

May 19, 2008

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TOWN OF CORNWALL
ZONING BOARD OF APPEALS

MAY 19, 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 May 19, 2008 meeting of the Cornwall
Zoning Board of Appeals will now come to order.

KAREN_E._ELMES_-_CONTINUATION

MS. RANSOM: Our first hearing this evening is on the request of Karen Elmes. We have received a letter from counsel for Miss Elmes requesting that we adjourn this application until the June 16 meeting. Do we need to ask them to supply anything specific?

MR. RODD: Yeah, basically I'm going to contact the attorney for the applicant and also contact the building department. I believe that what they are proposing now was not fairly indicated in the prior notice that was posted. They are proposing something significantly different. So I do think the applicant needs to withdraw their pending application and re-notice their present application in the newspaper. So I will undertake to see to it that the applicant is so advised.

MS. RANSOM: So do we need to leave this one open until June at their request?

MR. RODD: Well, I don't think it's proper given their current request to simply adjourn it, so, I mean, we can deem it adjourned pending the submission of a new application and a new notice and that's what they're going to have to do.

MS. RANSOM: Okay, do I have a motion to that effect?

MR. LEE: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

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

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MS. RANSOM

AYE

HARRY_&_DIANE_KNAPP_-_CONTINUATION

MS. RANSOM: Our next public hearing this evening is on the request of Harry and Diane Knapp. Are the Knapps here? Okay, well, this is the second month that Mr. Knapp has not appeared nor has he advised the board of his intentions. Let the record show that the building inspector did send Mr. Knapp a letter asking for what he intended to do with his application. Do I have a motion that we direct the building department to again contact Mr. Knapp to determine his intentions of either moving forward or withdrawing his application and should he not respond to this that we should deem this matter withdrawn and we'll hold it open until the June meeting?

MS. REGAN: Why are we going to hold it open?

MS. RANSOM: Just to give him an opportunity in case he does want to reappear.

MR. MC GUINNESS: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

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

PEA_BRIDGE_REALTY,_INC._-_CONTINUATION

Mr. Richard Brooks appeared before the board for this proposal.

MS. RANSOM: Next is Pea Bridge Realty.

MR. BROOKS: I'm Rick Brooks from Brooks & Brooks, Surveyors. I'm going to introduce Ronald Kossar, the attorney for Pea Bridge Realty, apparently no ball games tonight so he decided to come. This is a three lot subdivision of a 34 acre lot situated at the intersection of Otterkill and Taylor Road. We're here because we don't meet the minimum net lot area and that's why we're here for an area variance. And although the minimum lot net area is 3 acres lot 1 has a gross area of 8.56 acres but the net area's only 1.99 acres. Lot 2 has a gross area of 15 1/2 acres but the net area is only 2.57 acres. Lot 3 has a gross area of 10.07 acres and has a net area of 1.7 acres. And the reason for that is not anything physical on site but the applicant has placed in 2003 conservation easement on the property. I have revised the maps somewhat since you last saw them detailing the driveway that we discussed at the last meeting. I have put some photographs on that area as you remember on the maps, you do have the--can I hand these out?

MS. RANSOM: Yes, please.

MR. BROOKS: So I'm going to put them right on top. We had the discussion last month about what was labeled as the proposed driveway and we also reviewed the response from the County Planning Board about construction of that proposed driveway. Well, the survey was done in February or March with the snow cover a portion of the driveway which was used at that time and plowed and that was shown on the previous map. The other portion wasn't used. So I updated the maps and then I added some photographs over to the right that show you what

the proposed driveway looks like. And although it's outside the purview of this particular variance it's going to be an issue when we get back to the planning board which is why I did amend the maps. But if you look at photo one that shows the, that's looking south on Taylor Road and it shows the entrance of the driveway with the stone walls on both sides of Taylor Road and in photo two is looking from the center of Taylor Road into the driveway and then the third, the second photo is from the center line of Taylor Road looking in along the existing blacktop drive which is photo number two here you're looking in along the blacktop drive and photo 3 is looking south toward the existing house on the lot.

MS. RANSOM: This is blacktop?

MR. BROOKS: Yeah, it's a broken blacktop.

MS. RANSOM: Is it blacktopped all the way to the house?

MR. BROOKS: Broken blacktop, yeah.

