

**TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS**  
**Public Hearings/Meeting Minutes - Tuesday, 29 September 2015 – 6:30 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

**Applicants & Public Present**

Paul Stupke, Sr., Applicant; Brian Malchak & Attorney Dan Ellis for Garage on Delaware, LLC, Applicant; Charles M. Curley, Applicant; Garry & Maria Haraveth, John & Patricia Woodward, Rona Knobel, Paul Stupke, Jr., Gary Lyon, Marcus Bernardo, Kevin Pristach.

**The Public Hearings were opened at 6:28 p.m. by Chairman David Plew, who read aloud the Legal Notice as published in the *Cortland Standard* on 18 August 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 Garage on Delaware LLC for property located at 3676 Delaware Avenue, Tax Map No. 96.06-02-53.000, for a variance in the terms and conditions of Article V, Section 178-21, to allow for the conversion of a residential garage to a business use.*
2. *In the matter of the application of Paul Stupke Sr. for property located at 749 Stupke Road, Tax Map No. 95.15-03-08.000, for a variance in the terms and conditions of Article IV, Section 178-16 to allow for auto repair.*
3. *In the matter of the application of Charles Curley for property located at 989 Beechwood Lane, Tax Map No. 96.17-01-05.000 for a variance in the terms and conditions of Article V, Section 21 A (1) to allow for a single family dwelling with a height greater 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****Garage on Delaware, LLC, Applicant/Reputed Owner – 3676 Delaware Avenue – TM #96.06-02-53.000 – Convert Residential Garage Into Business Use**

Chairman Plew recognized Attorney Dan Ellis, representing the applicant/owner who was seeking a use variance to change the use of an existing storage building to a car washing facility for use by its adjacent automobile repair shop. Attorney Ellis explained that the adjacent building has historically been used for storage of automobiles and equipment. The applicant proposed to use this residential garage building, which was purchased by the applicant and combined with the subject property, should be to wash, wax, and vacuum vehicles. There is currently space in front of the primary auto repair shop to do this, but if the use variance is granted, it would be less disruptive to the neighborhood to conduct this activity at the rear of the property in the existing building.

PZO Weber explained that a use variance is required for the expansion of the auto repair business because the property is located in the R2 Zoning District which does not permit this type of use/expansion by right.

Mr. Malchak stated he was currently working out of another location, and that if he was allowed to use the requested building, he would have a floor drain connected to the City sewer system. There would be no body work done, just detailing cars.

Chairman Plew asked if there were any questions from the Board; there were none.

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

John Woodward – 22 Louise Drive – Lived here since 1985. This is residential area. Presented letter from Anthony Derado opposing variance (copy not supplied to Board Secretary). Property has tripled in size. Does new owner know it's non-conforming?

Letter from Anthony Derado (read aloud by Chairman Plew) – Opposes granting the variance. Concerned with increase in traffic. Concerned with additional noise and chemicals. Has heard loud music there before, engines revving, and squealing of tires. (Letter placed on file for the record.)

Garry Haraveth – 24 Louise Drive – Lives two doors up from subject property. Thanked the owner for changing the colors of the building. This is a residential area, small neighborhood with small access. There's an elementary school and increasing the business is not good; children walking in area. This business takes away the value of his property. Thinks area will become less of an investment because of proposed expansion. It's noisy, except on Sundays when nobody works there. Does he or neighbor have to worry about security? More vehicles, more pollution in our neighborhood. Please consider denying the variance.

**With everyone heard who wished to be heard,  
Chairman Plew closed the Public Hearing at 6:45 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: None.

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: None.

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: Yes. All agreed.

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

<b>Ayes:</b>	<b>Chairman Plew</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Finn</b>		
	<b>Member Bilodeau</b>		
	<b>Member LeFevre</b>		
	<b>Member Aloï</b>		

**Motion passed.**

**This becomes Action #26 of 2015.**

## **PUBLIC HEARING #2**

### **Paul Stupke, Sr., Applicant/Reputed Owner – 749 Stupke Road – TM #95.15-03-08.000 – To Allow for Auto Repair**

Chairman Plew addressed the Board and advised them, "if you have looked at the property, forget what you have seen, and we start all over. So just forget what is there now and we go from here."

Chairman Plew stated that the application was for a use variance to conduct an auto repair business at this location, which currently operates as a towing business. He recognized the applicant, and then read aloud recommendation Items 9 and 10 of the Cortland County Planning Board's Resolution No. 15-20 of 16 September 2015. Mr. Stupke stated he had never received anything from the County, so was not familiar with their recommendations. He stated he had no restrictions on his current towing business, so how could the two be combined?

PZO Weber explained that he was asking for a use of the property that is different from what is there now. The ZBA may include in the stipulation of this that the existing use be in conformance with the new use also. Chairman Plew offered Mr. Stupke the opportunity to take a copy of the County's report home to thoroughly review their recommendations and then come back before the Board next month.

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

### **DISCUSSION/DECISION**

Chairman Plew then acknowledged Paul Stupke, Jr., who asked his father if he would like to comply with what has been recommended by County Planning, and Mr. Stupke, Sr., after reading the County's reports, stated he would. The Board then reviewed the County's recommendations with both Stupkes, one by one. There was an extensive discussion.

At the conclusion of this lengthy discussion, **a motion was made by Member Lenore LeFevre to grant the Use Variance, as requested, incorporating Items 1 thru 12 of the Cortland County Planning Board's Resolution No. 15-20 of 16 September 2015, with Item 9 limiting**

**the number of vehicles to five; Item 10 limiting the hours of operation for the auto repair business from 7 AM to 5 PM, Monday thru Friday, and 7 AM to Noon on Saturdays; existing**

towing operation to operate 24/7; and Item 11 limiting the time period to 90 days that any vehicle without a current license and registration may be parked onsite. The motion was seconded by Member John Finn, with the vote recorded as follows:

<b>Ayes:</b>	<b>Chairman Plew</b>	<b>Nays:</b>	<b>None</b>
	<b>Member Finn</b>		
	<b>Member Bilodeau</b>	<b>Abstain:</b>	<b>Member Aloï</b>
	<b>Member LeFevre</b>		

Motion passed.

**This becomes Action #27 of 2015.**

### **PUBLIC HEARING #3**

**Charles M. Curley, Applicant/Charles M. Curley & Debra A. Tucker, Reputed Owners – 989 Beechwood Lane – TM #96.17-01-05.000 – Single-Family Dwelling w/Height Greater than Allowed**

Chairman Plew recognized the applicant who was seeking an area variance to construct a new home which has a mean height of 32.55 feet, and the Town's Code specifies a maximum height of 30 feet. The application was accompanied by numerous photos, maps, etc.. Chairman Plew asked Mr. Curley why he could not conform to the height requirement, and the applicant responded that he had discussed this with the architect who explained that it had a lot to do with the topography of the lot and the dwelling has a walk-out basement. The architect advised him that it would be \$16,000 to re-design the roof and produce new plans.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request; there was one who wished to do so, as follows:

Marcus Bernardo of Walden Oaks Country Club – Mr. Curley's old house is the same height and has a hill behind it and borders the golf course. If the house was constructed "back on the hill" it would look odd from the street compared to all the houses around that corner. Proposed house will actually fit in with all the homes on Beechwood as far as total height. Three other homes have the same variance. House next door to subject was also granted the same variance.

**With everyone heard who wished to be heard,  
Chairman Plew closed the Public Hearing at 7:08 p.m.**

### DISCUSSION/DECISION

With no further discussion, a motion was made by Member Tom Bilodeau that the area variance be granted as requested. The motion was seconded by Member Finn, with the vote recorded as follows:

<b>Ayes:</b>	<b>Member Finn</b>	<b>Nays:</b>	<b>Member Plew</b>
	<b>Member Bilodeau</b>		
	<b>Member LeFevre</b>		
	<b>Member Aloï</b>		

Motion passed.

**This becomes Action #28 of 2015.**

### **ADJOURNMENT**

At 7:15 p.m., on a motion by Member Bilodeau, seconded by Member Finn, 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.