

TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS
Public Hearings/Meeting Minutes - Tuesday, 27 October 2015 – 6:45 PM
Town Hall Court Room – 3577 Terrace Road – Cortland, NY

Board Members (*absent)

David Plew, Chairman
John Finn
Thomas Bilodeau
Lenore LeFevre
Joanne Aloï

Others Present

Bruce Weber, Planning/Zoning Officer
Joan E. Fitch, Board Secretary
John B. Folmer, Town Attorney

Applicants & Public Present

Architect Brian Buttner Applicant; Greg Leach, Applicant; Art Bell, Benita DiPietro, Anne McLorn, Barb Leach, Debra Kabanuk, Pam Jenkins, Pat Leach, Linda & Larry Jones, Lesa Williams, Bob Martin.

The Public Hearings were opened at 6:44 p.m. by Chairman David Plew, who read aloud the Legal Notice as published in the *Cortland Standard* on 16 October 2015, as follows:

NOTICE IS HEREBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Cortlandville will be held Tuesday, September 29, 2015 at 6:30 p.m. at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, in the Town of Cortlandville, New York, to consider the following applications pursuant to the 1986 Zoning Law:

1. *In the matter of the application of Leach Properties, LLC for property located on Lorings Crossing Road, Tax Map Nos. 77.00-04-11.111 & 11.112, for a variance in the terms and conditions of Article VIII, Section 178-36, to allow for the expansion of a junk yard.*
2. *In the matter of the application of Brian Buttner, ADR Associates, for property located at the intersection of Blue Creek Road & Cosmos Hill Road, Tax Map No. 76.00-07-03.000, for a variance in the terms and conditions of Article III, Section 178-14A, to allow for two two-family dwellings on a single lot, and a lot with an area less than allowed.*

The above applications are open to inspection at the office of Bruce A. Weber, Planning & Zoning Officer, Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, call (607)756-7052 or (607)423-7490. Persons wishing to appear at such hearing may do so in person, by Attorney, or other representative. Communications in writing in relation thereto may be filed with the Board or at such hearing.

David Plew, Chairperson
Zoning Board of Appeals

(Note: Proof of Publication has been placed on file for the record.)

PUBLIC HEARING #1**Leach Properties, LLC, Applicant/Suit-Kote Corp., Reputed Owner – Lorings Crossing Road – TM #s 77.00-04-11.111 & 112 – Expansion of Junk Yard**

As requested by Chairman Plew, PZO Bruce Weber read aloud the definition of a junk yard from the Code, as follows: *A lot or building or part thereof used for collecting, storage, sale, recycling, salvage, or dismantling of discarded or unlicensed machinery, vehicles, appliances, paper, scrap, rags and similar discarded material, or for the sale or storage of parts thereof.*

Chairman Plew then recognized Greg Leach who, along with his wife Barbara, were the owners of Leach Properties, LLC, and also Leach's Custom Trash, and were seeking a use variance for an adjacent parcel (owned by Suit-Kote Corp.) in order to create additional access to his current transfer station, as well as to provide additional parking for his trucks behind the station. He displayed a framed, in-color aerial photo of his entire facility last September, which indicated a very neat layout of his property with no junk shown. The large center building, he explained, was a large transfer station permitted by the State of New York. He also explained the other buildings shown, along with the corporation's trucks, an eight-bay rental facility that has been there since purchase in 1984.

Mr. Leach also explained that he rented the front portion of another building to a plumber and the rear part to his son who owns a landscaping business. He also indicated a parcel that he purchased another parcel on Route 13 that was overgrown; it was cleaned up and is now (after obtaining a variance) used by his son for landscaping materials. He stated he displayed the photo to show the Board that "when you say junkyard, you may have thoughts of that" but it is not a junkyard in that sense.

Mr. Leach stated that what his corporation wants to do is purchase the subject parcels right behind them, as shown on the survey map he submitted, and put in a rear access off Lorings Crossing, fill in an area in the back, and relocate his equipment/vehicles, along with his son's, to this property. He also handed out a listing of his present employees (11), including five reasons that he needs the requested expansion. A copy of this listing has been placed on file for the record. November 1st will mark 39 years that Leach's Custom Trash has been in business.

Mr. Leach explained that there are no unlicensed vehicles on his property, including his Brockway trucks which are his hobby and have historical plates; these are put inside one of the buildings during the winter. He also detailed the traffic pattern for his facility; having another access would be helpful. His business has grown and the use of the proposed property for trucks, vans, and equipment would change the flow of traffic and create a safer traffic pattern.

The applicant stated he had approached Suit-Kote two years ago and, at that time, they were not interested in selling the property; now they are. Mr. Leach has had the properties surveyed.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request; they were as follows:

Pam Jenkins – 4023 Collegeview Drive – Read aloud her prepared statement, requesting that the Board ask specific questions of Mr. Leach. (A copy of the statement is attached to these Minutes.) The questions related to does he plan on seeking another permit to increase tonnage he can process, his discussions with the County, if any, regarding the use of his transfer station, and has he asked the County to purchase his facility to use as a proposed ash for trash transfer station. She spoke against granting of the variance because of the potential for flooding in an area not suitable due to the high level of groundwater, it's in Area 1 of the Ag Protection District. She also commented on previous permits granted to him by the Town, and the fact that he accepts trash from outside the County. She also brought up the fact that he has received permission from the Town to install a fuel storage tank inside one of his buildings even though there are gas stations nearby.

Mr. Leach responded by reporting that he had received an email from Ms. Jenkins stating that “a hauler had called another hauler with the rumor that I’d sold out back in April. This is the kind of stuff I have to deal with—a rumor.” He explained his operation and that he is permitted to do so, 100%, legal. The other questions had nothing to do with the requested variance. He has not asked the County to purchase his facility with regard to ash for trash. He stated that over the past 39 years, the property has never flooded. The Cortlandville Planning Board approved his request for the inside fuel storage tank, it’s documented, and Cortland Pump & Equipment professionally installed the double-walled tank today. Mr. Leach disputed the fact that his drivers can “run down the street” to fuel his trucks; he would pay 20¢ more per gallon of gas by doing so. Chairman Plew stated that the requested expansion is to create additional parking so his trucks/equipment can be parked behind the station, and also to create an additional access to the transfer station via Loring’s Crossing. Mr. Leach raised his voice and asked Ms. Jenkins why she was doing this and what her problem was. He told her that what she claimed was true, was a lie. Chairman Plew restored order.

Lesa Williams – Cortland Sanitation – Asked if the applicant will process more tonnage in the winter. Opposes granting the variance. Mr. Leach again explained his business.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 7:06 p.m.**

DISCUSSION/DECISION

The Board acknowledged receipt of the report/Resolution from Cortland County Planning. Member Joanne Aloï asked the applicant if he could just leave the incoming trash right there on his existing site, and Mr. Leach responded that it must be removed within four days; it does not stay on the site. Member Aloï commented that it was a very nicely run business and provides jobs for people. Member Tom Bilodeau commented that the site of his facility “looks nicer than some private homes.” Member John Finn added that Mr. Leach runs a very good, tight business, and he had observed this when he visited the site unannounced.

ZBA Member Joanne Aloï then proceeded with the required questions (balancing test) for a use variance, with the responses being given by the ZBA members, as follows:

1. Can the applicant realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence?
Board’s Finding: Yes. The property he’s acquiring is vacant land. All agreed.
2. Is the alleged hardship relating to the property in question unique and does not apply to a substantial portion of the district or neighborhood?
Board’s Finding: Yes. All agreed.
3. Will the requested use variance, if granted, alter the essential character of the neighborhood?
Board’s Finding: No it will not. All agreed.
4. Is the alleged hardship self-created?
Board’s Finding: No. All agreed.

A motion was then made by Member Finn to grant the Use Variance, as requested, to allow for expansion of a junk yard, incorporating Items 1 thru 8 of the Cortland County Planning Board's Resolution No. 15-30 of 21 October 2015. The motion was seconded by Member Aloï, with the vote recorded as follows:

Ayes:	Chairman Plew	Nays:	None
	Member Finn		
	Member Bilodeau		
	Member LeFevre		
	Member Aloï		

Motion passed.

This becomes Action #29 of 2015.

PUBLIC HEARING #2

Architect Brian Buttner dba ADR Associates, Applicant/Art Bell, Jr., Reputed Owner – Lot 54, Blue Creek Road – TM #95.15-03-08.000 – To Allow for Two Two-Family Dwellings on a Single Lot & Lot w/Area Less Than Allowed

Chairman Plew recognized Mr. Buttner who was seeking a use variance to construct two single-story duplex dwelling units on a single 2.73±-acre property, as shown on the drawings accompanying the application. The units will be for seniors, or professional people. Public water is available, but each site will need its own septic system. Two drawings were submitted, one indicating the duplexes placed parallel and closer to Blue Creek Road (Proposal #1), and one indicating the duplexes staggered and farther from the road (Proposal #2).

PZO Weber advised the Board that the setbacks indicated meet the zoning requirements. Mr. Buttner stated he had met with the Health Department, and he will also prepare a Stormwater Pollution Prevention Plan. Chairman Plew, Mr. Bell, and the applicant discussed the reasons necessitating the placement of two dwellings on a single, non-conforming lot.

Chairman Plew read aloud a 10/26/15 letter to the ZBA from Jamie Dangler of 1103 Wolf Road, asking that the Board deny the requested variance as she was concerned about maintaining sound land use to protect the environment into the future and ensure good quality of life for nearby residents. She understands that the subject property includes swampy areas and will require septic tanks, and is concerned with groundwater quality and flooding. She is not aware of any hardship considerations. She opposes granting of the use variance.

Chairman Plew asked if there was anyone present who wished to comment on the proposed variance; there were, as follows:

Anne McLorn – 1052 Blue Creek Road – Indicated that one of the proposed units will be within 15 feet of her driveway. Submitted to Chairman Plew a 102-signature petition opposing granting of the requested variance because it would not be in keeping with the zoning. PZO Weber advised that one duplex is an allowed use. Ms. McLorn did not object to having one duplex containing two 3-bedroom units on the lot.

Pam Jenkins – 4023 Collegeview Drive – Opposed granting of variance as land might not support private septic systems. Does not want high-density housing.

Benita DiPietro – Blue Creek Road – Should not have two duplexes on that property. Was opposed to granting requested variance.

Architect Buttner explained that what looks like a bedroom is actually not as it has no closet. It was designed this way because there is no basement and this closetless room is set up to be used

as storage on the same level. Mr. Bell stated they could purchase additional property, but seniors do not want a large yard. He thought it was an appropriate use for the space.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:41 p.m.**

DISCUSSION/DECISION

ZBA Member Joanne Aloï then proceeded with the required questions (balancing test) for a use variance, with the responses being given by the ZBA members, as follows:

1. Can the applicant realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence?
Board's Finding: No, nothing was demonstrated. All agreed.
2. Is the alleged hardship relating to the property in question unique and does not apply to a substantial portion of the district or neighborhood?
Board's Finding: No. All agreed.
3. Will the requested use variance, if granted, alter the essential character of the neighborhood?
Board's Finding: Yes. All agreed.
4. Is the alleged hardship self-created?
Board's Finding: No, Health Department requirement changed after purchase of the property. All agreed.

A motion was then made by Member John Finn to deny the requested use variance. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

Ayes:	Chairman Plew	Nays: None
	Member Finn	
	Member Bilodeau	
	Member LeFevre	
	Member Aloï	

Motion passed.

This becomes Action #30 of 2015.

ADJOURNMENT

At 7:45 p.m., on a motion by Member Finn, seconded by Member Aloï, with everyone present voting in the affirmative, the meeting was adjourned.


Joan E. Fitch, Board Secretary

Emailed to KS/KP, Bd. Members, JBF,
BW, DD, TW & DC on 11/09/15.

Attachment: Pam Jenkins' Statement

ATTACHMENT: Prepared Statement Read Into Record by Pam Jenkins

Rec'd
10-27-15
JF

Leach expansion 10 27 2015

Board members:

Mr Leach was granted a variance to zoning so that he could build his transfer station and he has incrementally expanded his business since then.

Please ask Mr Leach these questions:

Does he plan to seek another permit to increase the number of tons of trash he can process per year?

Has Mr Leach been in any discussions with the county regarding any kind of agreement for the county use his transfer station in anyway?

Then please ask Cortland County legislators the same question.

Has Mr Leach asked Cortland County to purchase his expanding facility from him for use as the County's ash for trash transfer station?

He is asking for a non-conforming use expansion in an area that is not suitable due to the high level of groundwater, Area 1 of the Aq Protection District, the very real potential for flooding with the nearby river .

In March 2008 he expanded from being allowed to process 5,000 tons to 7,499 tons per year, and collecting trash from outside of Cortland County.

In July 2015, he sought permission for a 2000 gallon fuel storage tank. There are several gas stations within a short distance of his existing facility.

There is no indication of what type or the number of pieces of equipment the applicant would like to place at the expanded facility.

The applicant claims that there will be little or no increased truck traffic, but this is highly questionable.

-continued on next page

A planned 9 acre expansion with no plans to increase tonnage or truck traffic...Who is kidding who?

Mr Leach wants to expand his business, planning to invest a lot of money...will his next request be for a permit to process even more trash in Cortlandville?

Pam Jenkins

4023 Collegeview Drive

Cortland, NY 13045