MS. RANSOM: Because I'm sure that you received the information from the County Planning Department which is recommending that the driveway be built with pervious concrete, stone dust, grasscrete or similar alternative?

MR. BROOKS: Yes.

MS. RANSOM: Are you willing to do that with this long driveway?

MR. BROOKS: Well, the driveway right now as it stands, you know, is usable and it's existing so we're not changing the footprint of the driveway at all.

MS. RANSOM: So this driveway on lot 2 is currently the

whole thing is here, they don't share this driveway at all with this other lot?

MR. BROOKS: Yes, the tenants right now every residence is occupied by a tenant the tenants right now the primary access is the short way through that driveway on lot 1 which is right here.

MS. RANSOM: So the driveway that you're proposing that's going all the way across lot 2 is there, it's just not in use?

MR. BROOKS: Part of the driveway is maintained because the barn is rented out to a hay farmer so he's in and out of it, you know, all season.

MS. RANSOM: So this is blacktop all the way to this house?

MR. BROOKS: Yes.

MS. RANSOM: But it looks like this?

MR. BROOKS: Yes. But whether or not the tenants use that section to the south to get to their house, you know, I haven't seen any cars down there, I haven't seen anybody drive it so I would assume they just take the shorter route and go over lot number 1.

MR. MC GUINNESS: Is any part of the road going to be new?

MR. BROOKS: No.

MR. MC GUINNESS: So you're using everything that's existing?

MR. BROOKS: Correct.

MS. RANSOM: So why is it important then you don't want

to use this shared driveway any longer once you make this lot line change?

MR. BROOKS: Correct.

MS. RANSOM: You want to have the long driveway that goes across the whole--

MR. BROOKS: Correct, totally self-sufficient onto itself.

MR. RODD: Just to clarify on the initial proposed subdivision that you submitted had a proposed driveway?

MR. BROOKS: Correct.

MR. RODD: So what's referenced as the proposed driveway specifically the proposed driveway is something that doesn't exist now?

MR. BROOKS: Correct.

MR. RODD: Okay, and you have the same contour on your second subdivision map but it's not referenced as a proposed driveway?

MR. BROOKS: But it is existing.

MR. RODD: I know.

MR. BROOKS: So this section of the blacktop driveway that we show on the first map was plowed and maintained as access up to the barn. We did it during the winter February and March, this section wasn't used, wasn't plowed and wasn't evident to the field crews so that after last meeting when I went back and met with Bea Stern she said that's not what I meant, I meant I want to use the existing driveway. I sent a field crew back out and located the existing driveway that's now evident on the map I'm handing you tonight.

MR. RODD: So in essence the first subdivision map didn't, that you provided didn't take into account the fact that that driveway in fact exists?

MR. BROOKS: Exactly.

MS. RANSOM: Now, does that change what the County has instructed or is requesting that it not be concrete, that it be some other kind of more environmentally friendly surface?

MR. BROOKS: Yes. Now whether or not the planning board is going to want to send this map back for a review or just say well, it's an existing situation that's going to be the Planning Board's call. But again it's an existing roadway which is why I felt it important to show you because the Planning Board's going to be seeing it and I also felt it important to put photographs on it for you.

MS. REGAN: Now you did say that none of these houses are going to be removed, they're just being separated out into three separate lots?

MR. BROOKS: Right. The current owner Pea Bridge Realty has no plans to remove any of the buildings. I don't even know if they have plans to sell them, ultimately they do, that's why they want to do it, you know. The building on lot number 2 that's the old milk parlor so the building on lot number 1 is that farmhouse with all the character and then the building on lot 3 is that cottage type style house.

MS. REGAN: The one that gets flooded?

MR. BROOKS: No, not this one, this one here that's on a separate ownership, this one's up on the hill.

MS. RANSOM: So the proposed driveway is no longer

proposed, it's actually there?

MR. BROOKS: It's actually there.

MS. RANSOM: And it's macadam the whole thing?

MR. BROOKS: Right.

MS. RANSOM: It's not gravel, it's macadam?

MR. BROOKS: Right, some places it looks like gravel but has the macadam base, it's all beat up, it's been there for many, many years, it's not a new driveway.

MS. RANSOM: How wide is it?

MR. BROOKS: The width at the beginning is about 18 feet wide and then as we get down toward the house the house on lot 2 comes down to about 12 feet or so.

MS. RANSOM: So no one is currently using this driveway the access to this house is right here off of--

MR. BROOKS: Right, once the subdivision is done that will be.

MS. RANSOM: How are you going to stop that, people from using that?

MR. BROOKS: Well, they may in fact after the subdivision allow their tenants to use it, you know, as part of their lease but once it's sold I'm not sure how they would do that, it wouldn't be provided for in the deed of conveyance that's for sure and it would be made known to them.

MS. RANSOM: So the whole driveway then is on lot 1?

MR. BROOKS: Correct.

MR. MC GUINNESS: Well, we see the lot line change go right through the blacktop macadam area of the house, I mean, if there was a right-of-way provided why couldn't it go right straight down the middle of the driveway?

MR. BROOKS: Well, it can be but the applicant does not want to encumber lot number 1 with the right-of-way and certainly the sight distances on that road where the driveway out of lot 1 comes--

MR. MC GUINNESS: That's a pretty tight corner.

MS. RANSOM: So where this proposed actual driveway is is the best view to turn out onto Taylor Road?

MR. BROOKS: Yes, absolutely.

MS. RANSOM: Any questions?

MR. MC GUINNESS: No.

MS. REGAN: No.

MR. DOBIAS: No.

MR. LEE: No.

MS. RANSOM: Is there anyone in the audience who'd like to speak to this issue? Anything else up here? Okay, thank you very much.

MR. BROOKS: Thank you.

JOHN_&_GINA_TIGHE_-_CONTINUATION

MS. RANSOM: Our last public hearing this evening is on the request of John and Gina Tighe. They have requested that we leave their hearing open until the August meeting to allow them sufficient time to get an updated survey and situate their pool to the best use of their property. Do I have a motion to leave the public hearing open until the August meeting?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

REGULAR_MEETING

MS. RANSOM: The minutes of the April 21, 2008 meeting have been distributed, are there any additions or corrections? Do I have a motion to approve the minutes as submitted?

MR. DOBIAS: Yes.

MR. LEE: Second it.

ROLL CALL

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

MS. RANSOM: I'd like to make a motion that the board go into closed session to address legal issues with board's counsel.

MS. REGAN: So moved.

MR. MC GUINNESS: Second it.

ROLL CALL

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

(Whereupon, the board went into executive session.)

(Discussion was held off the record)

PEA_BRIDGE_REALTY,_INC._-_DECISION

MS. RANSOM: Okay, our only public hearing this evening was the request of Pea Bridge Realty for an area variance. They are looking to divide this parcel into three lots. Let's take the grounds for a 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?

MS. REGAN: No.

MR. DOBIAS: No.

MS. RANSOM: No, the property is existing, the residences are there. Can the benefits sought by the applicant be achieved by some method feasible for the applicant other than an area variance?

MS. REGAN: Not really.

MS. RANSOM: No, and there's not, they have testified that there's no new construction, that there's no planned expansion of the homes that are already there. They are just trying to separate the three structures onto their own individual lots. Is the requested variance substantial? They have a lot of property, it's a 3 acre required for the first lot, the variance requested is 1.01 acres, the second lot is .43 and the third one is 1.3 acres. I don't really feel it's substantial, the fact that everything is existing and that there's no new construction planned.

MR. MC GUINNESS: Agreed.

MS. REGAN: And it's limited by the conservation easement.

MS. RANSOM: Thank you. Will the proposed variance have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

MS. REGAN: No.

MR. DOBIAS: No.

MS. RANSOM: No, as it's already existing. Is the applicant's alleged difficulty in complying with applicable zoning self-created?

MR. MC GUINNESS: Yes.

MS. RANSOM: Yes, but because there's no new expansion, nothing's changing in the area, I don't feel that that should carry a lot of weight. Do I have a motion that this is an unlisted action under SEQRA with a negative declaration?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

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

MS. RANSOM: Let the record show that the County Planning Department has made a suggestion that the proposed driveway be of material that's more environmentally friendly but the driveway already exists so we'll make note that this information was received from the County Planning Department. Do I have a motion to approve the requested area variance

sought by Pea Bridge Realty?

MS. REGAN: So moved.

MR. DOBIAS: I'll second it.

ROLL CALL

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

MS. RANSOM: Is there 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. DOBIAS	AYE
MR. LEE	AYE
MS. RANSOM	AYE

Respectfully Submitted By:

Frances Roth
Stenographer