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TOWN OF CORNWALL
ZONING BOARD OF APPEALS
JULY 21, 2008

MEMBERS PRESENT: LENORA RANSOM, CHAIRPERSON
EILEEN REGAN
MICHAEL MC GUINNESS
TED DOBIAS
WILLIAM LEE

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
ZONING BOARD ATTORNEY

MS. RANSOM: I'd like to call to order the July 21,
2008 meeting of the Cornwall Zoning Board of Appeals.
We have several public hearings this evening.

GERARD_ & PATRICIA_WAGNER_- _CONTINUATION

MS. RANSOM: The first one is a continuation on the
request of Gerard and Patricia Wagner, 6 Cherry Hill
Road. They are seeking an area variance to increase
the height of an existing fence from 6 foot to 12 feet.
Are the Wagners here?

Mr. and Mrs. Wagner appeared before board for this
proposal.

MS. RANSOM: We heard a lot of testimony last month.
Is there anything at this point you'd like to add? I
know that I stood on your deck and I think some of the
other board members did as well so we also have your
pictures as part of the record. Is there anything else
you'd like to add?

MRS. WAGNER: I just wanted to make sure that you have a copy from the Orange County Department of Planning where they had--

MS. RANSOM: Yes, they're leaving it to local determination.

MRS. WAGNER: And if I read this correctly, they saw no evidence of significant impacts that would result.

MS. RANSOM: To the county, that's why they leave to it local determination.

MRS. WAGNER: Other than that, thank you for your time last time we spoke, that's all that we needed to add.

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

MR. DOBIAS: I'd like to ask a question. If that property becomes vacant, will you be willing to buy that piece of property from those people?

MR. WAGNER: Well, we have made offers which have since been rescinded. I don't know if I can answer that right now to be honest with you, Ted, possibly is probably the best answer I can give you.

MRS. WAGNER: Because that was the avenue we went down to try to resolve this problem.

MR. DOBIAS: That would solve all the problems.

MR. WAGNER: Yes but there's some bad karma, I think I mentioned that last time, we just have bad feelings about that property but that said the best answer I can give you is we would certainly consider that, yes.

MS. RANSOM: Mike, did you have any questions?

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MR. MC GUINNESS: No.

MS. REGAN: No.

MR. LEE: No.

MS. RANSOM: Anything else?

MR. DOBIAS: No.

MS. RANSOM: Thank you very much.

MRS. WAGNER: Thank you.

HENNESSEY, _LOPRESTI, _FUNCK_ - _PUBLIC_HEARING

MS. RANSOM: Our next public hearing this evening is on the request of Hennessey, Lopresti and Funck, 20 North Main Street. Are there representatives here? 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 July 21, 2008 at 7:30 p.m. or as soon as thereafter as the matter can be heard on the application of Hennessey, Lopresti and Funck relating to property located at 10 Stonybrook Lane and designated on the tax map as section 18, block 1, lot 16.3. The applicant seeks an area variance to Section 158-12 table of bulk regulations, SR-2 residential district, use group C, column number 8 of the zoning ordinance in order to eliminate 83 feet of road frontage that the Funck lot has on North Street leaving only 20 feet of road frontage on Stonybrook Lane where the ordinance requires 70 feet of road frontage. The zoning board of appeals 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: June 3, 2008, by order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

Also let the record show that we have received proxies from concerned parties to allow Steve Drabick to speak on their behalf.

MR. LOPRESTI: Yes, good evening, I'm Mike Lopresti, Steve Drabick is on vacation, I'm one of the property owners that's down on North Street. I reside at 30 North Street. Pretty much the variance that we're asking for on the topographical map which I believe the zoning board already has.

MS. RANSOM: We don't have any maps.

MR. LOPRESTI: May I bring it up to you?

MS. RANSOM: This is probably going to be an issue the fact that no one has a map, no one's been able to study a map.

MR. LOPRESTI: I was under the assumption, not the assumption, but I believe Mr. Drabick had actually brought the topographical map. I have one right here if you want to look at it.

MS. RANSOM: I'm thinking that well if you want, do you have two by any chance?

MR. LOPRESTI: I actually have a full map and a detail of the section that we're going to be discussing.

MS. RANSOM: Because I think if you can give this half of the room one map and this half one map so we can but I think that you're probably going to before we make any decisions on this need to get copies of the maps for every member of the board so that, cause this is kind of a confusing request.

MR. LOPRESTI: I understand, not a problem, I can take care of that. And I will bring this one over here to you which is a detail, I'll explain both drawings to everyone.

MS. RANSOM: What are we looking at?

MR. LOPRESTI: Right here what you're looking at this is North Street as it comes down off Main, Center Street running adjacent to it. The parcel of property that we're interested in purchasing and get an easement for is from the Funck's here, starts at the end of North Street where it drops off literally and runs diagonal, the parcel the way it's split passed the rock wall which our property now this is the proposed K-turn that the town had wanted us to, Mr. Drabick draw up for the road as a proposed plan. This is where I reside

now at 20 North Street, 30 North Street, 20 North Street's right here. This is a barn that's also at the bottom, the property runs pretty much all the way down passed here, the Funck's property and on a diagonal 20 foot passed where the post comes right across this way. So pretty much what ends up for the subdivision somebody would need to have an easement and the Funcks showed interest in wanting to relieve themselves of a problem here with a liability, also with the ravine that's also at the top right here of the piece of property and also to have conforming lots plus so that we could maintain the road right now because there's a drainage problem at the top. There's some drainage pipes, so the water collects down at the bottom and doesn't have any way to bring it over here. So pretty much there's a lot of concerns and I'll show you gentlemen over here, right here this is the, right here the property line starts with the Funck's 30 foot right-of-way and runs all the way down passed the stone wall here where my property line starts and ends back here about 200 foot into the property.

MR. DOBIAS: How far is the girl scout cabin?

MR. LOPRESTI: Girl scout cabin is all the way up here, so this parcel pretty much right now we're lot B, the Funck being lot A that have to maintain the road so pretty much what we wanted to do is divide this piece of property, pretty much this is the parcel that we're looking for, runs all the way across the stream, across the driveway pretty much right here and this is the proposed K-turn for the road.

MR. CORDISCO: The proposed subdivision line?

MR. LOPRESTI: Right.

MS. RANSOM: So you're looking to, you're trying to, the ranch house and the little two story are now on one parcel?

MR. LOPRESTI: Yes, they are.

MS. RANSOM: Okay, is Center Street a town or North Street a town road passed the girl scout cabin?

MR. LOPRESTI: No, it's not, it's a public road up to where Center Street becomes adjacent to North Street right there is where the town says is their responsibility, anything passed that is actually a private driveway so we're responsible for the plowing, maintenance of the road and so forth and such.

MS. RANSOM: So you're proposing a lot line change with the Funcks?

MR. LOPRESTI: Yes, ma'am.

MS. RANSOM: So that you have road frontage on a private drive?

MR. LOPRESTI: Well, it's not a, well, it's a private driveway pretty much cause this is the Funck's parcel of property right here and this is pretty much what we're trying to exchange over.

MS. RANSOM: But where does, where does that hit North Street or is the private drive called North Street?

MR. LOPRESTI: Well, it's Funck's property line starts right at the end of North Street, literally North Street runs straight into the driveway where their property line starts so where Center Street hits adjacent to it right at that adjacent line at this corner is where it ceases to be public property of where the town would have to maintain the road or plow it.

MS. REGAN: Does this have a name?

MR. LOPRESTI: No, actually it's unnamed as of right now because both parties have access and easements to it as being lot B, the Funck's being lot A, no one's named the road.

MS. RANSOM: But it's considered a road so it is road frontage.

MR. LOPRESTI: It's really a driveway, it doesn't meet private road standards which is also another issue which we'd benefit if we were able to have the lot line change, we can bring the road back up to private road standards, improve the road like I said there's drainage problems and have to deal with the road.

MR. MC GUINNESS: Can I ask Gary a question? Gary, does this sound right to you with the 911 system?

MR. VINSON: The addresses for the properties have a North Street address for 911 purposes, there are some roads in the community that are part public and part private and to avoid the in the middle of a street placing the street sign, understand what I'm saying, in the middle of the street putting a new name, we keep it the same name and give it as an address so 911 recognizes it as an extension of North Street, that's private, that's maintained by the homeowners. We would not want to have them name it ABC Drive in the middle of the lane like that because you wouldn't be able to find it, you'd have to put another name plate out on the main road. That's just sort of for addressing purposes something we don't want to do. Does that make sense?

MS. RANSOM: Yes, but is this road frontage on a road or is it road frontage on a driveway?

MR. VINSON: Well, it's always been a driveway because it served two houses that were on one lot and what the applicant is attempting to do is to do a subdivision

and neighboring property owner is looking to do a lot line change that would provide them additional land in the area where the road right-of-way is so they can make the improvement. It would follow the lines of the stream as a better boundary line for the property and in doing such see the Funck lot right now has 83 feet of frontage on this North Street extension, the private road part, and so by doing the lot line change the Funck lot loses that frontage. If you go up to the other end where you saw the street meets Center Street which is where Stonybrook Lane is the Funck property has 20 feet of frontage there but 70 is required. So there's really nothing that's changing out there, it's really all on paper, but it requires a variance on an adjoining lot that these folks in order for them to do their subdivision. Does that help, does that help to clarify what, in other words, Funck lot has frontage on a road now that's going to be eliminated and the existing frontage that the Funcks use to access their property is in a 20 foot wide right-of-way or bridge so that's, and that's what's necessitating the variance.

MS. RANSOM: Okay, so does it need to be a road though?

MR. CORDISCO: That's actually the variance that they're looking for, in other words, it would be 100 percent variance from the requirement that they have frontage on a road.

MS. RANSOM: Because it's not really a road, it's a private driveway?

MR. CORDISCO: Correct.

MS. RANSOM: So, in other words, the legal notice should be, should be, it's a hundred percent variance if the ordinance requires 70 then they really need 70 feet?

MR. CORDISCO: Correct, for each lot, you know, my

understanding is that there's, this area's existing, has existing buildings on it, existing residential buildings on it that you're looking now to do a subdivision so that they could have each building on its own lot. They're not proposing any additional new structures.

MR. LOPRESTI: Thank you. The split amongst the family, the other property technically would be going to my brother-in-law and his fiance' so we like to keep it amongst the family ourselves.

MS. RANSOM: Mike, any questions?

MR. MC GUINNESS: No, it's pretty clear now.

MS. REGAN: No questions.

MR. DOBIAS: No, ma'am.

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?

MR. FUNCK: Bob Funck. I'd like to just ask a question. I know Eileen was there this afternoon. How many of you have actually seen this piece of property, came down and looked at it?

MS. RANSOM: I was there yesterday.

MR. FUNCK: You know where my frontage is is basically the only way I can get to my property is across my actually 12 1/2 foot bridge, that's my frontage really the rest's all stream, you go from the point on the right side of my bridge across it goes all the way across the opposite bank is all stream. So when you say frontage, you're talking about stream frontage, not

talking about land frontage. I just want to make that clear.

MS. RANSOM: Thank you. Would you like to speak?

MR. KRYZAK: Yes, my name is Harry Kryzak, I live on Center Street, 2 Center Street on the corner. Fourth of July my civil rights was taken away by that gentleman, he put a line across on the town piece of property with no entrance to my house, the fire department, the girl scouts, he denied everybody. Then finally Gary and the police chief came down and took it all apart so then he went around in the neighborhood and told every neighbor that he will get rid of us on the corner, he will make a gatehouse out of our piece, our property and it's total harassment. There were 85 years of bushes planted there. Now that he gentleman comes in and harassed the living hell out of my wife, out of my workers who are working on the porch. I don't know, my civil rights was broken and taken away by that gentleman and he even says I come with my son and sit in front of it and let nobody come in that property. There's the girl scouts, the traffic is horrendous speed wise, 40 miles, I clocked it 40 miles an hour. There must be about six, seven different families coming in and out, it's a highway now. What will happen to the girl scouts when the girl scouts has a party there, just will run over everybody. He comes down and starts taking, telling my wife that the trees goes down, that tree, those bushes. Where is my civil rights? And that frontage you're talking about it's 22 foot, that's what the gentleman says is like lake frontage, that stream frontage. Frontage the way I understand is the entrance of that property, it's just 22 foot. Where is that property, that frontage they're using is beyond our property and we have a legal right, easement by court, by everybody and that man is just destroying us, I don't know where that man comes from.

MS. RANSOM: Okay, thank you.

MR. KRYZAK: My wife will take over here.

MS. RANSOM: Let the record show that these folks have also submitted a letter to the board and that's part of the record as well.

MR. KRYZAK: Let me ask you another thing. What I'm concerned about that those people, Mrs. Funck, she sold the property with a condition of the board approval, it's a business proposition what them people want to do is create a business operation there in the back, look at the amount of cars, look at the amount of cars that go in there.

MS. RANSOM: Can we calm down and can we just stick to the issue at hand which is the request for an area variance, so anything that's pertinent to that the board needs to hear about the property in question.

MRS. KRYZAK: My name is Patricia Kryzak and first of all, number one, because of the conflict of interest I request that Mrs. Funck be removed from the planning board for the decision in this case because of a conflict of interest.

MS. RANSOM: Mrs. Funck is not part of this board.

MRS. KRYZAK: Just for the decision.

MS. REGAN: She has nothing to do with any board.

MS. RANSOM: The five people you see here are the people that are going to vote on that decision.

MRS. KRYZAK: Okay, number 2, we moved into this house seven years ago as a retirement home to live peacefully in this home and we love it, we have done several improvements and so we found out that it's started off right before the Fourth of July where there was a

barrier put up and we were told we couldn't go through to get to our house which has been access to it for the past seven years. We have lived in the house for seven years with no problem and all we want is to be able to live there in peace with all the landscape that's been there for 87 years, it's not much, it's only a few feet from the road. There's a critical, a very critical problem, it's on an intersection, a busy intersection there where Center Street meets North Street, the girl scout camp is right on the corner there and when they have events there's numerous, numerous families and cars turning around and little children around, it's a safety, a big safety problem. So that's safety for us too because if this land was torn away that they propose these cars would be turning around right, our line is directly on the corner of our house and these cars would be turning around right in front of our house and all the traffic, there's the tree there that's been there for probably 100 years and that's, I always maintain and it's a protective barrier for our house because our living room is right in front of that. We don't want anything but to just peace to live in peace, to have our, the frontage actually where the tree is is town property, there's 10 foot in front there so that tree is actually the town's so it can't be touched there.

MS. RANSOM: Now, do you live at the corner of where Center Street then goes into where North Street becomes part of the private drive?

MRS. KRYZAK: Yes.

MS. RANSOM: Do you access your home off the private drive or off Center Street?

MRS. KRYZAK: We have a legal right-of-way that was through, I checked with my, with our lawyer today and it is legal, it's, it went through the banks and the title company, it's all legal.

MS. RANSOM: So you access your home then off of the North Street extension?

MRS. KRYZAK: Yes and have been for 87 years, that's been used all these years we have lived there seven years.

MS. RANSOM: Is there anything else you'd like to add at this point?

MRS. KRYZAK: I just want to make sure that we get our rights.

MS. RANSOM: We understand. Thank you.

MR. KRYZAK: And some legal barriers, we do have the right to our house that no barriers will be given again and lines drawn and barring everybody, I don't understand, we do have certain rights.

MS. RANSOM: Yes, thank you, Mr. Kryzak.

MRS. KRYZAK: I do have something else to say. I completely oppose all variances.

MS. RANSOM: Thank you. Mr. Lopresti, you wanted to--

MR. LOPRESTI: Yes, I'd like to maybe rebut a little bit of what was said actually. They said, Mr. and Mrs. Kryzak had brought up certain, about the Fourth of July, yes, I had put something up across the end of the road because property is in transition so not everybody knows that there's not a thoroughfare there. Over the last, as of in the beginning not many people in the town were aware that that's not a public road, so sometimes, especially when playing soccer with my son in the front yard you get a wanderer who actually does 30 miles an hour thinking that's a public road, comes all the way through and realizes there's no outlet and

has to turn around at the top right there where I had met you that one day, actually takes back down, those rocks that I put there is because people realizing what was going on instead of taking their time and back up we're doing it in a rush and tore up the yard and what I had done for the Fourth of July because the town has also people not from the area, I've lived here more than half my life, went to Cornwall schools, my wife lived on South Street along with her brother-in-law so we pretty much have a good idea with the demand of the usage of the road. The concern was never that anyone couldn't access the road because when the police chief had come down to the bottom of the house that afternoon and asked if he could open the beginning of the road we said our only concern was having people coming down through the property and he assured us that he would block it off and that he would keep that there. We, since it's our first summer there didn't realize that the policeman's barbecue was located in the girl scout cabin, we had no problem opening the road with the police assuring us there's not going to be traffic. I didn't want to play traffic cop. I have a 6 year old son and three year old newborn, I wasn't sure if I could bring him up to the fireworks, thought it would be nice to bring him there, watch from the top of the road. The request of the Kryzaks, the another concern that the Kryzaks have is that I stopped delivery, actually I never stopped delivery, the tow truck driver asked me if I wanted to do that, I said I didn't think it was the right thing to do, why shouldn't they have the opportunity to finish their deck, especially when it's something I want to buy. What I find kind of interesting they say they have had rights and easements over the last 87 years, I have the deeds for all the properties including my own, the Kryzaks, the Funcks also the Sandler's who are the only other people that can possibly have access to the road legally and there's no easements going back 90 years on any of the properties. It's always been between lot B and A which is Mr. Funck's property so I kind of would like to see

what legal document they have and maybe a Bill of Sale or an easement because of right now in the deeds the only people responsible financially for any type of maintenance to the road whatsoever is myself and Mr. Funck which I work hard for everything I get, I don't understand why if you, you know, and here you have to pay your way pretty much and you have to be an adult and take responsibility and why should any type of rights be given to someone who's done nothing but pretty much the property was abandoned for the last six years, no one had been there, Mrs. Gustofson (phonetic) passed away so there was no one there to push her interest, what she thought is what was or wasn't going to happen and in that time which was an opportune time for someone who had another agenda or anything that they wanted to do their thing, you know, I mean, I have like I said I have all the deeds, all the information legally here in this folder, I have no problems giving it to the board and it's pretty much self-explanatory.

MS. RANSOM: There seems to be a right-of-way on this map though.

MR. LOPRESTI: Yes, the right-of-way is the bounds of Grove, pretty much describing between Mr. Funck and lot B and the only other people that would have, it would have been also which every deed that has this right-of-way has it in there, the Kryzak's deed does not have the right-of-way of the lands of Grove in it, I have it here and it hasn't had it in it ever in the 90 year existence of the property.

MS. REGAN: If it's not in it, how are they supposed to access their property?

MR. LOPRESTI: Well, the question wasn't whether they were supposed to access it or not, I never said that they couldn't come down here. The problem became on the Fourth of July when I had told them that I wanted to have it closed so I could watch the fireworks and

didn't want to have constant traffic going through, they park their car on the right side of the girl scout cabin which is part of Sands Homstead Act, people park their cars all the time, I've seen boats parked there for numerous dates, so I really don't understand, we're not unreasonable people, me and my family, but legally there's no, there's nothing there like, you know, like--

MS. REGAN: How are they supposed to get to their house? That's the part I don't understand.

MR. LOPRESTI: I don't know, I'd like to know how it was even possible that they were even given an easement or access to build a garage off of that road without having an easement, they would have needed Mr. Funck's permission to build that road and Mr. Funck says to himself that he's never given permission for anyone to access, never was paid any monetary funds, nothing, there's nothing there. So, I mean, pretty much it's like 30 foot wide, you know, they cut a path out 10 foot, 15 foot through the side of Mr. Funck's property so that they can access a piece of their property that's on the side, their property runs parallel with.

MS. REGAN: I have a question for Gary. Gary, where is their front, how do they get to their house?

MR. VINSON: They're here, I think the appropriate question would be to ask them and if they need to bring their surveyor or legal, I think you should inquire of them.

MR. LOPRESTI: I can answer that if you'd like. In the Kryzak's deed--

MR. VINSON: Excuse me, I think if you have that question I think it's appropriate for you to pose a question to them and if you feel it's relevant to your case give them an opportunity to provide you with

sufficient documents to support their answer.

MS. REGAN: Okay, could you--

MR. VINSON: I don't want to answer that for them.

MS. REGAN: Could you just tell me please how you get to your house when North Street and Center Street intersection and North Street ends? Could you show me here where your house is and how you get, here's North and Center?

MR. KRYZAK: Our house is right here.

MS. REGAN: Your house is here and you have to come--

MR. KRYZAK: We have the easement here into the garage.

MS. REGAN: Your house faces this road?

MR. KRYZAK: Right on the borderline.

MS. REGAN: And you have to go from--

MS. RANSOM: You'll have a chance.

MR. LOPRESTI: That's the line that you're looking for for where the property is.

MRS. KRYZAK: They didn't ask you.

MS. REGAN: This is getting out of hand people, all these years your house is here and you come down the street and turn into your house.

MR. KRYZAK: Never is not mentioned where is the girl scouts, nobody's mentioned about the girl scouts.

MS. RANSOM: Yes?

MR. J. KRYZAK: Joseph Kryzak, 8 Tenny Lane, Cornwall, New York. That's a copy of the deed with the right-of-way and there's the right-of-way on the map. He brought it before our attorney and they said there is a right-of-way.

MS. RANSOM: Could you have copies made for the board and submit it to the building department and Mr. Lopresti we're also going to definitely need copies of the maps for all members of the board.

MS. REGAN: And I have one other question. All this clearing is it on your property that you're doing the vegetation, the clearing that you're doing it's on your property?

MR. LOPRESTI: I'm not removing anything, you know, that's, you know, I think that everybody's always been very concerned about the back of the property is going to be developed.

MS. REGAN: I just have a direct question, whatever you're clearing it's on your property? That's all I want to know.

MR. LOPRESTI: Yeah, nothing's being cleared.

MS. RANSOM: So when you do this lot line change, what's your intention to do with that property now? You're going to have the stream as part of your property, what are intentions to do with it?

MR. LOPRESTI: The only thing we might like to do if the time ever arises maybe pave it, make it so that it is not a, right now it's macadam but there's a good amount of dirt mixed with it further back, we were told that if you wanted to put maybe nice stone pillars with the lights to make the entryway of the property look nicer, I mean, that's what we'd like to do. You want to add back to the community that you live in, that we

grew up in, there's no reason why you shouldn't be able to develop the property to make it worthwhile for yourself, a house is an investment.

MS. RANSOM: Where do you want to put the stone pillars?

MR. LOPRESTI: Actually, I haven't even discussed it with our family, we haven't talked about anything. First, our first concern was just make sure that we can fill the pothole with macadam because effectively right now right where it is at the top of the driveway we have no legal right to fix that until the lot line change with the Funcks.

MS. RANSOM: Right now that belongs to Mr. Funck?

MR. LOPRESTI: Yes, it does.

MS. RANSOM: Where is Mr. Funck's property line right now?

MR. LOPRESTI: Mr. Funck's property line starts right here at the end of North Street and runs diagonally all the way down and across where the rock wall, passed the stone wall, runs diagonally across the stream and into the other wall to Lee Road.

MR. KRYZAK: I just want to say two words.

MS. RANSOM: You're not recognized, you have to be recognized, please. Is there anything else you would like to add?

MR. J. KRYZAK: He's asking for a variance for a road frontage, right?

MS. RANSOM: That's correct.

MR. J. KRYZAK: This is a driveway so that doesn't

comply under code.

MS. RANSOM: You're saying that it is a request for a hundred percent, the ordinance requires 70 feet, he's looking for 70 foot variance.

MR. J. KRYZAK: Road frontage, that's a driveway, it's not a road.

MS. RANSOM: He's looking for a variance, that's what we're here for.

MR. J. KRYZAK: So my parents totally are against the variance completely and they bought the property with the understanding there's one lot there and this guy has been nothing but harassing them the whole time and piece of property that he's talking about the driveway he threatened to pave it all the way up to their house, if you notice the house is right on top of the road.

MR. LOPRESTI: Actually--

MS. RANSOM: Wait a minute, please, hang on.

MR. J. KRYZAK: The property line is right up to the house and he threatened to pave this whole road right up to the house. You want to ask them, they're right there.

MS. RANSOM: What we need from you is we need a copy of the deed, copy of the maps so that we can review this and if I can just ask you to step back behind the-- Can we have your name and address for the record, please?

MS. WHITE: I'm Beverly White, I live at 184 Main Street. The house that we're living in has been in the family for over 100 years, it was bought in 1898 so we have seen a lot going on down the hill. The Nennadicks (phonetic) that owned the property before Kryzaks built

that driveway so it's been there many more than 10 to 20 years, that driveway has been in use now I believe there's a claim of adverse possession which would be very appropriate here because if it's been used that length of time without anyone complaining it has, should continue in that use, as far as I know the law. There's been some talk about water and I want that brought up now rather than later, the water line.

MS. RANSOM: Water is not a zoning issue, water is a planning issue.

MS. WHITE: But if there are houses to be built on the property they cannot have access to this water line, no more houses can go on this water line.

MS. RANSOM: They're not proposing anymore houses, they are simply proposing the two houses that are there to have a subdivision. Is there anything else you'd like to add?

MS. WHITE: No.

MR. KRYZAK: You said brook frontage, that gentleman over there, his brother-in-law, I don't know, the property's in the girl's name, those guys are here presenting and anyway so that gentleman said we'll take your house off, cut the garage out and build a house right there in front of the brook, that's what that gentleman said.

MS. RANSOM: Okay, it's not really relevant.

MR. KRYZAK: You mentioned Funck's property here.

MS. RANSOM: Thank you very much. What else would you like to add, sir?

MR. LOPRESTI: Actually, I'm kind of at a loss for words to tell you the truth, pretty much like I said

the facts, I don't have to argue the facts, the facts are in the papers, they're in the deeds themselves, over 90 years of history on these properties, nowhere through any of them was there ever anything given permission by Mr. Funck or the Gustofsons or myself or anybody, nobody can find anything that they can have a legitimate legal claim.

MS. REGAN: I have a question for you. How do you propose they access their home?

MR. LOPRESTI: Well, I'm sure that if, I'm sure that if we actually had a discussion rather than see right now pretty much they're making the claim that they use the road like I said as of right now, nobody else shares the financial burden of maintaining that road except us and also the Funcks. So what I want to know is why should anybody be granted the usage of anything without having to give anything for it at all? I mean, is that how things work?

MS. REGAN: How are they supposed to get into their house?

MR. LOPRESTI: No one's saying we're not unreasonable but there are such things as road rights, I'd say to talk to my family and even see that depending on what the situation and how we'd want to play it.

MS. RANSOM: This is not a civil matter, this is a zoning--

MR. LOPRESTI: Which is why I didn't want to bring any of this up, I have, you know, I've said everything.

MS. LOPRESTI: Hi, I'm Michele Lopresti and I also reside at 30 North Street and everybody on Center Street has either a concrete slab that they have made themselves or what have you, their own manmade driveway to the left of their property, everybody on Center

Street that would be the Kryzaks cause if there was nothing from the top of North Street on they wouldn't have access to the right if they didn't live at the last house. Everybody else on Center Street has a concrete slab to the left of their house and parks their cars, that's where they should park if they don't have the access to the road.

MR. LOPRESTI: Without permission like we said we're not unreasonable but technically without the deeds and without any money exchanging and permission being given technically the end of the road it's not being taken from us, it's being taken from Mr. Funck, he's right there, he's never given permission or been asked to sign any type of easement or received any monetary gain from the Kryzaks or the Nennadicks who were before him.

MS. RANSOM: Mr. Funck, have these people accessed their home over your property for the seven years they have lived there?

MR. FUNCK: Yes, they have.

MS. RANSOM: Did the people that owned the home before them?

MR. FUNCK: They also put cars on the property without license plates on them. I mean, there's a number of things I can talk about which has nothing to do with this particular case here but the point is the corner of their house is on, right on the line, the corner of, front corner of their house, I mean, how that came about I don't really know. But the point is I would think they would do everything possible to be neighborly and let, you know, quite frankly, they're at a disadvantage here, I feel, I mean, they're utilizing that road to get into their house and they have never paid one dime to maintain it, not one dime.

MS. REGAN: Has anybody ever asked them to?

MR. FUNCK: Well, the point is whether they have or they haven't I would doubt very much that they'd pay anything.

MR. LOPRESTI: Actually, the first--

MS. RANSOM: We're going to recognize--go ahead.

MS. WHITE: Beverly White, 184 Main Street. That house that you're referring to as Kryzaks and Nennadicks before them was a rental property built by Oscar Anderson who was Sal McGustofson's father, he owned that, all of that property, in fact, he bought it from my grandfather. So there's nothing, no, there's history with that house being part of the property, now if there was some problem back when Fannings left because the Fannings lived there for years if when they left there was a problem with the property line the reason it's close to the line it was built by Oscar Anderson.

MS. RANSOM: Thank you for that historical perspective.

MS. WHITE: Nobody seems to know any history of this whole place and it really I guess you bought your right-of-way from Grace Mastrata.

MR. FUNCK: No, I didn't.

MR. CORDISCO: The issues regarding rights of access really they're not, those are all--

MS. RANSOM: Do you have anything else you'd like to add?

MR. LOPRESTI: The only thing I'd like to add is that the property that they're accessing is actually cut in and they have to access the road.

MS. RANSOM: That's not the zoning issue, we're not going to talk about access anymore tonight. Is there anyone that would like to add anything specific to this request?

MRS. KRYZAK: Mrs. Regan, you asked which other way did this gentleman propose that we should use our driveway and he told me several times that we should use the other side of our house and access our garage from the other side.

MS. REGAN: Okay, thank you.

MR. KRYZAK: What's the purpose of the subdivision if they don't want to build houses so it would be more.

MS. RANSOM: The houses are already there, they're just asking to make them on separate parcels. I think that we've heard so much testimony this evening I doubt very much this board will make any decision tonight. I know from my own purposes I would like to see a subdivision map, I would like to see the detailed map, the subdivision map, we need to leave this public hearing open so the Kryzaks can submit the documentation as to the deed information, any maps they want to submit and if there's anything else that you would like to submit, make sure, our next meeting is August 18, make sure everything is to the building department as soon as possible so they have an opportunity to prepare it for the board members. Mr. Funck, is there anything?

MR. FUNCK: One last question, I'm a little confused because we're here this evening on a variance, we're here to determine whether a variance can be allowed here, whether this these folks on that road or I do, whether it's not approved I still will own the road. I don't understand not approving the variance, that's the thing I'm confused about. Their lot, their garage door, their corner of their house not going to change that, it's going to remain there.

MS. RANSOM: For myself the first time I saw a map was tonight, I had no chance to study a map, I had no chance to review the map in conjunction with the documentation and I will not make a decision without that.

MR. FUNCK: I don't want you to but you understand what I'm saying, we still own that road right next to his house, you know, right, it runs right along.

MS. RANSOM: Right and we're reviewing an area variance for road frontage and that's what, well, that's what this board will decide on. Is there anything else you'd like to add?

MR. LOPRESTI: No.

MS. RANSOM: We'll leave this hearing open until next month so we'll see you all again on the 18th of August.

MR. LOPRESTI: Thank you for your time.

NANCY_NOSHIE_-_PUBLIC_HEARING

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 July 21, 2008 at 7:30 p.m. or as soon as thereafter as the matter can be heard on the application of Nancy Noshie relating to property located at 53 Mailler Avenue and designated on the tax map as section 14, block 2, lot 12.2. The applicant seeks an area variance to 158-12, Part 1, SR, section 158-12, Part 1, SR-2 district, use group C, column number 3 and 4 of the zoning ordinance in order to subdivide an existing parcel into two lots with insufficient lot area and lot width. The ordinance requires a minimum lot area of 20,000 square feet and the applicant proposes that lot 1 have 10,778 square feet and lot 2 has, excuse me, has 10,765 square feet. The ordinance requires a minimum lot width of 100 feet and the applicant proposes 70 feet for lot number 1 and 73 feet for lot number 2. The Zoning Board of Appeals 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: June 3, 2008, by order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

Kevin Brennan, Esq. and Mr. James Clearwater appeared before the board for this proposal.

MS. RANSOM: Let the record show that we have a proxy on file to allow Kevin Brennan to speak on behalf of the applicant.

MR. CLEARWATER: Good evening.

MS. RANSOM: Mr. Brennan, would you like to make your presentation?

MR. BRENNAN: I'd like to ask if the board would permit Mr. Clearwater to address the board. Miss Noshie is here tonight and she can certainly attest to the fact that she would welcome the opportunity to have Mr. Clearwater speak, he's certainly well informed about the application.

MS. RANSOM: Okay, thank you.

MR. CLEARWATER: My name is James Clearwater, I'm a land surveyor with MJS Engineering and as Kevin said, I'm here with him and the applicant Mrs. Noshie. Mrs. Noshie owns 21,000 square feet lot on the north side of Mailler directly across from the intersection with Murray. She has an existing house there. The application to the planning board was to divide the property, create one new single family lot. The purpose being construct a new house on the new lot for her elderly parents. She takes care of her parents, she, her house and her parents' house they actually live across the street on North Street neighborhood here, both have bedrooms and baths on the second floor, it's very difficult for her to take care of her parents so she wanted to, would like to build another house for all of them together so she can take care of them, which brings us to the ZBA because both of the lots proposed are short in area and short in lot width and frontage I guess. It's a 20,000 square foot and she only has 21,500 square feet and she's proposing to divide it in half. The lot width on each of the two lots is 73.4 feet when you need 100 and the area of course you need 20,000 square feet for each lot and she only has 10,700 for each. That's it in a nutshell as far as the technical part of it, as far as the reason for the variance maybe you can do that, Kevin.

MR. BRENNAN: Sure. An important fact to point out is the nature of the immediate neighborhood is such that creating this additional lot would not be out of character with the rest of the immediate neighborhood.

Approximately 16 of the nearby 22 surrounding properties are comprised of lot size about the same as would be each of the two lots of Mrs. Noshie's current property if the subdivision approval was granted. And also as Jim mentioned, my client's primary reason for seeking this approval is for the benefit of her immediate family, her parents who are elderly and current circumstances are such that it is difficult for them to maintain themselves and take care of themselves where they presently reside. So this is not a self-created or self-imposed hardship or it is imposed in the sense that she is compelled and feels compelled and feels responsible for taking care of her parents and welcomes the opportunity to do that because if the subdivision application was granted on the newly created lot, Nancy could build a home that would be conducive to the plans and certainly similar to the homes that now exist in the area. She has some, she has investigated and done some research on the types of single family dwellings with two bedrooms and bath on the first floor that could be constructed on the newly created lot and again, it would not adversely affect or impact the neighborhood. It would not significantly change the conditions of the neighborhood, the immediate neighborhood, and I think that really forms the basis and the crux of the applicant's submission and application.

MS. RANSOM: Is Mrs. Noshie going to sell the current house she's living in?

MR. BRENNAN: I think it's fair to say that that would probably be necessary because she might need to obtain whatever equity she has in her current home in order to complete the construction, the costs of construction of the new home. It's not absolutely certain but that's certainly something that she would be considering, yes, if the application was granted, her ultimate goal would be to live in the house with her folks.

MS. RANSOM: This is a 46 plus percent request, that's pretty substantial.

MR. BRENNAN: The difference in the lot size according to the code compared to the lot size of the lots that she asks be created is certainly numerically significant compared to other lots in the immediate vicinity, it's very similar in size and I'd ask the board to take that fact into account when deciding and considering the application certainly the numbers are what you state, Madam Chairman.

MR. CLEARWATER: If I may interject, this is the tax map if you want to look at that.

MS. RANSOM: Certainly.

MR. CLEARWATER: This is Noshie's lot is right here across from Murray and you see all these lots immediately across the street are all smaller even than either of the 20 lots that she's proposing to create so the character of the neighborhood certainly would not change by creating lots that are smaller than what's there.

MR. MC GUINNESS: Aren't the houses smaller also?

MR. CLEARWATER: Yes, but the house she's proposing is not huge either, it's a three bedroom house and it would be bedrooms on the first floor to make it work for her.

MS. RANSOM: But most of those houses that are sitting on those little lots are about 800 square feet 8 or 900 square feet.

MR. CLEARWATER: Well, I can't speak to what the existing houses are but the lots--

MR. MC GUINNESS: How big is the existing house?

MR. CLEARWATER: In square footage I think it's--

MR. MC GUINNESS: I didn't see it on here.

MR. BRENNAN: The existing house?

MR. MC GUINNESS: Not the lot, the house.

MR. CLEARWATER: I'll have to ask, how many square feet is your house?

MS. NOSHIE: Fifteen, 1,600.

MS. RANSOM: And it's a two story, one and a half story?

MS. NOSHIE: Two story.

MS. RANSOM: Thank you.

MS. NOSHIE: Recently and in the past year one of the houses on Lee Road I think they demolished and rebuilt a two story that's even larger than my house, so some, and some of the houses have been added onto but I'm not proposing a huge house, it would not be out of character with the neighborhood.

MS. RANSOM: But you're proposing a three bedroom dwelling of 1,425 square feet all on one floor?

MS. NOSHIE: No.

MR. BRENNAN: It would be two stories, it would be two bedrooms and one bath on the ground floor which is the important feature as far as Mrs. Noshie's parents residing with her are concerned, we brought along a few sketches or proposals, this is the one that Nancy's looked at most closely I notice that the title of these various designs are called homes for a narrow lot.

MR. DOBIAS: Well, most of the houses on Mailler Avenue were built years go and they're small houses.

MR. CLEARWATER: Yes.

MR. BRENNAN: Yes, that's right.

MS. RANSOM: Mike, any other questions?

MR. MC GUINNESS: They would need a variance for the porch, too?

MR. BRENNAN: I think it's safe to say that Nancy would keep the dimensions within the footprint so that none of the other requirements would be exceeded, that's minimum side yard and front yard, rear yard certainly minimum street frontage, maximum building height.

MS. RANSOM: So everything else is going to stay within code, the only thing that you foresee needing is the lot area and the lot widths?

MR. BRENNAN: Yes, that's certainly true.

MS. RANSOM: Bill, questions?

MR. LEE: No.

MR. DOBIAS: Nothing, just looking at that house that house is going to be bigger than anything on the road.

MS. REGAN: It's the picture, the room sizes are very small, it's deceiving, it's not going to be one of these great big houses.

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

MR. BRENNAN: No, thank you.

MS. RAMSON: Mrs. Noshie?

MS. NOSHIE: I had made a list of the actual square footage of the lots on Lee Road and Murray Road and many of them were under 7,000 square feet.

MS. REGAN: We have that, it's part of the package.

MR. BRENNAN: Good, and I think that's consistent with the tax map that Jim showed you before.

MS. RANSOM: Okay, I don't know if the board will make a decision this evening, we still have another hearing to go. Our next meeting is on August 18.

MR. BRENNAN: Thank you.

GINSBERG_DEVELOPMENT_COMPANIES_AKA,_LOT_#23_STONE_
HOLLOW_SUBDIVISION_-_PUBLIC_HEARING

MS. RANSOM: Our next public hearing is on the request of Ginsberg Development Companies, also known as lot 23 of Stone Hollow subdivision. 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 July 21, 2008 at 7:30 p.m. or as soon as thereafter as the matter can be heard on the application of Ginsberg Development, aka, Lot #23 Stone Hollow Subdivision relating to property located at 2539 Route 9W and designated on the tax map as section 14, block 1, lot 10. The applicant seeks an area variance to Section 158-18 H (1) (c) (5) (d) of the zoning ordinance in order to allow a second subdivision sign facing 9W where only one sign is permitted and currently exists on Willow Avenue. The applicant also seeks an area variance to allow the sign to have a total of 56 square feet total all faces where 24 square feet is permitted. The zoning board of appeals 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: June 3, 2008, by order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson.

We do not have the information from the Orange County Planning Department so we definitely will not be able to make decision this evening so but please if you would make your presentation.

Kory Salomone, Esq. appeared before the board for this proposal.

MR. SALOMONE: Kory Salomone with the law firm of Veneziano & Associates on behalf of Ginsberg in connection with their Stone Hollow subdivision. Here with me is Jack O'Connell from Ginsberg Development.

Just we're no longer requesting a variance for the size of the sign, we're reducing it to 19 square feet and that's within the permissible amount of code. And before we get to a variance, we'd like to request an interpretation of the zoning code. The Stone Hollow project is within two zoning districts, SR-1 district which is where our existing sign is and the HC district which is where we're proposing the second sign. Based on our interpretation of the code, we believe that Cornwall limits signage by zoning district and not by subdivision. And so one sign is in one district, another's going to be in the non-residential and while the code may not have contemplated this during the drafting, I think the plain language of the code, you know, reflects that in Section 18 H (2) (a) (1) dealing with freestanding signs in residential districts and 18 H (1) (c) (5) deals with temporary subdivision signs in non-residential zoning districts, so initially before we get to any sort of variance, we'd like some sort of interpretation.

MS. RANSOM: I think that the board would prefer to hear this as a variance. Okay, you know, the building department has made a decision that you need a variance so we would prefer to go in that direction.

MR. SALOMONE: Okay, well then as your board well knows in reviewing variance applications, it's a balancing test, the benefit of the applicant by granting the variance and the detriment to the community, safety, welfare of the community and the neighborhood and we don't really see any detriment to the neighborhood and the benefit to us is we get additional marketing in this down time of the market.

MS. RANSOM: The one thing that I was confused about I'm not sure where on 9W this sign is going to be, I didn't have a map so I have no idea, I've seen your sign where it says do not enter on 9W.

MR. O'CONNELL: Can I step up? Right here this is Route 9 and this is Willow Avenue right here so there's the doctor's office that's right here when you get off the exit ramp and make a right so our entrance is right off of Willow here and we have a sign coming soon sign but we'd also like to take advantage of the, all of this road frontage, I think it's over 1,000 feet on Route 9W, we're not asking to put it in the DOT right-of-way, we're asking to put it on our property and it would be, it's not right up on Route 9W, it would actually be just to the right of the old driveway to the Wilson house that we use as a construction entrance.

MS. RANSOM: That's where the sign is that says do not enter?

MR. O'CONNELL: Yes.

MS. RANSOM: So you're looking to replace that do not enter sign with a facade sign similar to the one that's on Willow?

MR. O'CONNELL: We're looking to put a sign to the right of it, right here in this clearing and it would be a freestanding sign.

MS. RANSOM: We're talking about a temporary sign that will be there.

MR. O'CONNELL: For hopefully no longer than three years, that's the out date and it would, it's a benefit to us but it's also a benefit to the town because especially in this downturn market we're trying to sell these homes in that community which is going to benefit the Town of Cornwall in the long run.

MS. RANSOM: Is the sign going to be the same sign that's on Willow Avenue?

MR. SALOMONE: It's Exhibit C in our submission package.

MR. CORDISCO: So I think the answer's no.

MR. O'CONNELL: No, it's not, we're going to leave that sign where it is at the entrance and then put the other sign along Route 9W right here.

MR. DOBIAS: Beyond the gasoline station?

MR. O'CONNELL: Yes.

MS. REGAN: Now, will people be confused and think they have to turn in there where it says do not enter? How will they know where the access to the subdivision is?

MR. O'CONNELL: Well--

MS. REGAN: Not being from the area, just driving around, new homes, how do they find you from that sign?

MR. O'CONNELL: There's the phone number and a website and if we had a little bit more room we would have put an arrow but trying to stay within the boundaries that we're allowed.

MS. RANSOM: Do you have it roped off or cordoned off not to get into that road that's that work road that's going up there?

MR. O'CONNELL: No, that's why we have the do not enter because we have trucks coming in and out so we would need that open, we can rope it off at night.

MS. RANSOM: What color is the sign going to be?

MR. O'CONNELL: It's white and light blue, the thought we had color pictures, it's the same colors as the other sign on Willow Avenue.

MS. RANSOM: No, I don't have that either. And it's going to have this wood around it?

MR. O'CONNELL: Yes.

MR. DOBIAS: With a light on it?

MS. RANSOM: That's a good question, it's going to be lit?

MR. O'CONNELL: Yes, we'd like it lit.

MS. RANSOM: Is it going to be lit all night? Is it going to be off, is it going to have a timer?

MR. O'CONNELL: We can put a timer on it, I mean, didn't really think about the timer quite yet, just trying to get the sign.

MR. CORDISCO: The sign already exists, doesn't it?

MR. O'CONNELL: Yes, we do have a sign, we actually mistakenly made it larger than the variance allowed so we actually trimmed it down.

MS. RANSOM: This sign is already on Willow Avenue over on 9W?

MR. O'CONNELL: No, we had it on there and then realized.

MR. CORDISCO: Not at present.

MR. VINSON: It was and they cooperated by removing it and went through the procedure here.

MS. RANSOM: Okay, so now tell me about illumination, how is it going to be illuminated from the ground, from up above it?

MR. O'CONNELL: Well, first of all just so we don't need a second variance for a sign for the size if this was Route 9 instead of putting the sign, a two-way sign this way for both ways of traffic we're putting a sign this way along parallel to the highway so without looking at any materials or anything, most likely we'll have one upright on to the sign and that would be away from the highway so it wouldn't be a glare either way north or south.

MS. RANSOM: Is the sign on Willow Avenue lit?

MR. O'CONNELL: Yes, it is.

MS. RANSOM: Does that go off at a certain hour?

MR. O'CONNELL: Yes.

MS. RANSOM: And would this sign go off at that hour too?

MR. O'CONNELL: It could. What time does the sign go off?

MR. O'CONNELL: We'd like to keep it a little bit longer than Willow Avenue. I'm not sure what time Willow Avenue goes off but it's a busy roadway and if we're going to spend the expense to put the sign up we'd like to take advantage of it as much as possible.

MR. DOBIAS: The one you have on Willow the entrance I'm impressed with the entrance, it looks goods.

MR. O'CONNELL: Thank you.

MR. LEE: No questions.

MR. MC GUINNESS: No questions.

MS. REGAN: No.

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

MR. SALOMONE: No.

MR. O'CONNELL: No, that's about it.

MS. RANSOM: You don't have to take any trees down or anything to put the sign up?

MR. O'CONNELL: No, actually, there's a clearing right now.

MS. RANSOM: Okay, and it's on your lot, it's not on the right-of-way, it's strictly on your property?

MR. O'CONNELL: Yes.

MS. RANSOM: Anything else? Okay, thank you very much.

MR. O'CONNELL: Thank you.

MR. SALOMONE: I've got an affidavit of publication.

MR. O'CONNELL: Thank you for your time.

MS. RANSOM: We have not heard back from the county so we cannot make a decision this evening anyway so we'll leave this open to receive that from the county for next month. Thank you very much.

DISCUSSION_-_NOSHIE _____ - _____

MR. CORDISCO: On the Noshie application the board did not decide whether to leave the application or the public hearing open or closed. Did you want to take any action in terms of closing the public hearing tonight?

MS. RANSOM: Okay, normally we would discuss with counsel.

MR. CORDISCO: Okay, understood.

REGULAR_MEETING _____ - _____

MS. RANSOM: Okay, the minutes of the June 16 meeting have been distributed, are there any additions or corrections?

MR. DOBIAS: No.

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

MR. DOBIAS: So moved.

MR. LEE: Second it.

ROLL CALL

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

CORRESPONDENCE _____

STRAWBERRY_LANE _____

MS. RANSOM: We have correspondence from Glenbrook Custom Homes regarding 33 Strawberry Lane. Their variance was approved and filed August 21, 2006 thus it expired August of 2007, they're asking us to re-authorize this through August of 2009. My personal opinion is that they should have been here last year at this time not now. It's not like they have been pursuing anything through the planning process. In my opinion, it's a year late, so I don't know how the rest of the board feels on this, we're going to need to vote so I don't know, what do the others feel?

MR. MC GUINNESS: Make a motion we decline it.

MS. REGAN: I agree.

MR. DELVECCHIO: Excuse me, may I be heard? I'm representing Glenbrook Custom Homes. Thank you, good evening, Andy DelVecchio on behalf of Glenbrook, I agree with you, unfortunately, the application is late, there were marketing efforts underway, they thought they would have been more productive than they have been. The property's currently listed for sale and is actively being pursued and while you would be completely within your rights to deny the extension request, I just remind you and I think what's critical all that's going to do is require us to come back before you on the very same application, the ordinance and regulations that would pertain to this property have been changed, our neighbors who we worked with very diligently, if you recall the application to come up with an agreement on the road and I'm glad it wasn't as animated as earlier this evening but we worked very diligently with the neighbors through their counsel and achieved an agreement on screening and road access, location of the house, none of that has changed. So if

you do deny the request we're going to, we're going to make an application because we have to, there's no other way to gain access to the property or use it and come back to you with the very same application, unfortunately, take up your time again with that very same application. So on behalf of the applicant I will apologize for the request being made late but unfortunately there really is no other alternative on this property other than come back before you at the very same application, ask for it to be heard on again and whether or not the facts differ in terms of your findings then versus now, I mean, only time will tell if we have to prosecute that application but I would suggest to you that nothing really has changed on this property.

MS. RANSOM: Well, I thank you for your comments, Mr. DelVecchio but I personally still feel the same way.

MS. REGAN: I have a question. You say actively they have been actively marketing it, could you describe how?

MR. DELVECCHIO: Well, it's been listed for sale through a licensed realtor, we had some I won't say issues, we had some details that had to be worked out, if you recall, there was concerns with the fire department how the road or the driveway, private drive was going to be improved, what standards, it took some time to get those all ironed out then the property was put up for sale.

MS. REGAN: Could you tell me how long ago that was about?

MR. DELVECCHIO: I don't know specifically, I wouldn't want to make the representation to you without knowing the date, but I know this particular builder has been trying to sell the property, couldn't really do it in earnest until the details with the fire department and

the access issues with the engineer were ironed out and again if you recall the hearing we had some difficulties in getting responses from the fire department as to what and how they wanted but it took some time and we did get it, we worked out the final issues with the engineer and now we actually know what the improvement costs are going to be which is going to drive what the property may bring in the marketplace.

MS. REGAN: Thank you.

MS. RANSOM: Okay, I will entertain a motion.

MR. MC GUINNESS: My motion still stands.

MS. REGAN: Second it.

MS. RANSOM: The motion at hand is to deny the request to re-authorize the variance. Roll call.

ROLL CALL

MR. MC GUINNESS AYE

MS. REGAN AYE

MR. LEE AYE

MR. DOBIAS AYE

MS. RANSOM AYE

MS. RANSOM: The motion's carried to deny the request.

MR. DELVECCHIO: Okay.

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

MS. REGAN: So moved.

MR. DOBIAS: Second it.

July 21, 2008

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ROLL CALL

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

MS. RANSOM: I'm going to have to ask you folks to stand in the hallway please.

(Whereupon, the board went into closed session.).

(Discussion was held off the record)

WAGNER_-_DECISION _____

MS. RANSOM: The first public hearing this evening was on the request of Gerard and Patricia Wagner, 6 Cherry Hill Road seeking an area variance to increase the height of an existing 6 foot fence to 12 feet. Do I have a motion to close the public hearing?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

MS. RANSOM: Let's take the criteria for an area variance one at a time. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated? I feel that a 12 foot fence will be an undesirable change in the character of the neighborhood. This is an issue with neighbors that are renting a property, if we approve a 12 foot fence it's going to be there for a very long time and renters tend to come and go, so I feel that it will produce an undesirable change in the neighborhood and could be a detriment to nearby properties. A 12 foot fence to me feels like a stockade. Any other comments? Can the benefits sought by the applicants be achieved by some method feasible for the applicant other than an area variance? I think it's a civil matter between neighbors, I don't think the zoning code should be used to decide an issue between neighbors. So I feel that they have other remedies other than an area variance

for a huge fence. Is the requested variance substantial? I feel it is. The code allows six and a half feet, we're being asked to approve almost double that and it's 136 linear feet, that's a long fence, again, I feel that it is very substantial. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district? Again, I feel that it would impact the neighborhood, it would change the character of the neighborhood. There was testimony that this is a band-aid to the problem so I don't feel that an area variance should be approved. And is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes, I feel it is. 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. LEE	AYE
MR. DOBIAS	AYE
MS. RANSOM	AYE

MS. RANSOM: Do I have a motion to approve the request of Mr. and Mrs. Wagner to construct a 12 foot fence?

MR. MC GUINNESS: So moved.

MS. REGAN: Second it.

ROLL CALL

MR. MC GUINNESS	NO
MS. REGAN	AYE
MR. LEE	NO

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MR. DOBIAS NO
MS. RANSOM NO

MS. RANSOM: The motion's denied.

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HENNESSEY,_LOPRESTI_&_FUNCK_-_DECISION

MS. RANSOM: Our next public hearing was on the request of Hennessey, Lopresti and Funck as previously discussed, we'll leave that hearing open for the additional information that was discussed, maps, copies of deeds.

NOSHIE_-_DECISION _____

MS. RANSOM: Our next hearing this evening was on the request of Nancy Noshie seeking an area variance in order to subdivide a parcel into two lots with insufficient lot area and lot width. Do I have a motion to close the public hearing?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Let's take the grounds for relief of an area variance one at a time, please. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated?

MR. DOBIAS: No.

MS. RANSOM: I feel it will, I feel that it is a very substantial request, it's almost half the lots across the street are smaller but or the houses, the houses are very tiny, I think the houses on the same side of the street are on significantly larger lots and I feel that putting another house in that will increase the density and will cause an undesirable change in the character of the neighborhood.

MR. MC GUINNESS: I feel the same way.

MS. RANSOM: Anything else you'd like to add?

MR. DOBIAS: No.

MS. RANSOM: Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance? I understand the issue of elderly parents and but I feel that to put a house in that small area is not proper for the neighborhood, I think it would cause an undesirable change. Is the requested variance substantial? Again, we're looking at over 46 percent request, it's almost the property is a little over like less than a thousand feet over what the required is for one house let alone two, so I personally feel it's a very substantial request. Any other comments? Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district? Again, I think it will increase the density of the neighborhood, I think that it will cause an undesirable change to put another house on a small parcel of land in that area. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MS. REGAN: Yes.

MS. RANSOME: Yes, it is in that they want to subdivide a piece of property that's just meeting code now. 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. LEE	AYE

MR. DOBIAS AYE
MS. RANSOM AYE

MS. RANSOM: Do I have a motion to approve the request by Nancy Noshie for an area variance to subdivide a parcel into two lots with insufficient lot area and lot width?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

MR. MC GUINNESS NO
MS. REGAN AYE
MR. LEE NO
MR. DOBIAS NO
MS. RANSOM NO

MS. RANSOM: The motion is denied.

MR. BRENNAN: Thank you for your time.

GINSBERG_DEVELOPMENT_COMPANIES_-_DECISION

MS. RANSOM: The last hearing this evening was on Ginsberg Development companies for a sign and since we have not received Orange County Planning we'll hold that open till next month.

Anything else to come before the board? Motion to adjourn?

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer