: But it's really actually 43 feet.

MR. BERTOLINI: Well, it is because we're required to measure from the lot line. But my point is that, I'm sorry, not the lot line that we're required to measure from the street line even though that's not the property line.

MS. RANSOM: Now, you had mentioned that our 7.66 acres was incorrect but your map also indicates that the map is 7.66 acres, is there a discrepancy?

MR. BERTOLINI: Total area 7.96 acres I'm looking at the map.

MS. RANSOM: I'm looking at the bulk requirements on the bottom.

MR. BERTOLINI: Bulk table I'm looking at the bulk table too and that does say 7.66 but over on the right where the certification is from the engineer it says 7.96, I believe it's 7.96.

MS. RANSOM: Okay, Mike, any questions?

MR. MC GUINNESS: No.

MS. REGAN: No.

MR. DOBIAS: No.

MR. LEE: No.

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

MS. ROURKE: My name is Kelly Rourke, I'm at 31 Meadowbrook Lane. I have a lot of concerns, it doesn't fit with the community with the area, there are no houses in the surrounding area that are 40 by 46, the house next to it is half that size. And as far as the attorney was mentioning that the zoning laws had changed since the gentleman bought it, he didn't make the zoning laws when he bought it, he would have needed a variance back then because he only has half acre and it was I believe he said an acre back then so it wouldn't have flown back then. My other point is he only has 25 percent of the buildable land, it's not even close and it's, although it's on almost 8 acres it's going to be right in the front corner, it's not like it's surrounded by a lot of the other areas, other trees, it's going to blend in, its right off the road and whether it's the middle of the road or the side of the road that's really the size of the road is what people are going to count that it's right up against it. I also have concerns about the septic and the well, we all have wells, none of us have town water so what's another huge house going to do when I turn on the faucet? I am vehemently opposed to this.

MS. RANSOM: Thank you very much.

MR. KEARNS: My name is Dennis Kearns, I live at 25 Meadowbrook Lane, which is right next to the property. As far as the wetland goes in order to get this to perc they did like the gentleman over there said they come

in and they dug trenches and they have big pipes going back into the wetlands. Now last week when we had or two weeks ago when we had that major storm we practically had gravel floating in the trenches that he built, it was full, I mean, the land itself is not a prime piece of property, it's pie shaped. I'm not exactly sure of the whether they even have the .51 acres because his surveyor came out and measured, set posts and they were 9 feet onto my property. Now I don't know whether he took, and I had to hire a surveyor to come back out and set the property lines and I still haven't gotten anything in writing that his surveyor called me and said yeah, we're going to go with yours, but there's nothing in writing on that yet. So I don't know whether the half acre that he's claiming he has is including that 10 feet of my property or not. So it might be a little less than that, that's something I don't know. And as far as back filling the wetlands which I think Mr. Bertolini mentioned he's going to do, it says on his map that there will be very limited grading or filling on it and if I'm not wrong if you fill wetlands, don't you have to provide the same amount of wetlands somewhere else, isn't that a state law?

MS. RANSOM: I believe something like that, yes.

MR. KEARNS: If he takes 15 feet to make a back yard he's got to give us equal area somewhere else. I'm concerned about his septic system cause wherever it is I think it's going to be passed his house closer to 94, it's in this little pie shaped piece of property which is liable to leak into the wetlands, especially I'm assuming it's going to be a four bedroom house and will the distance between his well and his septic, does he have the room for that? I think it's a hundred feet minimum now, isn't it and like Mrs. Rourke said that when he bought the property he still didn't meet the zoning so, I mean, quoting those numbers from back in 1987 he needed the variance then also. That's about

all I have.

MS. RANSOM: Thank you. Anyone else like to speak?

MR. RAINER: Ken Rainer, 20 Meadowbrook Lane. I live right across from the property. A real big concern, I have several of them, the size of the house absolutely would not fit that area, I mean, our houses are 1,500 square foot, maybe they're little cottages that have additions on it, you know, that's one concern, 44 by 40 in any extreme maybe today's standards may be average but certainly when this road was active and built upon that was by far beyond any kind of standard. That's a big concern. Also the frontage being so close to the road, I mean, it's not even 20 yards from the road itself, we go by center of the road, that's the property line but to be 43 feet from the road and that's the bottom line, that's what it is, not 50, it's going to be 43 feet from the road. Also it's several feet down so to do something like this without bringing in fill is absolutely not going to happen, you're 4 feet down into a hole. So regardless of what we take out of the hole is never just going, you wouldn't be able to get to the property. That's a big concern. You know, the size of it just doesn't fit and it being so close to the road, you know, it's a situation where it's a terrible thing, it's a small lot but I think that we should try to accommodate a smaller house to fit the profile. Also, I mean, it's a spec house, it's a business type deal to be built and sold so that concerns me too, I mean, it's just going to do what we have to do to get this house constructed as big as we can so we can sell it to today's standards. And obviously the septic has to be an issue with all of us because it's generally, you know, it's a swamp is what it is and where is it all going to go as far as the ordinances and the changes, that's neither here nor there, we're here today and this is what, you know, this is what the laws are today. So I think we should try to be more accommodating if a house goes in to a

smaller house, something that fits the profile of the area. I'm not dead against anything going there, I understand the gentleman owns the piece of property but 40 by 44 I think is basically an apartment house for our area, you know.

MS. RANSOM: Thank you very much. Anyone else like to speak to this issue?

MS. RAGALA: Janice Ragala (phonetic), I live at 26 Meadowbrook Lane. I do have also concerns about the wetlands back there. I'm always concerned about the environment and stuff, I know that we have a couple of families that with barn owls that are going to be affected, it's a very private road, very wooded and the reason that we bought this house was to get away from the city and everything else that was all this construction and stuff, having this house on the road is going to be like just a white elephant there and this gentleman is not even going to live there, I mean, this is for someone that we have no idea who's going to be there and we're a close knit community and we all know each other, we have pets and kids walking on the roads all the time. This is going to be a major disruption and it's going to change it forever.

MR. BERTOLINI: Could I very briefly rebut the comments from the audience?

MS. RANSOM: Wait a minute, we'll let him go for a minute, go ahead.

MR. BERTOLINI: It will be very brief. The characterization by a number of people of the house as being huge or out of character of the neighborhood, the floor area ratio requires a house not more than .20 which of course means 20 percent, a 20 percent house just utilizing the half acre, not utilizing the 8 acres, just utilizing the half acre, a 20 percent house on a half acre would be double the size of this house,

that's what the bulk requirement would permit for floor area ratio, in other words, size of the house as a percentage of the lot. I'm not even talking about the size of the house as percentage of the 8 acres but just as a percentage of the one half acre, it's still a proposal to construct a house with a floor area ratio of .11 which is about half the floor area ratio required in the bulk table, again only utilizing the half acre. So it's certainly not a huge house as far as your bulk table is concerned. With regard to giving wetlands, I'm not sure that there's such a requirement, if there were such a requirement as Mr. Mouacdie said there is a half acre piece which is part of the entire parcel which happens to be on the other side of the road which of course will not be utilized for anything and that's outside the wetlands that piece.

MS. RANSOM: That's that .31 acre?

MR. BERTOLINI: Yes. And finally, I mean, it's true that Mr. Mouacdie would like to make a profit but I mean this is America and there's nothing wrong with making a profit. Mr. Mouacdie bought the property 20 years ago hoping that some day he'd be able to make a profit, he's been paying taxes for 20 years, he's entitled to make a profit. That's what he's here to do, he's here to try to recoup some of his investment that he's been paying out of his pocket for 20 years.

MS. RANSOM: Can you address is the survey correct, is it a half acre here? This gentleman indicated that possibly parts of his property were surveyed.

MR. BERTOLINI: I know that there was an issue at the time that our surveyor had actually surveyed the property and the issue was whether or not a portion of the property was properly staked and I didn't personally have any involvement back then but I'm aware of an issue and apparently this gentleman hired a different surveyor but I don't think we have ever

received anything, maybe he can speak to the issue. I don't think we have every received any claim by his surveyor that our surveyor was not accurate and of course we have given you a certified survey by a licensed New York State surveyor and he's confident that the survey is accurate until somebody tells us that it is not accurate.

MR. MOUACDIE: And we also moved the house 10 more feet away from his house to try and appease him.

MS. RANSOM: Okay, now, I looked at the property yesterday and it does look like the driveway's going to go straight down. How are you going to mitigate that?

MR. MOUACDIE: It will go down, it will be going downhill, you can't raise it and have it up. His driveway goes downhill to his garage and so will ours.

MS. RANSOM: Okay and it's going to be at what percentage?

MR. BERTOLINI: What elevation?

MS. RANSOM: Yes.

MR. BERTOLINI: The proposed elevations are indicated on this on the survey.

MR. MOUACDIE: They are not going to be excessive.

MR. BERTOLINI: Proposed elevations it looks like first floor 355, garage floor 353 and basement 434.

MR. MOUACDIE: It shows the driveway shows all the elevations on it.

MS. RANSOM: So the driveway is going to start at the 356 then the 354.

MR. BERTOLINI: I'm just looking at topographical lines which they are in at two feet increments, is that correct so from 358 to--

MR. MOUACDIE: This is the road elevation and this is the drive elevation.

MR. BERTOLINI: 358 to 353, no, it's five feet, it's a five foot difference, it's really not steep at all.

MS. RANSOM: Okay, I mean, it looks like it's 352 at the garage area, is that correct, which would make it 6 feet?

MR. BERTOLINI: It's shown at 353 but 352 is close enough, in other words, it starts at the street, it looks like it starts at the street at 358, if you look at the topo line right at the corner of the property the topo line is 358 and the garage floor is at 353 so again, it's not, it is certainly at grade but it's only five feet.

MS. RANSOM: Somebody in the back wants to speak? Name and address.

MS. FORTE: Wendy Forte (phonetic), 10 Meadowbrook Lane. I'm also across the street from the property and I have a couple concerns. I have a young child and my driveway, the back of my driveway is going to pretty much be where they're going to start the construction and I'm concerned about the construction vehicles and everything with my small child, the only place that she could walk on, there's no sidewalks and I'm concerned about that. I'm also concerned is that I'm a little up on a hill and we spent a lot of money getting the bottom of our driveway to not be flooded. As soon as they started to dig anything I noticed that the flooding started to come in the back of our driveway again and right now the pipe goes underneath the road and goes into his proposed property and if he's going

to be messing around with that and everything I'm afraid that my driveway, back of my driveway's going to be completely under water again and I, that's a concern cause I kind of need to use my driveway to get in and out of my house.

MS. RANSOM: Thank you.

MS. FORTE: It's my understanding when I first, when we get surveyed when I bought this property when I went, my husband and I have been living there 10 years we actually owned the road and a few feet on the other side of the road. So when him building, I'm wondering where he's going to put his driveway, is that going to go on that few feet of property that we actually own on the other side of the road? Now I might be completely wrong with that but that was my understanding. It's the other side? Okay, well, there you go.

MS. RANSOM: Thank you very much.

MS. BENEDICT: My name is Joan Benedict, B-E-N-E-D-I-C-T, 1341 Route 94. I'm right on the corner so I'm not as much affected as my neighbors are. I'm the property right next door but I do know for many years the septic and the whole water system has been a big concern, I think also probably fire issues and only one car can go up and down that road at a time. And I think that's another big concern and the close proximity to my neighbors but I know the issue is real for them, they're more affected than I am but I therefore have concerns also.

MS. RANSOM: Thank you very much. Anyone else like to speak?

MR. KEARNS: Just to answer the question Mr. Sorace, your engineer, he sent me a letter saying that they were going to go by their survey. I had my survey done, my engineer mailed it to him, Mr. Sorace, Jr.

called me and said that they were going to go with my surveyor, not his, so that 10 feet is actually mine, 9.22 feet and I asked him to send me something, he said he would but I haven't gotten it yet. And he was out there the other day and pulled out some of his stakes so he knows and he's gotten the information from the surveyor that it's not as wide as he thought it was. So, I mean, I don't know if that figures into this half acre or not but there's a 10 foot dispute and like everybody else I'm concerned with the children and the size of the house and everything else but that's not my main concern, it's the wetlands, it's the size of the property that bothers me. He's asking for a quarter of what's required by the town, that end of town is being overbuilt and the zoning board has come up with new laws just to stop that and he's asking a lot out of that.

MS. RANSOM: Thank you very much. Would you like to add anything else?

MR. BERTOLINI: Only in terms of the drainage, of course the town would not permit us to increase any runoff, we'd have to propose a plan and also construct the house so that it would result in a zero net runoff that's obviously something that is required by the building code of the State of New York. And I'm sure your building department would be sure that that occurs that there would be no increase runoff as a result of the construction of the house. That's it. My final comment is that the denial of the variances which of course is the prerogative of this board if it's denied, it's denied, but our position legally is that of the variances are denied that would effectively sterilize the property because this is the only way we can improve the property by constructing what we believe is a reasonably sized house on a small portion of the property that's outside the wetlands, to be denied would essentially deny us any improvement of the property which our view would constitute an inverse

condemnation of the property. That's our legal position.

MS. RANSOM: Okay, any other questions up here? Thank you very much. We'll leave this open.

MR. BERTOLINI: Thank you very much.

WILLIAM_ROMAS

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 May 21, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of William G. Romas relating to property located at 9 Gayton Drive and designated on the tax as Section 36, Block 1, Lot 55.4. The applicant seeks an area variance to Section 158-14 A (4) of the zoning ordinance in order to allow the construction of a 14' x 22' detached garage in a required front yard that will 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: April 27, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, chairperson.

Todd Kelson, Esq. appeared before the board for this proposal.

MS. RANSOM: Let the record show that we did receive one piece of correspondence from Mr. and Mrs. Ostlund and it's signed by Donald Ostlund and it's here if anyone would like to take a look at it.

MR. KELSON: My name is Todd Kelson, I'm an attorney with offices in New Windsor, New York. I'm here this evening on behalf of William Romas and Christina Romas who own property at 9 Gayton Drive in Highland Mills. We're looking for as the notice indicated we're looking for a single variance tonight from the provisions of Section 158-14 (A) 4 which require that accessory buildings not project nearer to the street than the principal building. Although this provision does allow in certain circumstances such as slopes of the property

that of these accessory buildings project in front of the principal building none of the exceptions apply to my client's property. My client has proposed to locate the outbuilding in an area which they believe really if in almost in a triangulated way is the best and probably only area that it could be placed without too much impact on the neighbors. As the prior applicant's attorney indicated, I'm not going to go into great length as to the standards in Section 267B set forth in the application which I'd like to sort of hit on some of those points and discuss how they affect the neighbors, how they affect the property available. The builder is here if the board has any questions and we also have the applicant in the room if the board has any questions of the applicant. I'd just like to discuss some of the standards. The first standard of course is that there will be no undesirable change in the existing neighborhood, if the variance is granted, the variance will have no material impact on the neighborhood. The proposed shed is 179 feet from the street line, 115 feet from the closest side yard and 43 feet from the rear yard line. It's a peculiarly shaped lot, no visual impact on the neighborhood, the area is heavily wooded most of the year and it will be shielded from the neighbors. The benefits sought by the applicant cannot be achieved by means other than the area variance. Because of the shape of the lot and the location of the existing garages on the property and the deep setback of the house, there's really no other location where the shed can be placed. Attached to the application, the board will see the original site plan approval for this house and the house was located in fact where the planning board had proposed it it's set way, way back on this lot. There's practically no area behind the lot to construct the shed. If the shed were to be constructed further back in close to the location where it's proposed, it would basically stand in the center of the driveway. This house has two garages that come out from the side and if the shed were moved back just a little bit just to make it conform it would

stand right in the middle of driveway and block the existing garages to the house. Behind the house is wet area and on the other side of the home is wet area and would be unsuitable to construct and it was believed by the applicants that that was the least intrusive location for the building. We don't believe that the area variance are substantial. As we said, the house is set back over 175 feet from the street and meets every setback requirement in the code in the tables. We don't believe it's going to have any material, physical or environmental impact on the neighborhood because as we said of the setbacks its way, way back and of course the difficulty is not self-created, as we discussed, the home was purchased by the buyer, by the owner of the property with the house in place. The location of the house was specified by the planning board and the house was constructed in that particular location at the direction of the planning board. So we believe actually that this is really a diminimous variance and we ask the board's consideration. Thank you.

MS. RANSOM: Is this a 2.78 acre parcel?

MR. KELSON: Yes.

MS. RANSOM: There's no place on this parcel except that front area to put this shed?

MR. KELSON: Well behind the parcel there's steep slopes behind the parcel and wet areas also, is that correct, sir?

MR. ROMAS: Yes.

MS. RANSOM: I guess we're talking about a tool shed, this is kind of large for a tool shed, isn't it?

MR. KELSON: It's a shed to put garden tractor.

MS. RANSOM: Strictly storage, you made a comment about a detached garage, it's not a detached garage, strictly an the application it's a shed, accessory building for storage?

MR. KELSON: They have two garages already.

MS. RANSOM: What kind of the door is going to be on this garage, shed?

MR. KELSON: They're proposing an overhead door.

MS. RANSOM: An overhead door which is going to face where?

MR. ROMAS: Towards the back yard.

MR. KELSON: Towards the back yard away from the driveway.

MR. ROMAS: Yes.

MS. RANSOM: Okay, so now this slab is already there, how did that come about?

MR. ROMAS: I put it there because it was the most logical and most practical place that I perceived at the time that it could go and had just no other place.

MS. RANSOM: Can you describe the screening, you mentioned that this wouldn't be seen most of the year, what kind of vegetation are we talking about that's going to protect the neighbors?

MR. KELSON: Well, it's a pretty heavily wooded parcel and of course it's 175 feet away, it's set way back, I've got some photographs of the property I'd be happy to pass them around.

MS. RANSOM: That would be great.

MR. MC GUINNESS: How far is the residence on Sarah Drive away from this?

MR. KELSON: The neighbor's residence?

MR. ROMAS: From the property line is a cul-de-sac so add another what would you say?

MR. KELSON: About 43 feet from the property line, how many further feet is it the neighbor's house away?

MR. ROMAS: Fifty feet, a hundred feet.

MR. MC GUINNESS: Sarah Drive is a private road?

MR. KELSON: Yes, private road.

MR. ROMAS: Yes.

MR. KELSON: It's not a town road.

MS. RANSOM: So then the house most affected is this one that's in this picture which is the one on Sarah Drive?

MR. KELSON: I'd say that's right, I'd say that's correct.

MS. RANSOM: What kind of siding are you proposing to put on this shed?

MR. KELSON: It's going to be constructed to match the appearance both architecturally and with the Romas home, same color siding which I think you can see from the pictures.

MS. RANSOM: And how tall is this going to be?

MR. KELSON: Under 15 feet.

MS. RANSOM: What kind of pitch to the roof is it going to have?

MR. DECKER: It's 12 on 12.

MS. RANSOM: Is there going to be storage on the top?

MR. DECKER: It's optional really for him, there's not going to be, maybe inside attic if he plans on putting anything up in there.

MS. RANSOM: Can we have your name?

MR. DECKER: It's Joshua Decker, I'm building, I'm the contractor, yeah, it's going to be small, he wants a garage door, it will be vinyl siding, it will be same architectural shingles that are on his roof that will be on this one, it will be matching his house.

MS. RANSOM: I see it's going to have electricity, is it going to have water?

MR. KELSON: No water.

MR. DECKER: No water.

MR. LEE: No questions.

MR. DOBIAS: No.

MS. REGAN: No.

MR. MC GUINNESS: No.

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

MR. SUTTORA: John Suttora on 1 Sarah Drive. My only concern is how big this is, I think, I mean, we live in

a really nice area there and everybody, everyone has a real nice home and I just think something like that would really be an eyesore, 14 by 22 I think is really big to me. And to put that in front of the house, I don't know, it just doesn't make sense, I don't know what problems he has behind his house but I know he has a lot of trees and wooded area. I don't know if he can cut down the trees and maybe put something behind his house in his back yard there. But to put something that big in the front just doesn't make sense. I just don't think it would look good. I'm kind of concerned about the decreasing the value of my home, I don't know if it would or not but that's my own concerns.

MS. RANSOM: Are you the house in the photo?

MR. SUTTORA: No, I'm the one right next door to that house.

MS. OSTLUND: Allyson Ostlund, I'm at 2 Sarah Drive with my husband who wrote the letter. And we feel it's going to detract, it's right in front of our front porch, our living room window, it's not a small shed, this is going to be a large shed and we don't think it has anyplace there in front of other home's property. All behind his house he could put fill, he could cut some of the trees down but to put a slab in front of his house closer to our home I think is inappropriate and we're worried about our investment.

MS. RANSOM: Thank you very much.

MR. SUTTORA: I also don't see how this is going to be covered by trees because it's really not a wooded area in front.

MS. OSTLUND: Also there's no trees separating his house to our house, there's a few shrubs but there's no, we'll see it in plain sight 12 months out of the year.

MR. CASS: Frank Cass (phonetic), 72 Goshen Avenue, Washingtonville, New York. I did most of the work at Bill's house. The slab is not in front of the house, it's actually off to the side, it's the only place you can go, everywhere else is wetlands and cliff side, that's the only place that that slab could possibly go. Now right behind where the shed is proposed there's a big huge rock garden full of trees and Bill proposed to put in trees afterwards just to cover the view from like in the fall time he'll put like pines in there for the fall time when the trees go bare because there's a good buffer area from the garage to their house, there's a lot of trees in there, I mean, I dug their house so--

MS. REGAN: How is the front of this going to be treated if the garage door, the doors are going to be in the rear, what's the front going to look like?

MR. KELSON: The front is going to be, just explain, not going to be any windows, it's going to be siding, the garage doors are going to be facing the other way towards the house.

MS. REGAN: So facing the road is just going to be a blank wall?

MR. CASS: Might be a window, I'm not sure what him and Josh talked about but it's going to be sided and shingled.

MS. REGAN: But that doesn't sound architecturally appropriate.

MR. KELSON: We can certainly put a window.

MS. REGAN: Well, it just would look like a big chunk of siding.

MR. KELSON: That would be fine, I don't think the applicant would have any difficulty with that as a requirement.

MS. RANSOM: So all this property to the back and the rear of the house there's absolutely no place here?

MR. KELSON: No, and I think that's why if you think about it that's why the house is located where it is, it's located way over, it's not centered on the lot and I think that's the reason it was put there to begin with, it's the only location for the house. Also I just want to note for the members of the audience who have made observations about the location and how it's going to affect them, if it weren't for the fact that there were two garages on the sides of his house the applicant could move it back and they'd still see it located there, we could move that whole thing back 15 or 20 feet right in front of their garages. The affect to the neighbors I think would be similar but it would be completely impractical to the applicant because it would stop their, it would impede their ability to get in and out of their own garages.

MS. REGAN: What's the purpose again for this building?

MR. KELSON: It's a storage shed, he wants to keep lawn equipment, garden tractor and so forth, I mean, I guess the telling part is that the door, I don't want to call it a garage door, one of the neighbors indicated in their correspondence that they believe this would be, to be a garage and it's not, the door is going to be oriented away from the driveway, all the drive areas, it would be sort of a bad place to put a car based on the way they're going to locate the door.

MS. REGAN: Does it have to be that large?

MR. KELSON: The door or the building?

MS. REGAN: No, the structure itself.

MR. KELSON: That's what the applicant has proposed, I suppose if the board wanted to propose something different, I think the applicant would be open to it.

MS. REGAN: And the existing two car garage, is it deeper than normal, is it just a car length?

MR. KELSON: It's built into the house, they're built into the house.

MS. REGAN: Correct but some are deeper than others.

MR. ROMAS: No, just walking distance.

MS. REGAN: So when your car's pulled in you have no storage in your garage?

MR. KELSON: No place to put the tractors in the garage?

MR. ROMAS: No, I can't get it in, it's between the two beams.

MS. RANSOM: There's no place to even put this on the side of this house, attach it to the house so that it's not quite so--

MR. CASS: If I may, if you're standing looking at Bill's house, the right side of his house is a bank that comes down and it's constant running water, we diverted the water, drained the properly now.

MR. KELSON: When you built the house?

MR. CASS: No, I've done improvements for Bill on his house, he bought it from a builder but now if you go where we had set the slab is for the garage or the shed then you have his driveway entrance to his house in the

back and the doors would be facing the back then right on the other side of the driveway is completely wetlands, non-stop running water from the mountain.

MS. RANSOM: But I'm looking at this picture that we have been provided with and it doesn't look from the picture that this is a horrible slope and if this is just for tractors and we don't need to have garage door to get--

MR. CASS: No, this is a massive slope all the way to here, we have a curtain drain to drain all, to have this water that runs off this, this runs all the way around the back, the entrance for the garage is going to be back here on this side, this side faces the road, okay. And now right over here you see where these rocks are in here there's a huge rock garden in there and there's big trees in there and he's going to, we're going to plant pine trees in here just to block the view from anybody else. But like I can say right over here on the other side of his driveway there's a line of boulders and right on the other side of the boulders is all wetlands.

MS. RANSOM: There's nothing then on all of this property that's back here that's anything but wetlands and woods?

MR. CASS: Nothing that's usable, it's all wetlands and slopes.

MR. DECKER: I know there's a stream that goes back there, right, when I was there, when I looked at it, when I looked at the job over there way towards the back of the house I think what did you have, a pile of wood or rocks that were on the back side of the driveway? There's a stream like right back there.

MS. REGAN: Where do you currently keep your lawn mower?

MR. ROMAS: In the garage between two posts and to get it out I have to get--

MR. KELSON: You have to move a car out, move both cars out and angle it back and forth?

MR. ROMAS: Yes.

MS. RANSOM: Thank you, thanks very much. Is there anyone else in the audience who'd like to speak to this, add anything else? Additional questions up here? Anything else you'd like to add?

MR. KELSON: No, we thank the board for its consideration.

MS. RANSOM: Thank you.

ROBERT_WOODS

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 May 21, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Robert Woods relating to property located at 64 Palomino Place and designated on the tax as Section 5, Block 3, Lot 16. The applicant seeks an area variance to Section 158-21, K (1) of the Zoning Ordinance in order to allow an existing 24' circular above-ground pool and deck to remain with insufficient rear yard area. The ordinance requires 20' and the applicant has 16'. 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: April 25, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, chairperson.

Mr. Robert Woods appeared before the board for this proposal.

MR. WOODS: Good evening, I'm Robert Woods and the pool is existing and without realizing it's 16 foot to the back property line but behind my property line is a 60 foot right-of-way for Consolidated Railroad which is now just a wide open area and my next neighbor is 60 foot away from me so and the side lines are a hundred and some feet from one side to it and a hundred and some feet to the other side.

MS. RANSOM: How long has the pool been there, Mr. Woods?

MR. WOODS: Been there three years.

MS. RANSOM: And it came to light that it was, that you

needed a variance when?

MR. WOODS: When I put the house up for sale. And would it help anybody, I do have pictures of it?

MS. RANSOM: So the right-of-way then the railroad is totally a wooded--

MR. WOODS: The right-of-way has the sewer system going through it for the Cornwall High School, that's the only, well, I shouldn't say that, there's an MCI existing line that goes through that's part of the right-of-way and nothing else there.

MS. RANSOM: Can any of your neighbors see this pool?

MR. WOODS: Not right now, right now it's all treed as you can see in the pictures, it's totally treed and they can see it during the winter, they may be able to see some of it but very, very little of it.

MS. RANSOM: Did you take these pictures this week?

MR. WOODS: Yes, I have other ones that the building department has that were before this week about a month ago.

MR. LEE: You put this up without a permit?

MR. WOODS: Yes, I didn't know.

MR. DOBIAS: You've got the railroad in the back?

MR. WOODS: There's no railroad there now, just an empty space.

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

MR. WOODS: I don't think so.

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MS. RANSOM: Okay, we'll give you back your pictures, thank you. Let the record show that we did receive Orange County Planning Department report and they have left this for local determination.

LYNN_THOMMEN

MS. RANSOM: Our next hearing this evening is on the request of Lynn Thommen.

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

MS. REGAN: Let the record reflect that I'm recusing myself.

(Whereupon, Ms. Regan stepped down from the board for this application.)

MS. RANSOM: Thank you. We're being asked to reopen and modify a condition contained in the variance decision. It's up to the board to determine if they want to re-hear this application. Just to let the board know that this will need a motion for this it must be in the unanimous decision. So do I have a motion to re-hear the request by Lynn Thommen to modify the conditions as outlined in our variance decision? Need a motion from someone before we can move forward.

MR. RODD: Well, maybe I can suggest this, why don't we let the applicant just indicate the nature of the relief that he's now seeking and then it might be appropriate.

MR. FRANKEL: I guess I'm on, okay. I'm sure you all recall this application, it involved a lot triangular in shape which is approximately one acre in what is now a 2 acre area. During the course of this application and subsequent to when it was originally made at the suggestion of the building department it essentially came to light that this property was entitled to the benefit of an exception to the zoning ordinance which essentially provided that the lot was although one acre the fact that it pre-existed the zoning and that there was no contiguous property in common ownership was

entitled to stand as a one acre lot and be an exception to the acreage requirement. And that is in fact recited in your findings so that was one of the two variances that we were seeking. The second variance was for setbacks. Now, it was interesting because it came to light in the course of this application that the ordinance has an exception with respect to setbacks and size that if your house is proposed to be no closer to the side or front yard setback lines than a neighboring house within 200 feet then your house only needs to meet the same setbacks as your neighbor's house. In fact, the proposed setbacks that we were seeking were greater than the setbacks that are, that other neighbors enjoyed and the findings of the board on that point were that we were not, it was not necessary that we comply strictly with the setback requirement. In essence, the board found in their findings that the two variances that we were seeking were not necessary under the code but the board nonetheless granted our variance request which we were appreciative of but then conditioned it and put two conditions on which we're seeking to change now. Essentially, there were other conditions which had to do with landscaping and some other requirements that the board imposed in the findings but there are only two things that we're seeking out of those limitations, and essentially what we're seeking is only to be treated like every other house within the SLR zone with respect to those two limitations, one is building height, I forget what the map showed that our surveyor provided but we're seeking to have the house that we, that we, that's built there meet the zoning requirement, the bulk requirement for the zone. In addition, we're asking that the limitation on the size of the house which is now I believe 1,900 feet, 1,925 feet also be changed. That condition does not apply to any other house built within the zone, in fact, the bulk requirements for the town only have a minimum livable area in bulk building coverage floor area ratio which we'll certainly meet but having an overall

limitation is not something that the ordinance provides and we feel it will be restrictive on our ability to market this property.

MS. RANSOM: Cause if memory serves me correctly, we had asked what would be the smallest house that you would consider and you put it on the map at 1,925 or the applicant did.

MR. FRANKEL: I believe they did, the fact of the matter was that that is in fact if I'm not mistaken a footprint of the house, not the actual total living space.

MS. RANSOM: So are you proposing to use the same footprint only to have more latitude with living space?

MR. FRANKEL: That's correct.

MR. RODD: Just so the board is clear, you're not proposing a change in the footprint of the structure that's on the site plan, you're simply asking for a waiver of the condition or the non-imposition of the condition of the square footage of the house and not to be limited to the height that was previously submitted of 24 feet but what's permitted by code which is 40 feet.

MR. FRANKEL: That's correct. Essentially, what we want to do is build a two story house, this would be a one story house and we want to make it two. I don't know that ultimately it will be built at 3,800 square feet, that may be large but and so I'm sure that it isn't a problem to build smaller than what we're proposing but certainly the 1,925 square foot house and the 24 foot height is a limitation which will restrict our ability to sell this lot.

MS. RANSOM: Okay, do we need to vote to reopen?

MR. RODD: At some point you do. We can do it after we meet but at some point that to lift those two conditions the board would have to vote.

MS. RANSOM: Questions, Mike?

MR. MC GUINNESS: Not at this point.

MR. DOBIAS: No.

MR. LEE: No.

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

MR. PETRILLI: My name is Bob Petrilli, I live right across the street from the little triangle. I kind of predicted this from the first meeting that they'd come back for more because a modest size house would only produce a modest size profit. But in this piece of land if you've walked it as I have, there's no room and a two story house would be 12 feet above my house and basically the whole curve would be seriously destroyed. We're starting to look like Long Island there already and to add onto it I think is bad. Now, obviously, the only piece of land, they deserve to build a modest size house based on the size of it and where the trees are and 1,900 square feet would probably be fine but to double that which is exactly what they're saying no matter what he implies is 3,800 square feet, well, that's a high school practically rather than a house and I think for that little triangle of land is completely out of the question.

MS. RANSOM: Thank you.

MR. BABCOCK: Brian Babcock, 14 Long Hill Road. Sometime early in the process I remember they made sure that they handed out an area map showing how many houses of 1,900 square feet or less were approved and

built within that area but tonight I didn't see any map that showed houses over 3,000 square feet that were approved for one acre area. So I'm a little surprised at that. Also, you're saying what you concluded based upon the approval was what ultimately would be a 40 by 50 foot ranch house which I would be pretty surprised to see plans for something like that in the neighborhood. Looking at some of the variance considerations, will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created? Absolutely. I'd be surprised to find a house on Long Hill Road that's over 3,000 square feet and built on less than an acre of property. All the surrounding houses are small capes, salt boxes, colonials and as much as they want to wish and hope and dream about the property being Hidden Glenn, it isn't, it's on Long Hill Road. And building one of these McMansions on Long Hill Road will alter the character of the neighborhood forever. There's no other available property in the area to build another house like it so it would look like a, you know, a motel on Baltic Avenue. Can the request be achieved by some other method that's feasible? It was feasible three months ago when you're looking for a 1,900 square foot house and that whole approval and approach was predicated on the size of the house, I remember when we were here a year ago, the first gentleman that had an idea for the spec house had something over 3,000 square feet and the question was asked by the board would you consider something less. And the answer back was absolutely, we're just coming up with some ideas. Miss Thommen deserves the right to have a marketable piece of land, they've owned it for 150 years, please provide us with something so she can sell it to get some money back out of it and you were given what you asked for three months ago. Is the requested area variance substantial? Absolutely. Anything above the currently approved variances is substantial. We have been through this already. At the request of the board the planning of the house was

reduced to be more a accommodating representative of the surrounding homes and the reduction of square footage along with the landscape plan were instrumental in gaining the approval. And was the hardship self-created? Absolutely. You have options, you have an approved building lot where you can build a house that's marketable that matches the houses in the neighborhood, so there's absolutely no grounds for this variance to be opened and modified. And will the addition have adverse affect or impact on the physical or environmental conditions of the neighborhood or district? I don't know that a hundred percent if it would, I know we have septic and wells up there, we don't have town water, so I believe that two acre consideration is given for houses of a large size due to bedrooms and square footage for living and so forth. So that's all I have.

MS. RANSOM: Thank you. Anyone else like to speak to this issue?

MR. SCHLEMMER: Doug Schlemmer, 36 Long Hill Road. I too kind of saw this coming where, you know, no really doesn't mean no in these days it seems. You know, again, just to restate no one wants to see this property go to waste. If someone has a piece of property absolutely they should be able to do what they would like with it within reasonable bounds. Some of the larger homes up there, I mean, they've been around since the 1800's, to build something that large now would be totally out of place. And as far as the footprint wouldn't change, well, okay, fine, but the home again would, which is, brings us right back to square one. As a kid I ran all through that piece of property and I used to know it pretty well and there's just not that much room there. In fact, we have all been through sections where the homes are somewhat similar that you have this one home that just doesn't seem to fit. Well, if they're allowed to go back to the original request we're just going to have that

situation up there and number one, what will that do to the surrounding property values. No one really knows until you try but why take that chance? And number two, the gentleman made the observation that it would make it very difficult to sell the home that size in that area, I'd like to know what, where that information came from, where he got his information. I don't see many homes on the market up there for too long so if there are any facts backing that up, I'd love to hear it.

MS. RANSOM: Thank you very much. Anyone else like to speak to this issue?

MR. FRANKEL: Just to add one last point which is where I started, the reason I'm here is essentially not to reopen and re-argue the variance, it's because of the facts that came to light that the board itself recognized the fact is that if this was more closely evaluated when it was first applied for there would have been no application, no variance was necessary, the property was grandfathered under the statute, both in terms of lot size and setback and so while we recognize that an application was made and we're appreciative that the board granted the variance, the fact is that this property should have been treated as every other piece of property under the bulk table and that's all we're asking for in this application. If the board sees fit to change the requirement, obviously, with respect to the size and setback, we don't have any choice, we needed to meet the code or get a variance, in terms of the height and the size, we don't, we did have a choice in the sense that they could have decided in applying for the variance to meet the board's request in different ways, it appears to me that the size of the variance or I mean the size of the house was decided based on the footprint rather than on the fact that it could be a two story house, that's not an unusual size house. The fact is that the height of the house at 24 feet is obviously a single story house

with an attic, not a two story house and that's what the ordinance provides up to 40 feet. In terms of meeting all of the requirements for a variance, we have already shown that we have met those requirements and I will call the board's attention to your own findings of fact.

MS. RANSOM: Thank you very much.

MR. FRANKEL: Thank you.

MR. RODD: Just to be crystal clear, the conditions you're seeking to lift are basically the height as per the previous site plan and the square footage as per the previous site plan. The other elements of the site plan will remain intact?

MR. FRANKEL: That's correct.

MR. RODD: Okay.

FARROKH_DARIAN_(F._DARIAN,_LLC)

Mr. Daniel Taylor appeared before the board for this proposal.

MS. RANSOM: Is this essentially the same request as the last one?

MR. TAYLOR: Yes, it is. What we have is a request that the board re-hear based on what I had submitted as far as the letter and a recommended passage from a signed legibility study which explains what should be a minimum in size sign for a particular area based on speed of the road and how do I explain it?

MS. RANSOM: Okay, we have already made a decision on this and there's nothing, no new information, we have already decided this request. So it's going to be up to the board if they want to re-hear this. We have already rendered a decision so I'm going to have to ask the board if they want to reopen this to re-hear the request.

ROLL CALL

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

MS. RANSOM: Okay, the board chooses not to re-hear this application. We have already seen this application, we have pondered it, we issued a decision so this time we will not re-hear the same application again.

MR. TAYLOR: Okay, thank you.

TEK_STUDIOS

MS. RANSOM: Next public hearing this evening is Tek Studios. 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 May 21, 2007 at 7:30 p.m. or soon thereafter as the matter can be heard on the application of Tek Studios relating to property located at 44 Clinton Street and designated on the tax as Section 22, Block 8, Lot 4. The applicant seeks a use variance to Section 158-9, table of general use regulations residential districts, SR-1 district, column #3 to open up a dance school in the former Canterbury Presbyterian Church with ten on-site parking spaces. 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: May 2, 2007. By Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, chairperson.

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

MS. KIMPLE: And I included a little letter at the back of my packet that I was just going to read. Is that all right?

MS. RANSOM: Yes.

MS. KIMPLE: My name is Aggie Kimple and I am the president of the Dance Design School in Cornwall. I am making application for a use variance for the building located at 44 Clinton Street, designated on the tax map as Section 22, Block 8, Lot 4, know as the former Canterbury Presbyterian Church. My intention is to move from my current location at 291 Main Street in the Hey's building to the Canterbury Church. In 2005, Dorene Salerno successfully applied for a use variance

before this board. She addressed issues of parking, noise and property tax. Her desire was to use the facility as a multiple use community center for activities including dance classes, recitals, workshops, weddings, meeting hall for various community group performances and music concerts. At this time Dance Design School is the only group using the facility. The building itself is in desperate need of renovations. It was placed on the Historic Registry in 1996. Unfortunately much needed repairs including replacing the roof have not been made. Without the completion of these repairs this historic building may be lost. In order for the building to be usable by the Dance Design School these renovations would be completed as well as additional work. The additional includes placing insulation and sheet rock on all the interior walls. The parking situation is a significant issue that must be addressed along with the renovations of the building. The parking may be one reason why religious groups have not been interested in the building. The church can seat if used as a church or meeting hall far more people than parking is available for. However, as a dance studio with classes averaging ten students the parking on the building grounds will be sufficient. In preliminary discussions it appears I can fit 12-14 parking spots on the property without interfering with the neighbors. In fact, the Dance Design school may be one of the few businesses that may utilize the parking effectively.

Firstly, the building will only be able to have three studios, one of which will be very small. The average class size is 10 students, many of whom come for multiple classes back to back. Most parents especially those of children who take multiple classes drop their children off then go home or run errands while the child dances. At any given time there are no more than 4-6 parents waiting in our waiting room. I specifically arrange my classes in blocks so that a child will have her classes in one afternoon. Therefore, most of the children are dropped off without

their parents stopping to park. Additionally many parents arrange to car pool to and from class often one parent drops them off while another picks them up. Recitals and performances will never be held at the 44 Clinton Street location as the studios are not large enough to give my students sufficient room to move and seat an audience. Additionally, I have the ability to take extra steps to ensure controlled parking that will minimize any impact on our neighbors. I will install signs on our property to make clear what parking is available. In addition I am in contact with each of my students parents on a regular basis. I can sent out information detailing where acceptable parking is located. Unlike the Arts Alliance or the proposed Spiritual Awareness Center I have direct contact with each parent/customer. Most of my parents have taken classes at the studio for many years. I know them personally and can easily make them aware of restrictions. Although the hours of operations are greater than those of the spiritual center or Arts Alliance, they're more consistent and they do not have the potential impact that the other use had. We cannot fit many children into the classes at one time because they need the whole room to move. At no point will we fill the church with people as the Arts Alliance did or the Spiritual Center intended to. The issue noise that developed under the Arts Alliance should not exist with the studio. I am taking steps to insulate the building and add a layer of sheet rock to every wall. This will not only save me on heating bills but will also provide some sound proofing. The music I play is kept to levels that will not hurt our young students' ears and to be contained within the studio it is playing. It cannot be played so loud that it interferes with the music played in the other classes. Currently the studio is located in a building with residential apartments on the second and third floors. I have never received a noise complaint. The music cannot be heard outside of its current facility. Currently the studio's hours of operation are approximately 3 p.m. to

8 p.m. Monday through Friday and 9 a.m. to 5 p.m. on Saturday. We hold children music classes during the morning hours on Tuesday and Wednesday. In addition when the studio is not holding classes, students can take private lessons with an instructor for one on one learning. Sundays are usually when this occurs, however, are specifically for one or two students at a time. The hours are consistent and predictable. There will be no late night events. Studio policy is that students must remain in the studio while waiting for parents or in between classes. We have never had any discipline problems with the students hanging out after their classes are finished. The renovations intended will be done with respect to the historic nature of the church. In fact, little of the work done will have any impact on the aesthetics of the building. Special dance floor will be installed, sheet rock and insulation installed and structural repairs performed. The exterior will remain exactly as it is except for a good cleaning. I recognize the value of working with the neighbors of the church. The Dance Design School Inc. is a community based business that relies upon good will and word of mouth recommendations. I look forward to helping to make the Canterbury Presbyterian Church a benefit to the Cornwall community as it once was.

MS. RANSOM: Are you planning to buy the church?

MS. KIMPLE: We're thinking about it.

MS. RANSOM: So this is a part of that process then?

MS. KIMPLE: Yeah.

MS. RANSOM: Okay, now, you said ten parking spaces, your letter said 12 to 14.

MS. KIMPLE: The other 2 to 4 parking spaces would be double parked for teacher parking only on the sides of

the building, looking at the front of the building to the left and it would be double space so I didn't include it in the letter with Gary because he wasn't sure if they would be considered parent parking.

MS. RANSOM: So when you're looking at the church where is this parking all going to be?

MS. KIMPLE: We're going to put a horseshoe shape coming across the front of the building as most parents pull up, drop off and drive away, within the horseshoe shape there'd be roughly ten parking spots then we'd put in eight to ten and there'd be a couple handicapped parking closer and double teacher parking to the left of the building.

MS. RANSOM: So then there's a grass now you're going to, you're proposing to make that all macadam?

MS. KIMPLE: Yes.

MS. RANSOM: What happens to the cemetery?

MS. KIMPLE: It's in the back, it's deeded, the copy of the deed was in my packet, it's deeded to be sold with the church, so I would become responsible for the care and maintenance which included mowing. Doreen righted all the headstones, she had West Point cadets come and fix any of the damage to the headstones and put them in straight lines again so the only repairs that need, the only maintenance that needs to be done is mowing.

MS. RANSOM: So that's not going to be a problem for you maintaining it?

MS. KIMPLE: No, it's fine.

MS. RANSOM: So you're going to basically gut the church and start over again?

MS. KIMPLE: No, it's already segmented into three rooms that we would use, we're looking to put up right now the rooms are just doorways leading in or alcoves, we're going to close the alcove and put a door to help with the sound, tile, some parquet floors, insulate the walls that aren't insulated which is a lot of them, replace the non-historic windows with new insulated windows, replace the non-insulated doors, exterior doors with insulated exterior doors, we're looking to remove the pews from within the sanctuary area and make that into a studio but we'll be saving the pews and putting them up above there's storage above the sanctuary area, there wouldn't be a need to gut, make it handicapped accessible, just nothing big.

MS. RANSOM: Is it handicapped accessible?

MS. KIMPLE: Some spots but not all.

MS. RANSOM: And does it need to be handicapped accessible?

MS. KIMPLE: I think so, I don't personally teach any children in wheelchairs, I've never had a grandparent in a wheelchair come in but I guess that possibility does exist so we're going to widen the doors to the bathroom to make sure if that did occur we can accommodate that.

MR. DOBIAS: Now where you are now are you having problems?

MS. KIMPLE: No, we rent, it would just be, you know, we would own which would be nice. No, I don't have any problems where we are.

MR. DOBIAS: I thought you had a leaking problem?

MS. KIMPLE: We did have an issue with the roof, it's been repaired, I haven't had any issues since.

MR. DOBIAS: And you're going to have, what kind of events will you have?

MS. KIMPLE: We don't hold events there we, have a Nutcracker we hold once a year in December, we've held it for four years at the Central Valley Elementary School and we have a recital annually, we've had that at the Monroe Woodbury High School, Storm King School, it depends on which school's accommodating but we don't hold events at the studio.

MR. DOBIAS: Thank you.

MR. LEE: No questions.

MS. REGAN: No.

MR. MC GUINNESS: No.

MS. RANSOM: Is there anyone in the audience who'd like to speak to this issue? Okay, now, normally with a use variance you need to demonstrate that the property is not realizing a rate of return, do you have any financial documentation for this property?

MS. KIMPLE: On what, the current, what Doreen is paying out or getting back?

MS. RANSOM: Well or that the property as is if we didn't change the use is basically not worth anything.

MS. KIMPLE: I personally pay \$180 a month to Doreen to rent the space one day a week for three hours, I'm the only person using it and the only person who has used it for a full year so I guess if you're talking how much income does it bring in, \$180 a month for ten months. Is that what you're asking?

MS. RANSOM: Okay, well, we're asking for the zoning

ordinance, one of the grounds for relief is that the zoning regulations deprive the applicant of all economic use or benefit from the property and we ask that that be demonstrated to the board with financial documentation.

MR. KIMPLE: I'm Justin Kimple, Aggie's husband. We don't have any of that information partly because the last time it was trying to be sold as a church it was unsuccessful, nobody's been interested as a religious site. Doreen, the woman who owns it now tried to make a go as a spiritual center, there's no financial information on that because she's never made a dime doing that. So currently we have no evidence whatsoever that it has any ability to make money. There's a potential I suppose to resell but nobody's ever been interested in it.

MS. RANSOM: Did Miss Salerno make a go of the center at all?

MR. KIMPLE: We don't have any, we don't know what she did to make a go of it.

MRS. KIMPLE: I know she had a lot of plans, I don't know if she actually tried to execute any of those plans or not.

MS. RANSOM: So then all the renovations to the building are going to be done by?

MS. KIMPLE: Contractor, yes.

MS. RANSOM: At your expense?

MS. KIMPLE: Yes.

MS. RANSOM: Any questions up here? As far as the parking, there's definitely room to get all that parking on the front?

MRS. KIMPLE: I spoke with VanEaten Paving when we were talking about the finances for us financially and he did not do a layout plan, he did think he could get up to 14 if we were lucky including the double parking, I said ten to be on the safe side as I don't have a plot plan but he seemed pretty confident he could get that.

MS. RANSOM: Is there street parking on Clinton Street?

MS. KIMPLE: There is.

MS. RANSOM: On the opposite side of the church?

MS. KIMPLE: Yes.

MR. DOBIAS: And you've got a lot of kids being dropped off by the parents.

MS. KIMPLE: Which is why we were going to put the horseshoe in which is the vast majority of what parents do, they drive by, drop off, drive by, pick up.

MS. RANSOM: Cause you're on Main Street now, correct?

MS. KIMPLE: We're on the municipal parking lot so they drive through the parking lot, drop off, pick up and drive back out.

MS. RANSOM: And so then the church with some modification you feel will make an appropriate dance studio?

MS. KIMPLE: Yes.

MS. RANSOM: Any other he's questions? Thank you very much.

REGULAR_MEETING

APPROVAL_OF_MINUTES

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

MR. DOBIAS: So moved.

MR. LEE: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to consult 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. DOBIAS	AYE
MR. LEE	AYE
MS. RANSOM	AYE

(Whereupon, the board went into executive session.)

(Discussion was held off the record)

LORRAINE_BENNETT

MS. RANSOM: The first thing we need to discuss now is the resolution of finding of fact and decision as prepared by counsel on the application of Lorraine Bennett, the owner of two contiguous residential lots. We took this up last month. Do I have a motion to approve the findings of fact and decision as prepared by counsel?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MANOR_AT_CORNWALL_LLC

MS. RANSOM: Our next resolution findings of fact and decision is on the application of Manor at Cornwall LLC. Do I have a motion to approve the finding of fact and decision?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

BACHER_-_DECISION

MS. RANSOM: The first public hearing was on the request of Brian and Katherine Bacher. And they were seeking an area variance to install a 21 foot by 40 foot above-ground pool with insufficient rear yard. The ordinance requires 20 feet and the applicant is proposing 14. Shall we take the grounds for relief one at a time? Will the variance sought produce an undesirable change this 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.

MS. RANSOM: No and I think there was testimony that there was several pools in the neighborhood already. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance? I think he testified this was the only place that the pool fit and he also testified to the fact that there was significant foliage behind the property line. Is the requested variance substantial? We're being asked for 6 foot variance. Not really, again because of the screening. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

MS. REGAN: No.

MS. RANSOM: No, again, there are other pools in the neighborhood. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MS. REGAN: Yes.

MS. RANSOM: Yes but it's not going to be a detriment to the neighborhood. Do I have a motion that this is a Type 2 Action under SEQRA?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion to approve the area variance requested by Brian Bacher relating to property located at 10 Hampton Place?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

FIELDSTONE_ACRES_DEVELOPMENT_-_DECISION

MS. RANSOM: The next hearing we had this evening was on Fieldstone Acres Development. They're going to submit a map that has the lot sizes in the rest of the neighborhood and we also need to have Orange County Planning so we're going to leave that one open.

MICHAEL_MOUACDIE_-_DECISION

MS. RANSOM: The one on Meadowbrook Lane, Michael Mouacdie, again, we need County Planning approval and I think that we talked about possibly asking them to consider building a smaller house. So we'll ask the building department to send them a letter to that effect.

ROMAS_-_DECISION

_____ - _____

MS. RANSOM: On Mr. Romas we need to check with the building department to see if he does need county approval and I think that the board would like to read the minutes of the testimony from tonight.

ROBERT_WOODS_-_DECISION

MS. RANSOM: Next public hearing was on Robert Woods, 64 Palomino Place. The applicant is seeking a variance to allow an existing 24 into the circular above-ground pool and deck to remain with insufficient rear yard. The ordinance requires 20 feet, he's proposing 16 feet so he's asking for 4 foot variance. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby property in the neighborhood in which the applicant's property is situated?

MS. REGAN: No.

MR. MC GUINNESS: No.

MS. RANSOM: No, he mentioned that there's a significant railroad right-of-way behind the property.

MS. REGAN: There's also a dead-end.

MS. RANSOM: No neighbors can really see the pool. 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 and it won't have an undesirable change in the character of the neighborhood. Is the requested variance substantial?

MS. REGAN: No.

MS. RANSOM: Asking for a 4 foot variance, no. 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: Not really.

MR. DOBIAS: No.

MS. RANSOM: None of the neighbors came out to discuss this issue this evening. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MS. REGAN: Yes.

MS. RANSOM: Yes but again it shouldn't have an impact on the neighborhood and no one complained. Okay, 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
MS. REGAN	AYE
MR. DOBIAS	AYE
MR. LEE	AYE
MS. RANSOM	AYE

MS. RANSOM: Do I have a motion to approve the request by Robert Woods to allow an existing 24 foot circular above-ground pool and deck to remain with insufficient rear yard?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

LYNN_THOMMEN

MS. RANSOM: Lynn Thommen.

MS. REGAN: Let the record reflect I'm recusing myself, please.

(Whereupon, Ms. Regan stepped down from the board for this application.)

MS. RANSOM: Our next hearing this evening was on the request of Lynn Thommen to reopen the public hearing and modify the conditions of the variance. Do I have a motion to reopen the hearing?

MR. MC GUINNESS: Make that motion.

MR. DOBIAS: I'll second it.

ROLL CALL

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

MS. RANSOM: Motion to reopen the hearing is approved. We do need Orange County Planning on this, Mr. Frankel, okay, and the board chooses to read the minutes and make a decision next month.

MR. FRANKEL: Thank you.

TEK_STUDIOS_-_DECISION

MS. RANSOM: Next public hearing was on the request of Tek Studios and on this we're going to also need Orange County Planning determination, we can't make a decision without that. So we'll leave the public hearing open until next month. Okay, anything else to come before the board? Motion to adjourn.

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer