

March 17, 2008

1

TOWN OF CORNWALL
ZONING BOARD OF APPEALS

MARCH 17, 2008

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 March 17, 2008 meeting of the
Cornwall Zoning Board of Appeals will now come to
order.

LATIMER_-_CONTINUATION

MS. RANSOM: Our first public hearing this evening is the continuation of the public hearing on John and Cynthia Latimar. And this hearing is open only for the narrow discussion of the map that was submitted at the has meeting dated February 7, 2008. Let the record show that we have also received correspondence, a letter dated March 8, 2008 signed by Kathy and Craig Ellick and Helen Schult and a letter from Catherine Goodspeed dated February 29th and she has signed herself as the Town Tree Warden. Mr. Latimer?

MR. LATIMER: Just can I see the letter from the tree warden? That's the only thing I haven't seen.

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

MR. LATIMER: Nothing further, just to answer questions if there are any.

MS. RANSOM: Okay, any questions up here?

MR. MC GUINNESS: No.

MS. REGAN: No.

MR. DOBIAS: No.

MR. LEE: No.

MS. RANSOM: Anyone in the audience like to speak to this issue only on the map that was submitted February 7, 2008 when we entertained questions or comments or discussions?

MS. ELLICK: I'm Kathy Ellick at 5 Roaring Brook and I just had a question about the easement for the Central Hudson. I was under the impression that Central Hudson's regulations for that easement was 30 feet and

I don't see on the map that it shows 30 feet. I show 14 feet. That was one of the questions I had.

MS. RANSOM: Can you address that?

MR. LATIMER: I believe that it is center line of the road to 14 feet on my property.

MS. RANSOM: Okay, and it's measured off of Roaring Brook.

MR. LATIMER: It was on the original map as well.

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

MS. SCHULT: My name is Helen Schult, I reside at 15 Roaring Brook Road and my understanding was that the easement was on the placement of the Central Hudson pole, not on the center of the road.

MR. LATIMER: The purpose of the easement is so Central Hudson can maintain the utilities on the road. In order for them to do that, they are going to need to get trucks up and down the road, so that's why they have the easement 14 feet onto my property as well so if they need to bring a truck on the south side of the pole which would be the road or the north side of the pole which would be my property.

MS. SCHULT: I believe that's Mr. Latimer's interpretation, not Central Hudson's.

MR. LATIMER: I believe it's also on the map the easement so--

MS. RANSOM: The utility easement is on the map. So any other comments?

MR. ELLICK: Craig Ellick, 5 Roaring Brook. Getting sick of us? Just want to say it's a request for two--

March 17, 2008

4

MS. RANSOM: Only entertain the map.

MR. ELLICK: Very good, sorry.

MS. RANSOM: Anything else on the map? Any additional questions here on the map? Is there anything else you'd like to add?

MR. LATIMER: I have nothing further.

MS. RANSOM: Okay, thank you very much.

MR. LATIMER: Thank you.

ELMES_-_CONTINUATION

MS. RANSOM: Our next public hearing is the continuation of the hearing on Karen Elmes, 16 Deerfield Lane.

Michele Babcock, Esq. appeared before the board for this proposal.

MS. BABCOCK: Good evening. Based on the fact that we did just receive comments from the Orange County Department of Public Works today, we would request that this board adjourn the public hearing to the April 21st meeting. We have been able to secure an appointment on the planning board work session agenda for March 20th, this Thursday, to discuss alternative driveway designs and then after that time if necessary we would amend our application to this board.

MS. RANSOM: Okay. Do I have a motion to leave this public hearing open until the April meeting?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: We'll keep it open until April.

MS. BABCOCK: Thank you very much.

KNAPP_-_CONTINUATION

MS. RANSOM: Okay, our next public hearing is also a carryover from last month on the request of Harry and Diane Knapp, 39 Alder Drive. The board has received the photos and the description that you have sent us. This looks like a very, very large structure for a kind of small lot, we're talking about something that's--

MR. KNAPP: Well, the picture's bigger than what it, this picture's not really--

MS. RANSOM: But it's 22 x 26 by this particular design shows 21 feet high, your application says that it's 20 feet seven inches, so this is a little bit taller than that even. I guess my main question is why do you need such a huge structure? How many square feet?

MR. KNAPP: I wanted the loft up on top space for storage and stuff, that's why I wanted it that way, I can shave it down to a 20 foot garage too. Are you concerned about the width or the height?

MS. RANSOM: Well, the overall size, appearance, it looks like it's going to be very large for your lot in comparison to your home. How many square feet is your home?

MR. KNAPP: Nine hundred.

MS. RANSOM: How many square feet is this garage?

MR. KNAPP: I don't really know, 22 x 26.

MS. REGAN: Five hundred and seventy-two.

MS. RANSOM: And it's two stories so that's--

MS. REGAN: Times two, 1,144.

MR. KNAPP: Not really, the top is not all, the top is not full size, it would be like half of that, it's only a loft.

MR. DOBIAS: It's going to be for storage up there?

MR. KNAPP: Yes.

MS. RANSOM: Okay, so we're still talking about a structure that's about 800 square feet let's say.

MR. KNAPP: No, that's, yeah.

MS. RANSOM: How big was your house?

MR. KNAPP: Nine hundred.

MS. RANSOM: Okay, it just seems like it's very large to me. Is there any way that you would consider cutting this down?

MR. KNAPP: Yeah, there's a way to do it, I want the height though, I want the upstairs, I want that loft. If it wasn't for the height of the building, I wouldn't be here today for the variance and that's why I'm here.

MS. RANSOM: Okay then that's a concern because the legal notice does not indicate that need a variance for the--

MR. KNAPP: Gary told me anything over 15 feet I need a variance.

MS. REGAN: Height wise.

MS. RANSOM: Then the legal notice is incorrect.

MR. RODD: That's something I'm going to have to, yeah, well, it says accessory buildings which this is, what it would be Section 158-14 indicates such building

shall not exceed 15 feet in height.

MS. RANSOM: Does this need to be readvertised cause it's incorrectly advertised?

MR. RODD: No, I mean, it's just incompletely advertised. I don't think it needs to be readvertised. I mean, it's indicating the proposed height of the garage but it's a height and side yard variance that it needs.

MS. RANSOM: Okay, all right, so this then is 6 feet higher than the code allows, correct, cause the drawing that you submitted shows 21?

MR. KNAPP: Yes.

MS. RANSOM: How far above your house is it going to sit?

MR. KNAPP: Well, my house is 20 feet at the peak, this is really the same height of the house.

MS. REGAN: What is it that you need the loft for?

MR. KNAPP: I need it for storage, I have no storage in my house at all, there's no room at all. There's room in the attic but I have to pull down stairs and I'm unable to get up and down anymore so I really need the space.

MS. REGAN: What about did you have a basement?

MR. KNAPP: No basement.

MS. REGAN: How will you get up and down the second floor here?

MR. KNAPP: There will be stairs, these are pull-down stairs I have in my house.

MS. RANSOM: Cause this says that they're pull-down stairs.

MR. KNAPP: Right.

MS. RANSOM: On the--

MR. KNAPP: See these are just rough photographs, this is not a blueprint of what I'm doing, this is what Gary suggested I should do to show you some idea what I have in mind.

MS. RANSOM: Is this what you have in mind?

MR. KNAPP: This is something but this is not actual, actual what it's going to be, this is what I want the style I want to put up.

MS. RANSOM: So you want to do a gambrel roof?

MR. KNAPP: Yes.

MS. RANSOM: Okay, and so you want this to be five feet off your property line with this design and you want the second floor and the last meeting you had testified that you wanted to make the upper room a sewing room?

MR. KNAPP: Yes.

MS. RANSOM: Okay, and that you were not going to have any bathroom facilities but that you were going to have--

MR. KNAPP: Just electric.

MS. RANSOM: --to have heat?

MS. REGAN: That's different than storage.

MR. MC GUINNESS: Is this going to be the tallest house in the neighborhood?

MR. KNAPP: No, the guy behind me is taller yet, this guy behind me right here, he's taller yet, he's taller than I am.

MS. REGAN: What's the size of his house?

MR. MC GUINNESS: Forty feet.

MR. KNAPP: It's a 40 foot ranch, two story.

MS. RANSOM: Does his slope down towards the lake though?

MR. KNAPP: Yes.

MS. RANSOM: Does that house affect your view in any way?

MR. KNAPP: He cut it right off, that went in there after I moved in there.

MS. RANSOM: Is a 21 foot garage going to cut your neighbor's views off?

MR. KNAPP: I don't think they can see the lake across the street, I mean, my side neighbors.

MS. RANSOM: No, across the street?

MR. KNAPP: No.

MS. RANSOM: Even this time of the year?

MR. KNAPP: No, they can't really see the lake from that other house.

MS. RANSOM: Ted, any questions?

MR. DOBIAS: No.

MR. LEE: No.

MR. MC GUINNESS: No.

MR. KNAPP: If I sent out the legal notice and there's no problem with anybody, they all got the notices then the problem is within here if you think it's too big.

MS. RANSOM: Seems very tall for me, yes.

MR. KNAPP: I'm not going to use anymore space than I'm using now except it's going to be a garage, the photographs that I gave you.

MS. REGAN: I'm confused, you said you want it for storage but you want it for a sewing room?

MR. KNAPP: My wife wants to put a sewing machine up there, she has it in the bedroom now but there's no more room.

MS. REGAN: So it's going to be heated living space?

MR. KNAPP: Going to be a place to go so you want to call it living space, what are we going to call, living space?

MS. REGAN: Heated functional space.

MR. KNAPP: Right.

MS. RANSOM: Is this the lake you can see through the trees?

MR. KNAPP: This is his house, the house in the back.

MS. RANSOM: But is that the lake?

MR. KNAPP: Yes.

MR. KNAPP: This is the closest house there is, Louie's right here.

MS. RANSOM: He's next door to you though, he's not across the road from you.

MR. KNAPP: Right.

MS. RANSOM: So he's the one that's going to be most affected by the side yard variance but not necessarily by the height?

MR. KNAPP: Right, he's the one that gave the letter that he had no problem, he's the one it's going to affect the most.

MS. RANSOM: So then your garage is going to be opposite the second deck here and it's going to be a little bit taller than your home?

MR. KNAPP: Exactly.

MR. DOBIAS: Much taller.

MR. KNAPP: The peak is going to be like 20 feet, it's going to be the same height of the house because the peak of the house is 20 foot.

MS. RANSOM: And it says the peak of the garage is 21. Now both of these little gambrel barns are yours?

MR. KNAPP: No, this is the next door neighbor's, this is mine.

MS. RANSOM: That's going to stay there?

MR. KNAPP: Yes, I'd like it to stay there but if I get

the garage up I will take it down if you want me to, basically going to go where this boat is parked right now is where the garage is going to wind up.

MS. REGAN: What's the exterior going to be?

MR. KNAPP: Blue vinyl to match the house.

MS. RANSOM: With walk-up stairs?

MR. KNAPP: Yes, on the side.

MR. MC GUINNESS: Just as a reference, how long is the boat?

MR. KNAPP: Nineteen foot, garage would actually come almost down to this back post and it would start--

MR. MC GUINNESS: At the stairway?

MR. KNAPP: Actually right here it would start here and then this ends down here, it's almost a full length of what you see there the deck.

MR. MC GUINNESS: So it's going to take up the lower deck and most of the top deck?

MR. KNAPP: No, the lower deck is actually the size.

MR. MC GUINNESS: The lower deck is 20 foot wide?

MR. KNAPP: Yes, well, long.

MR. MC GUINNESS: Long, okay.

MS. RANSOM: Anything else, Ted?

MR. DOBIAS: No.

MS. RANSOM: Is there anyone in the audience who'd like

to speak to this issue?

MR. KNAPP: Pretty much laid out here.

MR. MC GUINNESS: That tree is going to stay there?

MR. KNAPP: Yeah, that's his tree.

MS. RANSOM: That's your neighbor's tree?

MR. KNAPP: Yes, the boat is actually parked right here now it's not back as far as it should be but that's basically the area I'm going to be using.

MS. RANSOM: Is the boat on your property right now?

MR. KNAPP: Yes.

MS. RANSOM: All of it?

MR. KNAPP: Yes.

MS. RANSOM: Does the property line go straight back or does, if that tree is on the your neighbor's property--

MR. KNAPP: I have a stake there just for this purpose but I guess it didn't come out, the line is like maybe five foot, well, not five foot, couple feet off that tree.

MS. RANSOM: Off the evergreen tree?

MR. KNAPP: Yes, well, like in the middle there.

MS. REGAN: Is the boat going to go in the garage?

MR. KNAPP: Well, truthfully, with the price of the gasoline I think the boat is going completely, I think I'm getting out of the boating business.

MS. RANSOM: But if you kept the boat it would it go in the garage or plan to use the garage for vehicles?

MR. KNAPP: I'd put both cars and put the boat someplace else, not there, maybe my brother-in-law's house.

MS. RANSOM: Is there anybody that would like to speak to this? Is there anything else you'd like to add?

MR. KNAPP: No, nothing.

MS. REGAN: How many cars do you have?

MR. KNAPP: Two.

MS. REGAN: Are they going to be kept in the garage?

MR. KNAPP: Yes.

MS. RANSOM: Thank you very much. Let the record show that the Orange County Planning has left this to local determination.

March 17, 2008

16

REGULAR_MEETING

APPROVAL_OF_MINUTES

MS. RANSOM: Okay, the minutes of the February 19th meeting have been distributed, are there any additions or corrections? Do I have a motion to approve as submitted?

MR. MC GUINNESS: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

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

MS. REGAN: So moved.

MR. DOBIAS: I will second it.

ROLL CALL

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

(Whereupon, the board went into closed session.)

(Discussion was held off the record)

LATIMER_-_DECISION

MS. RANSOM: The first public hearing this evening was on the continuation of John and Cynthia Latimer, 10 Sugar Maples. The applicant proposes to create two lot subdivision, lot number 1 having a gross lot area of 3.18 acres and a net lot area of 1.8 acres, where a minimum of two acres is required. The applicant proposes to create lot number 2 having a gross lot area of 2.55 acres with a net lot area of 1.58 acres where a minimum of two acres is required. Do I have a motion to close the public hearing?

MR. MC GUINNESS: So moved.

MS. REGAN: Second it.

ROLL CALL

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

MS. RANSOM: We'll take the five factors for grounds of relief for an area variance. The first one, 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. MC GUINNESS: I think the lot is heavily wooded, there's a lot of natural screening and he did propose an envelope for the building.

MS. RANSOM: Okay, and I think he did show us that the lots in the neighborhood are the same size or smaller.

And the neighbors that are most affected are going to be above this particular lot. He is going to be on the bottom closer to 32 on Roaring Brook. Can the benefits sought by the applicant be achieved by some method more feasible for the applicant other than an area variance? No, once you take out the various drainage, the easements, the drainage, the rocks then the total acres, the net comes below the two acre minimum so the only relief for Mr. Latimer is an area variance. Is the requested variance substantial?

MR. MC GUINNESS: No, I don't think it's that big of a variance.

MS. RANSOM: Given the fact that there shouldn't be an undesirable change in the character of the neighborhood that it is a heavily wooded lot. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or the district?

MR. MC GUINNESS: No.

MR. DOBIAS: No.

MR. MC GUINNESS: As I said before, it's heavily wooded, a lot of natural screening, he's closer to Route 32 and the other homes are pretty far up the road.

MS. RANSOM: And again the lots in the area are comparable in size and as you said, it's heavily wooded with a lot of natural screening. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MR. MC GUINNESS: Yes.

MS. RANSOM: Yes, we do recognize that. I do feel that we need to put some conditions on this. I'd like to

first make a motion that we direct counsel to prepare a resolution of findings and decision on this particular application.

MR. MC GUINNESS: So moved.

MR. LEE: Second it.

ROLL CALL

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

MS. RANSOM: So we directed counsel to prepare a resolution of findings and decision. At this point, I would propose that we put conditions on this to limit this to a single story residence not to exceed 2000 square feet and as Mr. Latimer prepared the map dated February 7th where the building envelope is outlined in yellow that no trees outside of that building envelope be touched. Okay, do I have a motion to approve the variances sought by John and Cynthia Latimer, 10 Sugar Maples?

MR. LEE: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: The motion's carried so counsel will be

preparing a resolution and a findings of fact and decision on this with the conditions that have been outlined. Do I have a motion that this is a Type 2 Action under SEQRA?

MR. MC GUINNESS: So moved.

MR. LEE: Second it.

ROLL CALL

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

KNAPP_-_DECISION

MS. RANSOM: Mr. Knapp, the board feels that your garage is very large for your lot, that the height is too high for your area. We will make a decision on your application as you presented it or we'll give you, we'll allow you to submit to us an alternate proposal of something that's maybe within the zoning ordinance as far as height.

MR. KNAPP: What height would you be happy with?

MS. RANSOM: The zoning ordinance of 15 feet. We'll be glad to, you know, decide your application as submitted, we're willing to give you an opportunity to submit an alternate plan so we'll leave it up to you. How would you like us to handle this this evening?

MR. KNAPP: We'll see how it goes with the board, you're going to discuss it and see what happens with it now.

MS. RANSOM: You want us to vote on your application as it was submitted?

MR. KNAPP: Yes.

MS. RANSOM: Okay, and should the board turn this down then you'd have to start all over again. You're okay with that?

MR. KNAPP: Well, no, because you're not going to approve it so I will have to change the building, that's what you're telling me I have to do it.

MS. RANSOM: Well, so we're giving you an opportunity to leave this open, this public hearing open, come back with an alternative proposal. Is that what you'd like to do?

MR. KNAPP: Yes.

MS. RANSOM: Do I have a motion to leave this public hearing open until April?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Then next month if you could provide the board with a lesser plan for--

MR. KNAPP: So the height of the building, not the property line?

MS. RANSOM: Well, the height of the building is a definite concern for the board, at least personally I feel that it is not going to be in keeping with the character of the neighborhood. It's going to be significantly higher.

MR. KNAPP: If it's 15 feet I don't need a variance, right?

MS. RANSOM: You don't need a height variance, you do need a side yard variance but I think the height is something that because you've got the lake there it's just is very large, I mean, it's almost the garage is almost as large as your home. So I personally do not feel that it is in keeping with the character of the neighborhood and I feel that it would be a detriment to nearby properties.

March 17, 2008

23

MR. KNAPP: Okay, thank you.

MS. RANSOM: So we'll leave this open until the April meeting. Anything else to come before the board? Motion to adjourn.

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer