

November 19, 2007

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TOWN OF CORNWALL
ZONING BOARD OF APPEALS
NOVEMBER 19, 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 November 19, 2007 Cornwall Zoning Board of Appeals will now come to order.

LATIMER_-_CONTINUATION _____

MS. RANSOM: The first public hearing this evening is the continuation of the hearing on John and Cynthia Latimer. Just as a little refresher because this has been open for a couple months, the applicant is seeking a variance, an area variance to 158-12, Part 1, SL-R district, use group B, column number 3 of the zoning ordinance in order to subdivide an existing parcel into two non-conforming lots. The applicant proposes to create lot number 1 having gross lot area of 3.18 acres with a net lot area of 1.83 acres where a minimum of two acres is required. The applicant proposes to create lot number 2 having gross lot area 2.55 acres with a net lot area of 1.60 acres where a minimum of two acres is required. Thank you for the maps. The numbers in the public notice are slightly different than what the amended maps are now showing.

MR. LATIMER: Yes, Lanc & Tully when they actually put the electrical easement onto the property did their final calculations, these are the names that will be stamped and sealed, they were off by 2/100 of an acre on both lots so they reduced it down.

MS. RANSOM: The maps are correct, all right, so and lot number 1 is going from 183 to 180 and then lot number 2 is going from 1.66 or 1.60 to 1.58?

MR. LATIMER: Yes.

MS. RANSOM: At the last meeting you were also going to provide us with a map with your neighbors identified and do you have one for each of the members of the board please?

MR. LATIMER: Yes.

MS. RANSOM: Let the record show that the board has received a letter dated November 13, 2007 from Kathi Ellick, 5 Roaring Brook Road. Is there anything you'd like to add from the last public hearing?

MR. LATIMER: I think that's pretty much it. This map is the map that I provided last meeting, just blown up. I have each neighbor on there, actually shows all the other ones that are still, so those are just the 14 that I had to notify for the zoning board.

MS. RANSOM: Now, the Ellicks and Zayas, they go across your property, is that it?

MR. LATIMER: Yes.

MS. RANSOM: Questions from the board? Bill, anything?

MR. LEE: No.

MR. DOBIAS: No.

MS. REGAN: Just the way they go across the property.

MR. LATIMER: This is Route 32 right here, this would be the driveway right here so my road comes right up their road, excuse me, comes right up through here.

MS. RANSOM: When you say their road, you're referring to Roaring Brook?

MR. LATIMER: Yes, Roaring Brook cuts across my property, they give access to these two lots, this lot had been subdivided back whenever brought down to 1.9 acres which was done by Zayas.

MS. RANSOM: So Zayas in order to get to Zayas and Schult and Ellick they need to drive across your property? There's an easement across your property?

MR. LATIMER: Yes.

MS. RANSOM: That's also been subtracted out to reach the net acreage. Mike, any questions?

MR. MC GUINNESS: No, I think I got it. Roaring Brook, where is the--

MR. LATIMER: Roaring Brook is a private drive.

MR. MC GUINNESS: Zayas uses Roaring Brook?

MR. LATIMER: Yes, right here, so this is my property line right here all the way out to here and this is the lot I'm proposing so then Roaring Brook cuts right through it, that's why I have to have an area variance, I still have 1.58 of usable area but this lot here is 2 1/2, I believe just about 2 1/2 acres.

MS. RANSOM: The right-of-way for Roaring Brook takes

out .10 acres.

MS. REGAN: Do you have a maintenance agreement?

MR. LATIMER: Not on that but on Sugar Maples.

MS. REGAN: Schult and Zayas and the others use it and you don't have a road maintenance agreement?

MR. LATIMER: We've tried and there's just nothing.

MS. REGAN: So who maintains the road?

MR. LATIMER: Ellick and Schult.

MS. RANSOM: Anyone in the audience who'd like to speak to this issue? Can we have your name and address?

MR. ELLICK: Craig Ellick, 5 Roaring Brook Drive. I live directly above the property. That will impact us tremendously. I'm curious as to why the maps are being delivered tonight, I mean, we have been following this for about year and it's interesting about the road maintenance agreement, there was one outreach, I don't want to digress, there was one outreach a year ago and we haven't heard anything since. But the fact that the maps weren't even here on time and this has been continued for month after month, I'd like to look at the maps. And I can't imagine that the board can make a decision looking at the maps for five minutes. I haven't looked at them, it's going to be an unbelievable impact on my house and I understand property rights, I'm a republican, I like people making money, but when it affects me when I move in and I know that it's a 2 acre minimum and I buy my house specifically for that reason, I don't think it should have a variance of 1.58 acres. But I'll look at the map and I ask the board to forgive my emotion but I think this should definitely be looked at and the fact that the maps are here tonight as opposed to a week ago

or a month ago I find troubling.

MS. RANSOM: Thank you very much for your comments. Anyone else who'd like to speak to this issue? Can we have your name and address?

MR. NICOSIA: Mark Nicosia, I live on 5 Sugar Maples which is the next private road over which is where John lives. I have been following this also like everybody, I mean, there's a subdivision proposed and you want to look at it, make sure everything is okay. I have been living on Sugar Maples for 20 years, I have been a road manager for the last 15 years which anyone who lives on a private road knows that's like constant maintenance just to keep the road so it's passable. I moved in about three years ago, maybe four years ago and obviously when he put his house in he had heavy equipment coming in and out, he did cause damage to the road, he said don't worry about it, I'll take care of it and he is a man of his word, he took care of it. The road is better than it was, you know, before he built his house and he continues to help us with that. I had my concerns. We also have road maintenance meetings monthly, I guess we're a little more advanced than the next road over, but we do have meetings every month, we discuss the road, collect money monthly and we try to maintain our road. John's been a big part of that in helping us maintain the road. We also discuss his project on Sugar Maples and I believe we have six residents up there, nobody, I'm not speaking for them but during our meetings, nobody voiced any concerns as far as that they thought it was a great idea. So, I mean, going over what I see the plans and everything else I have no objections whatsoever. I mean, I think it's a good thing, it's a good thing for John, I think it's a good thing for Roaring Brook. They have added revenue to possibly make their road a little bit better and I think for the Town of Cornwall it's always good a little extra taxes, school taxes, I think it's a good thing all around.

MS. RANSOM: Thank you very much for your comments.
Mr. Latimer, anything else you'd like to add?

MR. LATIMER: I'd like to apologize for the maps being delivered tonight. During the last meeting when I was here, I'm not a land developer, I don't know the whole zoning process, this, that and the other thing, I thought I was supposed to bring the maps with me at the next meeting, like the one with all the names on it. I didn't know. Today when I called to make sure I was still on the agenda I found out that the maps were supposed to be presented prior. Once that had happened, Gary Vinson just said well, you're too late to bring them in now, you're going to have to bring them in to the board and try your luck with the board. So I apologize for them not being here on time. Again, I have never been through the process so I don't know exactly what the right protocol is for it.

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

MR. MC GUINNESS: No.

MS. REGAN: I guess the road maintenance why is it that it just falls to Ellick?

MR. ELLICK: No, Zayas and we have a great gig going and the road is fine, we never have a problem. One year we pay for it, we don't have to have a meeting because it's like when the road needs to be fixed, we fix it. And I appreciate the other comments but I've seen their road and it's kind of a nightmare but I digress again, we don't want to change our neighborhood and this will change our neighborhood. The land didn't change since Mr. Latimer moved in, I mean, it didn't change when he moved in, he knew he couldn't subdivide it. So I don't understand why and now it's a big deal this was never an option and I know that Zayas subdivided and I guess went down to 1.9 acres but

that's when the town it was a one acre minimum. The people of Cornwall voted on a two acre minimum for a reason. I pay \$15,000 a year in property tax so I can live where I live and I don't want a house directly, I wish you'd come out and look, it's going to be a huge impact, this gentleman over here lives on the other side of the hill, no impact whatsoever for him. My house, I will be watching the construction, I will be feeling the dynamite because there's rocks and it's a major project. My septic tank drains right into his field, I mean, it's a huge situation, that's why I want to look at the map. I want to look where the well is, it's a safety issue. I apologize for speaking too much but this is craziness and there's no hardship. I look at this hardship stuff and I'm thinking holy crap, he's got a house that's three times as big as mine, there's no hardship. I'll stop, sorry.

MS. RANSOM: Thank you very much. Any questions?

MR. DOBIAS: No.

MR. LEE: No.

MS. RANSOM: Mr. Latimer, anything else you'd like to add?

MR. LATIMER: No.

MS. RANSOM: Okay, thank you very much.

MR. LATIMER: All right.

BUTTERHILL_DAYCARE _____

MS. RANSOM: Our next public hearing is on the request of Butterhill Daycare.

Ms. Helen Bunt appeared before the board for this proposal.

MS. RANSOM: Notice is hereby given that the Zoning Board of Appeals of the Town of Cornwall, County of Orange, State of New York will hold a public hearing at the Town Hall, 183 Main Street, Cornwall, New York, on November 19, 2007 at 7:30 p.m. or as soon as thereafter as the matter can be heard on the application of Butterhill Daycare relating to property located at 10 Torrey Lane and designated on the tax map as section 22, block 10, lot 4. The applicant seeks two area variances to Section 158-12, Part 2, GC district, column number 3 and 4 of the zoning ordinance in order to use an existing building as a daycare center with insufficient lot area and lot width. The ordinance requires a lot area of 60,000 square feet and a lot width of 200 feet where the applicant has 32,443 square feet and a lot width of 195 feet. In addition, the applicant seeks a waiver to Section 158-21 W (1) of the zoning ordinance that requires a buffer landscaped strip. 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: October 24, 2007. By order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson. We do have a proxy, however, it's not filled in, it only is signed by Carol Davino, does not authorize anyone to speak on her behalf. So we'll go ahead with the public hearing but before any decision can be made we'll need a proxy for Helen authorizing you to speak.

MS. BUNT: I gave it to her to fill out, I never noticed that she didn't, she went and had it notarized

but she didn't--shame on me. Do I give you these?

MS. RANSOM: Yes.

MS. BUNT: I'm Helen Bunt, the sole owner of Butterhill Holdings which has two operations, Butterhill Day School which is at 265 Main Street in Cornwall and Butterhill Daycare which is presently at 422 Blooming Grove Turnpike. I am presently seeking to get these variances so that I can put daycare which is behind 265 Main Street, my main building, it's 10 Torrey, it was the yarn shop, the weaving place. Gail moved out of there, she relocated onto Main Street. You probably all know that. I've had the state come in that does the inspections, that's always your first thing to do and they have said that the building is acceptable to them. I am seeking to put in there 12 month olds and then 18 month to 2.9 month olds, after they're almost 3 they can go into my main building. The state at present glance says that I could put eight 12 month olds and ten 18 month olds on the other side. The only thing I have to do inside the building is some plumbing but on the south side I just have to put a fence so they can't get out that side door which would be emergency exit. Each building is sprinklered. It lends itself perfectly to the child care which we all know is needed. I think probably I can't do this anywhere else, that's why I'm asking for it. The piece of land is a big piece of land in town but it's not big enough for the square footage that the zoning is asking for. I already have a playground which is acceptable to the state so that if, and that's not a part of this land, it's a rental that I rent from Sheila O'Donnell so that added to this land also lends itself perfectly. I just have to change some of the swings and I'm okay and I can't put the babies out there at the same time I have my school students out there. So I do have that land. The parking's there, it does, it really is perfect for the child care and it's right there and makes one big operation for us to watch. And that's

the main reason. As far as the buffer, I don't know where I would put the buffer unless they want it along the fencing. I'm not sure where the buffer would be. So I'm asking for a waiver on that. Right now, the playground is there, you guys can drive by and see it if you haven't already.

MS. RANSOM: How did that playground get there without the buffer to start with since that's part of the ordinance?

MS. BUNT: Because the buffer I believe is a part of the daycare ordinance and not a part of school of special instruction, I'm thinking that because I did not have to get a variance, I didn't have to get a waiver for the buffer. I mean, we have considered doing some plantings there, we just, it's kind of hard to figure out because it's right by the road, anything we put there would probably be killed by the plowing and whatever. And we all kind of like being able to know what's going on around us so it's worked out better. One parent had asked if we can put some screening up and it would make the children feel like they were in a more of a cage I think so he came in and he looked, he said yeah, you're right, that would be the only kind of buffer I think that you could put on the road side, if we put some kind of screening on the fence which would look in my opinion tacky. But so that's the reason for us asking for the waiver on the buffer and the, like I said, the state holds me to a higher standard than the town, not that you're not tough on me but when you're taking care of babies the state really comes in and makes you tow the line and since they've already been there and it's sprinklered which is a really big thing.

MS. RANSOM: How big is the area?

MS. BUNT: The space inside?

MS. RANSOM: Yes, we don't have any site plan at all.

MS. BUNT: The space inside is 1,500 square feet, it won't be usable for the children because of what I have to do inside there, I don't have to put walls up but I have to delineate five feet this way and make paths for them to get to emergency and do certain things. But that's all done with the furniture, the cubbies, the bookcases and toy racks. I don't have to put any permanent walls up inside there, so you need 45 square feet to each child so they're letting me put 18 children in there.

MS. RANSOM: Okay, you're asking for a variance of 27,557 feet on the lot area which is almost 46 percent, that seems kind of excessive, how do you feel about that?

MS. BUNT: Well, as I said, I think that because I have the playground there already and that's not into the square footage of the land that the Davinos own, Sheila O'Donnell owns that piece of land and I lease that and I had to have that lease in place and the town has a copy of that lease in order for me to get the school there so that playground I'm not sure what the square footage is there.

MS. RANSOM: Do you have a rough idea?

MS. BUNT: I'm not good at that.

MR. RODD: Is that playground actually on the 10 Torrey Lane property or that's different property?

MS. BUNT: No, it's not on the 10 Torrey Lane, it's not a part of that square footage that you're looking at.

MS. RANSOM: So it is part of the Lemon building and then the parking lot for the Lemon building and then your playground is also on Lemon building property?

MS. BUNT: Yes and it's fenced in and I have a lease for it, all the maps and everything are upstairs, the lease is up there.

MS. RANSOM: Okay, and you have no ballpark idea of how many square feet it is?

MS. BUNT: I don't know, I'm sorry, I know it cost me \$4,000 to fence it in.

MS. RANSOM: At how much a square foot?

MS. BUNT: One whole side of it is the building so it was probably about \$10 a square foot.

MR. RODD: Are you proposing an outdoor play area for the 10 Torrey Lane?

MS. BUNT: No, the playground that's there is acceptable to the state for me to use so I don't need it.

MR. RODD: But that's not on 10 Torrey, that's not specifically part of this proposal?

MS. BUNT: Right, but in my explanation to say why I want or why I feel I should be granted almost half of the thing is that if I didn't have that playground I wouldn't even be here because there would be no place for the children to play. But since I already have the playground, it makes it acceptable.

MS. RANSOM: So they're going to share the playground with Butterhill and the only thing is you have to separate the times that the children and the daycare school and the daycare are utilizing the playground?

MS. BUNT: Right, they cannot be out there at the same time.

MS. RANSOM: Okay, and the playground is within walking distance of 10 Torrey Lane? It's within short walking distance of the school?

MS. BUNT: Yeah, it's just across the drive.

MS. RANSOM: Can you give us an estimate of how many feet that might be?

MS. BUNT: Twenty.

MS. RANSOM: So the playground is 20 feet from 10 Torrey Lane onto Sheila O'Donnell's property?

MS. BUNT: Right.

MR. RODD: So the buffer strip is required because the use you're proposing at 10 Torrey Lane is gonna use that playground area and the playground area needs a buffer?

MS. BUNT: I don't know why the buffer is required, I just know it's in the zoning, I don't know what their thoughts were there, maybe to protect the children from being seen by the public, I would think.

MR. RODD: Well, it does require a buffer strip for daycare centers for the play areas of daycare centers.

MS. RANSOM: Says to protect children from dust, dirt and noise as well as to screen and protect against adjacent properties from any site generated noise, so that's what our code says.

MS. BUNT: Okay, so, I mean, the playground has been there for a year and a half now we have been there and the babies will be a lot less noisy than 12 month olds and 18 month olds don't make as much noise as my 3 and 4 and 5, 6 year olds.

MS. RANSOM: There's no site plan included in the packet, was there any site plan done?

MS. BUNT: The only thing that I did that I thought that the only thing I had to do was my little Etcho-Sketch that I did to try to make you understand the layout of the back where I am, as you know, in relation to the others, the other buildings around me I thought I gave that to them to pass out to you. Just this little diagram where they provided for me is all I did. I have all the site plans from when I went for the school, I have all those, I know they're on file upstairs and I should of grabbed it from the office when I left, I didn't know that I would need it.

MS. RANSOM: Okay.

MS. BUNT: But that was more to let you see the playground is almost half the length of that block.

MS. RANSOM: Okay, Mike, any questions?

MR. MC GUINNESS: No, not right now.

MS. REGAN: No.

MR. LEE: No.

MS. RANSOM: I think for myself it would really me if I had an idea of how many square feet the playground is.

MS. BUNT: I wish I brought that with me. Well, I know that the width of it is, I think there's seven or eight parking spaces there across from where the weave shop was, so it's at least that many car widths wide and then the length of it is more than that so if I had known, I would have brought it with me.

MS. RANSOM: Okay.

MS. BUNT: It's at least as big as the parking lot that's behind me that we use, it's a nice size, I mean, it has a big sand box, it has a big play, it has four swings, it has a huge slide, it has the plastic play, it has the tree house, it has a lot of stuff in it and yet they, and the tether ball in the middle so it's a nice size playground.

MR. RODD: Is the entrance to the proposed daycare facility is that going to be from Main Street or--

MS. BUNT: No, that's on Torrey.

MR. RODD: It's going to be from Torrey?

MS. BUNT: Right there where the weave shop came in, it would be right there and the other door that faces Torrey will only be an emergency exit that will be fenced in and the children can actually there's a gate that's right in front of you, you can look, it's right across the parking lot from the weave store, so I have a gate that the children use to come in from the school into the playground so they don't have to ever go into the parking lot, they just come out and go through and that's in the back and then there's the gates that are right there by the weave shop.

MS. RANSOM: How close is the fence and the playground to Torrey Lane?

MS. BUNT: It's set back in, you mean how far is it set in?

MS. RANSOM: Yes.

MS. BUNT: Maybe four, five feet, four feet, maybe.

MS. RANSOM: Okay, does any road dirt get pushed into the playground?

MS. BUNT: No, my mulch goes out but the dirt doesn't come in.

MS. RANSOM: So you have mulch between the fence of the playground and then the road?

MS. BUNT: Yeah, it goes out underneath, it's out this far right now, works its way under, we don't really have, there's never been in the year and a half we've been there we haven't had a problem with neighbors, you know, the dust, dirt, the noise, none of those things have affected us.

MS. RANSOM: How much traffic is there on Torrey Lane during the day?

MS. BUNT: On Torrey we generate a lot of it so when we're out there on the playground most of the cars that are on Torrey are coming into us and if it we're out there for an hour you might see maybe five, ten cars that go that way that don't come into us because we watch for them to come pick up the kids.

MS. RANSOM: So the dropoff for the school and the daycare will be through Torrey into the back of the property?

MS. BUNT: Yes, that's the only way into that parking lot and that was a requirement of the town, we couldn't use the front door.

MS. RANSOM: Would you consider putting buffer landscaping in on that strip?

MS. BUNT: Which strip, on Torrey?

MS. RANSOM: Yes.

MS. BUNT: What kind of buffer?

MS. RANSOM: Well, some sort of buffer to keep the dust and dirt down from Torrey Lane into the playground.

MS. BUNT: What do you mean?

MS. RANSOM: Trees or plantings.

MS. BUNT: I could, I was going, I was thinking of putting forsythia all along my fences but I was just concerned with the salt and the stuff from the road wash off would just kill everything. That was my concern.

MS. RANSOM: I guess I'm concerned if there's wash off from the road that it would hurt children.

MS. BUNT: It doesn't get in there and we maintain that strip, we keep it mowed and weedwhacked right there.

MS. RANSOM: So there's grass between the fence of the playground and Torrey Lane?

MS. BUNT: Right, and you could probably, I'm sure the town would probably start coming along if it was too bushy they'd start coming along and cutting them on me. We could do it, I just I guess kind of, we've enjoyed being able to see out.

MR. RODD: You're now before the planning board too for site plan?

MS. BUNT: No, I have nothing to the, I went to the planning board work session.

MR. RODD: For what approval?

MS. BUNT: For the daycare to go there.

MR. RODD: For site plan?

MS. BUNT: I didn't do it formally, I went to the work session and told them what I wanted to do and they researched it and they said I couldn't do anything without these two variances, well, at least without the one I can, the buffer wouldn't stop me but the area and the road, the 190 and the 200 that would stop me. So I didn't go any further with the planning board. They've sent me, Leslie Dotson and the engineer and the attorney sent me to you, I'm assuming that once if you do approve it then that would be my next thing I would have to then do all that.

MR. RODD: Okay.

MR. MC GUINNESS: No questions.

MS. REGAN: No.

MR. DOBIAS: I just want to say that I went through her operation and I was very impressed.

MR. LEE: No questions.

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

MS. BUNT: That's it.

MS. RANSOM: So if you could get the Davinos to sign a proxy.

MS. BUNT: Do I need more maps or anything to you or no?

MS. RANSOM: Well, does anybody feel they need anything additional, site plan map or anything? I think we'd like to know the square footage of the playground.

MR. RODD: So you have a site plan map, seeing that we can't technically decide it tonight anyway, I think it would be of use.

MS. BUNT: I have the whole thing of the playground because that was a part of the lease.

MR. RODD: That would be great.

MS. BUNT: It's attached to the lease that Gary has upstairs.

MS. RANSOM: For the next meeting if we could have the proxy signed and a site plan map that would be very helpful.

MS. BUNT: Okay, so just the proxy filled in?

MS. RANSOM: Yes.

MS. BUNT: And the site plan of the main building and then of the playground.

MS. RANSOM: And the square footage of the playground.

MS. BUNT: Okay.

MS. RANSOM: Thank you very much.

ORANGE_COUNTY_RADIATION_ONCOLOGY

MS. RANSOM: Our next public hearing this evening is on the request of Orange County Radiation Oncology.

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 November 19, 2007 at 7:30 p.m. or as soon as thereafter as the matter can be heard on the application of Orange County Radiation Oncology relating to property located at 2565 Route 9W and designated on the tax map as section 14, block 1, lot 5.1. The applicant seeks an area variance to Section 158-12, Part Two, HC District, use group A, column #7 of the zoning ordinance in order to construct a 20' x 84' rear one story addition with insufficient rear yard. The ordinance requires 35' and the applicant proposes 15'. The applicant also seeks a variance to Section 158-16 B (26) of the Zoning Ordinance in order to allow a total of 23 parking spaces where 31 spaces are 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: October 17, 2007. By order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

MR. SULLIVAN: Good evening Madam Chairwoman and members of the board, I'm Jim Sullivan with Tectonic Engineering and Surveying. I'd like to first submit the affidavit publication in the Cornwall Local.

MS. RANSOM: Thank you.

MR. SULLIVAN: As you have already mentioned just to go over the brief description of the property itself, this is an existing radiological practice at 2565 U.S. Route 9W, property's tax map I.D. is section 14, block 1, lot 5.1. The area of the lot is approximately 1.06 acres,

zoned in a highway commercial zoning district. The practice is considered under previous site plan that was submitted in the early 1990's, it's an outpatient medical facility, it's a permitted use in the district, and that particular use is designated as use group A. The owner and applicant is present here tonight, Dr. Uma Mishra. The summary of the application that you have before you is an addition is being proposed to the building to replace an existing radiological machine. The applicant is seeking approval to build that 2,700 square foot addition to have that replacement happen, the addition is broken up into two pieces, first piece is in the rear the one that we're seeking a variance for the rear yard setback that's approximately 1,600 square feet and the area in the front is 1,036 square feet, the area facing the road. The reasoning behind the addition is the radiological machine that's being replaced needs several months to start up, in other words, it needs to be installed and it needs several months of for lack of a better term prep time. If Dr. Mishra were to simply abandon the existing machine and build a new machine he would have to suspend his practice, send his patients elsewhere and his practice would presumably suffer financial harm and his patients would basically result in having to seek cancer treatment elsewhere. The application as I said includes the two parts of the building addition, we're also proposing five new parking spaces located on the western most portion of the property, the northern end of the parking proposed we have two handicapped spaces and those are relocated handicapped spaces from what's already there and we have five new parking spaces on the southern end facing Route 9W. Just to discuss what's happened in the past with this application we have presented it to the planning board in October due to the two variances that we're seeking, they referred us to your board. Again, the two variances that are being sought first is a 20 yard rear yard setback variance for this portion of the building required in this zone is 35 feet and we have roughly 15 feet from

the property line, we're seeking eight space parking variance, 31 is required and 23 provided. Presently, the parking lot has 18 parking spaces including the two handicapped spots, we're moving the two handicapped spots as I discussed to the northern most end of the property and adding five new parking spaces so we have 16 plus 2 is 18 plus 5 is 23. As you have received my letter of November 7, 2007 we have submitted all of the items that are required as per Town Code. The application property deed you have in your possession this 24 x 36 plan which we're calling alternate site plan, you have a second sketch called a compliant parking plan, short environmental assessment form and General Municipal Law proxy statement, location plan, legal notice and the fee of \$200.00 has been submitted. In addition, we have provided tonight the affidavit of legal notice for mailings and the affidavit of legal notice for publication in the Cornwall Local. I'd like to go through briefly the application and the grounds for relief and the reasoning behind why we need the variances that we're seeking. And I'd like to follow the grounds for relief application. Beginning with first I'd like to actually just discuss the property itself and mention that as you can see, the wood line that's drawn on the western most part of the property this area, you know, is obviously wooded and also you've got heavy vegetation in front of that wooded area. Underneath that the soil is pretty much leach, I mean, I would say 90 percent of that western portion of the property is leach, on the eastern side you have basically cleared area, you have the parking that's already there, in the rear we're proposing the addition, the area's already cleared, there's no vegetation that's already, there are no trees, there's a, the ledge begins probably five to ten feet off of where we're proposing the addition but the area back there is relatively flat, suitable for the addition and would basically fit quite nicely there.

MS. RANSOM: Was that area recently blasted out?

MR. SULLIVAN: It wasn't blasted, it was chipped out and it was I guess relatively recent, when would you say?

DR. U. MISHRA: November of last year there were trees overgrown to the property so we called them to, the people who said they know the rules so they actually scooped out because it's all stone so they scooped out the stones. That's about it.

MS. RANSOM: So they scooped out stones and some vegetation as well?

DR. U. MISHRA: There's no vegetation, pretty much couple of small trees which grew about the last ten years, they're like junk trees so they were kind of overhanging so we saw that we called the guys they said I'll take \$600, called these guys, of course it's more money because he has to clean out the shale so it's all still shale there.

MR. SULLIVAN: Beginning with why the variance will not produce an undesirable change in the character of the neighborhood or be a detriment to the nearby properties. The addition is going to be used in the same manner as the existing building so the district is zoned highway commercial, zoned for this particular use and the addition is going to be used in that same manner. As I said before, the area that's being proposed is an area that lacks vegetation and the exterior finishing of the addition will be primarily matching what's already there in the interest of trying to blend the addition into the existing building so it will not have any visual impacts as far as that's concerned. As far as the detriment to nearby properties, I'm sure you're aware of the Willow Woods subdivision that's recently I guess received preliminary final approval or conditional final approval, Dr. Mishra's lot abuts that subdivision lot

18 is proposed on the west side, lot 19 is proposed on the north side and lot 20 is proposed on the east side. Lots 18 and 20, the proposed homes are significantly far away from the property, they do not, the property, the proposed homes themselves do not abut the property line or not anywhere near either the west or eastern most property line. The home that would, that we would look at to see if it would have any significant impact would be the one closest to the northern most property line and there's a proposed home approximately here according to the site plan that I have reviewed. The difference in elevation between what's proposed, actually what you can see the topography rises rather steeply in the back, it's approximately 15 feet, first floor is approximately 15 feet higher than the elevation of the proposed addition. The addition is one story, roughly 11 feet high, there will not be anything above it, it will just be one simple flat one story building. So it will be 11 feet tall. So the person who's living in that home looking out will not see the addition at all. As I said before the area's cleared so if you put a building in there it's lower than that first floor elevation and you're standing out looking you won't see it.

MS. RANSOM: So the addition is going to have a flat roof or a peaked roof?

MR. SULLIVAN: It will be a--Dr. Mishra?

DR. U. MISHRA: I think the architect recommends flat roof, even if it's going to be where you will be standing still it will be a lot lower in height than the roof in the front because the existing building has an attic to the space which is much higher in elevation than the back one which will be mostly housing the chiller, the air conditioner type of, because this will not have a sub-basement like the original building which has a sub-basement to house all the utilities and the oil tank, et cetera. So that's why it's going to

be much lower in height, it will not exceed because this is going to be exactly one story, there will be no stories on the top.

MS. RANSOM: Okay.

MR. SULLIVAN: Although I have described the parking space variance throughout the several questions that are asked, I prefer to leave that to the end because I have provided a supplemental document that has several attachments to it that provides further grounds for relief than what is described here. Part B explains why the benefits sought by the applicant cannot be achieved by some method for the applicant to pursue other than an area variance. Just to clarify how the addition will work the existing building has office space in the front reception area, it has an area for people to sit waiting to be received and there are essentially three treatment rooms within the building, one being radiological treatment room and then there are two other treatment rooms. With the addition as it's proposed and as I would say would be environmentally friendly, the new machine will take up where the existing reception area is, it will basically have to move that into the rear, hence the addition in the back which will basically take that front end area and move it to the rear, allow for the construction of the new machine in the front and the start-up time that's required for that while also allowing the existing machine in this area of the building to remain and continue to operate.

MS. RANSOM: So reception is moving to the back of the building?

DR. U. MISHRA: No, reception will be in the same place. The equipment rooms are large in size, about 1,000 plus square feet each so the parking space requirement of 200 square feet for one parking does not apply to the treatment room spaces because at any

particular time for those 2,000 square foot space there's only two people at the most maximum, so the largest space occupying spaces are the treatment rooms, the sitting room. So for that, the large spaces occupied for 200 doesn't apply to the parking space requirement because these rooms are individually, they are over 1,000 square foot space and the one which we're proposing it's about 1,026 I believe and originally we had about 18 spaces, now we're proposing 23 because we don't need all the parking spaces because we never had that problem in all these years because these machines are designed to have a 15 to 20 minute treatment time so there's nobody waiting on the parking space, I'm talking about the parking space variance.

MS. RANSOM: I'm a little bit confused as to where the new machine is going to be set up.

DR. S. MISHRA: May I have permission to speak? I'm Shanti Mishra, I work in the same facility. What will happen is this, we have a back entrance for the ambulance so that's where we'll be doing the building adjacent to the existing treatment room. So that area will be built for the second machine so the ambulance entrance when the patient comes from the hospital they'll be coming through the main entrance to go through the current treatment room and then we'll open an opening in the middle so the ambulance patients again can come through the separate entrance and then the regular patients.

MS. RANSOM: How many weeks, months in a start-up for a machine?

DR. U. MISHRA: It will take close to six months before you can build and install the machine.

MS. RANSOM: Okay, so the machine you currently have is ending its life or--

DR. U. MISHRA: Fourteen years old, 14 plus years old it's ending it pretty much.

DR. S. MISHRA: The company servicing it is saying if you keep it serviced we can get another three or four years out of it but we want to be on the safe side.

MS. RANSOM: So you're being proactive, you're putting in new technology that's going to take six months to get up and running?

DR. U. MISHRA: About, yes.

MS. RANSOM: And is the new, I'm sorry, is the new technology going to be in one of these two proposed additional areas?

DR. U. MISHRA: New room, in the new room.

MR. SULLIVAN: It will be in this front area.

MS. RANSOM: What happens when the old machine does reach the end of its life and goes?

DR. U. MISHRA: Well, if it dies then it's gone, either I'll replace that with another machine or otherwise we'll just keep it working with the service contract and see what can be done out of it.

MS. RANSOM: Does--

DR. U. MISHRA: The technology's not that old but the machine is reaching its end of life according to the requirement of the machine.

MS. RANSOM: Does two machines allow you to see twice as many patients?

DR. U. MISHRA: Truly I'm already here 14 years in that place, it has not happened in this area so far as the

statistics is concerned, so the area does not produce as much patients for radiation to have that many patients in the space. It can allow, yes, officially but I don't think it will happen.

MS. RANSOM: Are there other facilities in the area that perform the same service you do?

DR. U. MISHRA: None at this time.

MS. RANSOM: So Dr. Mishra, where would the nearest--

DR. U. MISHRA: Horton Hospital and Vassar.

DR. S. MISHRA: Horton has a second facility in Goshen and Vassar has a second facility in Fishkill.

MS. RANSOM: Okay, I'm sorry.

MR. SULLIVAN: I was trying to give the reasoning behind putting the building where it's proposed. If we put it along the east side of the building the existing building we'd lose this parking area which would most likely have to be added on the other side where I mentioned there's a lot of ledge, there'd be a significant cost in constructing that if we put the addition on the west side we'd be dealing with ledge outcrop and the expensive cost of constructing that, it would be taken down and already what I would consider to be a rural area, an area that's undeveloped it would be destroying that area if we had to put the addition there. With regard to Part C, explain why the requested variance is not substantial. With respect to the rear yard setback variance, it's a 57 percent reduction in what's required, however, in keeping with the idea of what type of visual impact it will produce whether it will affect neighboring properties considering the elevation that it's set at, the fact that it will not be seen by neighboring properties, I do not believe that to be a significant reduction. In

addition for the eight space parking variance that's a 26 percent reduction and the required number of parking spaces again 31 is required and 23 is provided. I will discuss that in a moment. With respect to Part D, explain why the granting of the proposed variance will not have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district. Again, with the building proposed as it was we're maintaining a lot of the existing cover that's there, not proposing a lot of new impervious surfaces, making use of the lot as it presently exists, kind of putting the addition in in a way that would be environmentally sound. And also as far as again the site is concerned and seeing the building the proposed homes in Willow Woods will not see the building at all due to the ridge line. With respect to Part E, explain briefly how the hardship imposed by the applicant by the applicable zoning regulations arose specifically stating whether or not the situation was self-created. As Dr. Mishra explained, the machine is nearing its, the end of its service life, that's not something that he created, it's something that's just a factor of technology, in order for him to continue his practice and to continue to service, his patients, he needs that new addition in order to maintain in order to keep one machine running until the new machine's online which would take approximately six months to happen. If I could, I'd just like to go through the parking variance grounds for relief discussion that I provided in the application appendices A through D are pictures that were taken on the peak days that the doctor sees the most patients, which is Tuesdays and Wednesdays. We took pictures of the parking lot at 11 a.m. and 3 p.m., decided to do it at median intervals in the morning and afternoon, just the general logistics of the building, there are six full time employees, one part time person, as I said before, the building itself has two treatment rooms and one simulator room, again, it's another treatment room. The appendices E and F are copies of the patient logs that the doctor has for

those two days and as you can see most visits operate every 15 minutes people are in and out, there's no stacking, there's no people waiting to be served because the building can only service three people at a time. So if you run the math you say there's six full time employees and one part time and there's potentially three people if the practice is running full at any given time you would need ten parking spaces. The pictures that we took on the peak days Tuesday and Wednesday the most that we, most cars that we saw were seven which the facility is not operating at peak capacity right now as Dr. Mishra explained there are a certain number of patients in the area but there's not a substantial number but that's to demonstrate that the existing parking lot is more than adequate than what's needed. There are 18 parking spaces provided today and peak, at the peak time there were seven cars, the building is not going to be generating, it should not be generating if the, once the machine eventually is terminated the old machine if they do not opt to bring in a new machine the same number of clients will be received, the same operations will happen, three persons at most at any given time can be serviced every 15 minutes but it's an in and out procedure.

MS. RANSOM: So the maximum number of cars you would have are six employee cars and three patient cars?

MR. SULLIVAN: Yes.

MS. RANSOM: Or maybe four patient cars if somebody got there early?

MR. SULLIVAN: If somebody got there early, sure, absolutely but--

MS. RANSOM: So you're figuring 10 to 12 cars at the absolute most would be in there?

MR. SULLIVAN: Twelve would be the maximum.

MS. RANSOM: Okay.

MR. SULLIVAN: As I've already explained several times I guess the building itself is to allow for the replacement of the radiological machine, the new machine takes six months to begin operation, if the addition were not allowed, practice would be out, suspended services for a significant period of time. It would cause undue harm to its patients and to the practice. I'd like for you also to take a look at Appendix G which has a fully compliant parking plan and it's an 11 x 17 plan and it shows the total number of parking spaces that are required, 31 spaces. As I mentioned before, that area of the property where I had laid out that parking lot at a maximum of 5 percent, 2 percent for handicapped, 5 percent generally for the parking lot would result in at least a 10 foot cut in the back bringing that grade, bringing the drive into the back and essentially terminating at the minimum I believe it's 4 feet off the property line which is what the code allows. The cost is significant, it's \$70,000 based on the amount of rock excavation, additional pavement, additional sidewalk, additional curb that would be required. And in light of the fact that the practice in our estimate and in our analysis does not need more spaces than it already has we're trying our best to provide additional spaces to try to meet zoning code but also keeping in mind the need versus the cost impact and lot of times that I believe is a consideration that's high up on the list as far as whether or not a variance should be granted or not. That's all I have. Are there any questions?

MS. RANSOM: Now I'm assuming the machine since it has radiation the room has to be built to certain specifications, does that take a long time as well?

DR. U. MISHRA: Well, yes, it does take some time to

get to the specifications and the special materials to be built with and the special high density concrete or design or other things to be coming in if we have to go that route. But mostly we'll be doing with high density concrete, yes, it's all those things are very time consuming, it's a very specialized building.

MS. RANSOM: Since that's going to be in the front, is the facade of the building going to change significantly?

DR. U. MISHRA: It is, the other side of the, the front part will not change, we have an architectural concept how that will look like it will definitely be matching with the existing front part of it and the architectural.

DR. S. MISHRA: This is just a rough drawing.

DR. U. MISHRA: Just a rough drawing, just came up a couple days ago but there will be something because that side of the machine it's not finalized, there's a lot of changes to be done.

MS. RANSOM: What's the addition in the back now going to be used for?

DR. U. MISHRA: That will be the physician's office, the physician's planning office that will be one of the examination rooms from the present existing structure so that will move back to the back and the room will be relocated in that back corner there. The big room there if you can look at the architectural concept that will be used for some stuff, the physician's planning office will move down because there are a lot of equipment for the physicians that will go to that big room there in the back and so it will be used for the same purposes but no original patient equipment rooms are going to be there.

MS. RANSOM: So the old machine stays and the room where it's already got after the proper concrete and everything--

DR. U. MISHRA: That will be staying there pretty much.

MS. RANSOM: So that's going to stay there?

DR. S. MISHRA: There's another radiation for internal radiation so that's brand new so that will be outpatient.

DR. U. MISHRA: Staying there.

DR. S. MISHRA: Because of all this new equipment and all the technology, the number of computers have increased and now they have to be updated so I can be more efficient.

DR. U. MISHRA: We used to have four or five computers, now we have pretty much like 11 or 12 computers out of reach, she operates most of them, all the new things and technology.

MR. MC GUINNESS: You mentioned that the proposed development on the back side on the north side you weren't sure how close that house would be to section 14?

DR. S. MISHRA: We're not adding anything on the north side so that shouldn't be any difference, all we're adding is in the west and on the east.

MR. SULLIVAN: On the subdivision plat you mean lot 19 for Willow Woods?

MR. MC GUINNESS: Yes.

MR. SULLIVAN: Lot 19 that's roughly--

DR. U. MISHRA: I haven't seen the plan but the owner has called me and he has given his blessing that there's no problem because the back part he wants to put some circular driveway and make the traffic flow because next to it is about a 20 foot drop as you know the whole thing is a 20 foot gradient so he wants to keep that there will be two buildings will be built, two houses will be built I believe number 18 and 19 they'll be far off, he will be on the front road there, it's not going to be butting against the property line or whatever the requirement line is.

MR. SULLIVAN: The answer to that would be 40 feet, here's our lot and here's lot 19 from there to the property line is 40 feet.

MR. MC GUINNESS: Okay, that's at least almost a 20 foot drop.

MR. SULLIVAN: That's right.

DR. U. MISHRA: Yes.

MR. MC GUINNESS: 224 to 208.

DR. U. MISHRA: In fact, the space is perfect for the radiation building that you have the ground and the rocks they take care of everything.

MR. SULLIVAN: On this map it's 226 to 210 so 16 feet.

MS. REGAN: So basically if I understand you even though you're asking for the square footage it's not going to be used in such a way as to increase people and space, it's going to house equipment so the parking is not as important?

MR. SULLIVAN: That's correct, it's strictly for equipment and really at the end of the day if you were to look at the building use, if it were to be for

occupation of people I think that would generate, that would obviously generate more need for parking than machines, machines don't need parking.

DR. S. MISHRA: And for storage we have a lot of outpatients are doing well and so we have those records to protect.

MR. DOBIAS: No questions.

MR. LEE: No questions.

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

MR. NEWMAN: My name is Peter Newman, my address is post office box 469, Cornwall. I have houses on Mineral Springs Road and Cornwall-on-Hudson. I'm talking against this request for the variance. I ask you to keep in mind certain numbers, 57 and 26, 57 percent is the variance that they want to cut down on the back from 35 feet to 15 feet, that's a tremendous amount, 27 percent is the parking space variance. Also very interesting that Dr. Mishra's response to one of the questions that was asked as to whether or not after the new machine is in will the old machine keep working, a little bit evasive but eventually he said yes, it would which would mean more people. Now you're going, if you're going to grant this variance and it's a tremendous variance, 57 percent as is the 26 percent, you also have ambulances coming in as was indicated by the man from the engineering department and you are generating more traffic and if in fact two machines are going you're going to get more people. I think that that has to be considered, these rules and these distances have all been put into place after great consideration and many people come in asking for variances of tremendous amounts and if it's granted willy-nilly that's what we're going to have, we're going to lose our whole master plan. So I would like

to go on record as being opposed to the variances.

MS. RANSOM: Thank you very much. Is there anyone else who'd like to speak? Questions up here? Anything else you'd like to add at this point?

DR. U. MISHRA: Well, should I respond to the question which was asked if I were to have expected anticipated for the future more traffic flow I would have more packing spaces. In fact, we'd have to reduce that requirement because in the last 14 years, it's not in the past 14 years it has not happened. So that's why we produced our consecutive weeks of patient flow on Tuesdays and Wednesdays, which is the maximum number and even he has gone beyond that to take pictures in different times of the day. So he also found out the parking spot remains empty even with this machine, we can have close to 36 to 40 patients there every day, the area does not produce because, cancer patients are like four per thousand. So if you're looking to Cornwall and it's pretty much cancer patients that are originally taken care of so if we look at Middletown, they have two machines, two facilities, look at Vassar, they have two machines, two facilities we have because Cornwall has only population of 13 to 12 to 13,000 population, New Windsor has 26,000, we always do our statistical calculation because this is not a regular medical office, this is a highly, highly specialized medical building, thank God we're here and we have blocked a lot of people's movement to go to Mt. Sinai, Cornell, Columbia or any memorial but that's why we're still here and we're supporting you with the maximum and we still stay here. So it's not that we don't have a high anticipation, it doesn't happen and after 14 years, I can tell that very clearly and we have a lot of people that have been benefited by us being there, it's just to make new technology available for the town so it has nothing, I would have asked first give me more, ten more parking spaces, whatever, wherever I can put it, it doesn't, after 14 years most I've seen of

the parking, most of the parking spaces remain empty and the cancer patients come every 15 to 20 minutes and we have a very significant practice of having the waiting rooms and the patient rooms monitored by four ways splitting image so nobody waits more than 15 minutes, we don't even have a T.V. in our waiting area.

MS. RANSOM: Thank you, Dr. Mishra. Any other questions? Thank you very much.

MR. SULLIVAN: Thank you.

MS. RANSOM: We have to leave this public hearing open regardless because we have not received official approval from the County Planning yet. Thank you very much.

REGULAR_MEETING _____

MS. RANSOM: Okay, the minutes of the October meeting have been distributed, are there any additions or corrections?

MS. REGAN: No.

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

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Do I have a motion that the board go into closed session to address legal issues with the board's counsel?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

(Whereupon, the board went into closed

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session.)

(Discussion was held off the record)

LATIMER_-_DECISION

MS. RANSOM: Mr. Latimer, we're going to leave your public hearing open until December so that your neighbors have an opportunity to review the maps. Now, did you leave a map with the building department?

MR. LATIMER: No, now there's seven maps here, so do we need just so we're clear we need more maps?

MS. RANSOM: One of us can give up our map.

MR. MC GUINNESS: I'll give up mine.

MS. RANSOM: Thank you. Please make sure that the building department has this so that your neighbors have an opportunity to review it and then our next meeting is December 17.

MR. LATIMER: Is there anything else I need to do?

MS. RANSOM: I think we've got everything. We just want your neighbors to take a look at the maps.

MR. LATIMER: I appreciate it. Thank you.

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BUTTERHILL_DAYCARE_-_DECISION

MS. RANSOM: Okay, Butterhill we'll keep open, we need a proxy and we also asked Helen to submit a number of different documents, the site plan and square footage of the playground as well as counsel's going to speak with the building department.

ORANGE_COUNTY_RADIATION_ONCOLOGY_-_DECISION

MS. RANSOM: And we also need to get official planning documentation before we can complete Orange County Radiation Oncology.

Is there anything else to come before the board?
Motion to adjourn.

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer