

TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS
Public Hearings/Meeting Minutes - Tuesday, 26 May 2015 - 6:15 PM
Town Hall Court Room - 3577 Terrace Road - Cortland, NY

Board Members (*absent)

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

Others Present

Bruce Weber, Planning/Zoning Officer
Joan E. Fitch, Board Secretary

Applicants & Public Present

Sunday Earle, Applicant; Glenn Anderson, Applicant; Gary Lyon, Applicant; Jason Arnold, Applicant; Elaine Jackson, Applicant; Valeri & Larry Carlisle, Megan VanDeuson, Will Womuth (?), Ruth Moffitt, Jim & Brenda Contento, Robert Gardner, Kathryn M. Lyon, Yvonne Deligato, Douglas Park, Shawn Earle.

The Public Hearings were opened at 6:15 p.m. by Chairman David Plew, who read aloud the Legal Notice as published in the *Cortland Standard* on 15 May 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, May 26, 2015, at 6:15 p.m. at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, in the Town of Cortlandville, New York to consider the following application pursuant to the 1986 Zoning Law:

1. *In the matter of the application of Gary Lyon for property located on Starr Road, Tax Map No. 96.11-01-019.112, for a variance in the terms and conditions of Article V, Section 178-21, to allow for a storage building.*
2. *In the matter of the application of Elaine Jackson for property located at 3362 Gunzen Drive, Tax Map No. 95.18-01-39.000, for a variance in the terms and conditions of Article IV, Section 178-17 B (4), to allow for a pool with a side yard less than allowed.*
3. *In the matter of the application of Jason Arnold for property located at 4384 Meadow Lane, Tax Map No. 76.14-01-44.000, for a variance in the terms and conditions of Article IV, Section 178-17 A1, to allow for a pool deck with a front yard less than allowed.*
4. *In the matter of the application of Sunday Earle for property located at 3986 Woodside Road, Tax Map No. 85.16-01-16.000, for a variance in the terms and conditions of Article XVIII, Section 178-122 A, to allow for the storage of a trailer in front and side yards.*
5. *In the matter of the application of Glenn Anderson for property located at 4444 Locust Avenue, Tax Map No. 77.00-02-04.100, for a variance in the terms and conditions of Article I definition Home Occupation, Article IV, Section 178-19 A, to allow for an accessory structure over 200 square feet to be used as part of a home occupation & for an accessory building greater than 15' in height.*

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, NY, or 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**Gary Lyon, Applicant/Reputed Owner – Starr Road – TM #96.11-01-01.112 – Storage Barn**

Chairman Plew recognized the applicant who was seeking a use variance to construct a 4000 SF pole barn on the subject property, a vacant lot, to use to store his personal collection of restored cars. A use variance is required because storage buildings are not allowed as a principal use in the R-2 District.

Chairman Plew asked the applicant what his hardship would be if the requested variance was not granted. Mr. Lyon responded that he had several antique cars that he needs a place to store, and the cars are presently in a building that he recently sold. Member John Finn asked the applicant about an alternative that would not require a variance, i.e., keep them stored where they are at present by renting the building from the new owner. Mr. Lyon felt this was not an option.

Chairman Plew then acknowledged receipt of an undated letter to the ZBA from Garry Haraveth in opposition to granting the proposed use variance (see Exhibit A, attached). He then asked if there were any other comments from those present; there was one, as follows:

Yvonne Deligato – 1304 Starr Road – Lives across the street from the subject. Asked applicant if he was building a house for himself, and he replied he was, eventually.

Chairman Plew asked if there was anyone else from the audience who wished to speak on this variance request; there were none.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:27 p.m.**

DISCUSSION/DECISION

Member Tom Aloï remarked that there was only one person who spoke regarding the proposed variance, and it was a simple question. However, the letter received from Mr. Haraveth was in opposition the granting of the variance and also contained many questions he would like answered. Member Lenore LeFevre asked about the storage of his cars, and Mr. Lyon stated they are old cars he has collected/restored that he wants to store until they are sold. His hardship, he stated, is he would have to pay someone to store them. He will not be running a business at this location. The building would be attractive and placed 200 feet back from the road. Mr. Lyon showed the Board members the location of the proposed barn, and also where he plans to construct his house.

PZO Weber also advised that, if the requested variance is granted, the applicant would have to go before the Planning Board for a Conditional Permit.

At the conclusion of a brief discussion, **a motion was made by Member John Finn to grant a use variance for the storage barn, as requested, incorporating Items 1 thru 6 of the Cortland County Planning Board's Resolution No. 15-9 of 20 May 2015. The motion was seconded by Member Aloï, with the vote recorded as follows:**

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

Motion passed.

This becomes Action #8 of 2015.

PUBLIC HEARING #2**Elaine Jackson, Applicant/Judy Jackson, Reputed Owner – 3362 Gunzen Drive – TM #95.18-01-39.000 – Side Yard Less than Allowed**

Chairman Plew recognized the applicant who was seeking an area variance to construct an above-ground swimming pool with a side yard setback of six feet, which is less than allowed. She explained that they are limited by the location of their septic tank and also a large oak tree. Their adjacent neighbor, Fred Collins at 3356 Gunzen Drive, (on the side where the pool is proposed) wrote a letter dated 26 May 2015) in support of the variance.

Chairman Plew asked the measurements of the pool, and the applicant stated it was 24 feet in diameter and 4 feet deep with side of the pool measuring 54 inches.

Chairman Plew asked if there was anyone else from the audience who wished to speak on this variance request; there were none.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:35 p.m.**

DISCUSSION/DECISION

With no further discussion, **a motion was made by Member Tom Bilodeau to grant an area variance for the swimming pool closer to the side yard property line than allowed, as requested. The motion was seconded by Member Finn with the vote recorded as follows:**

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

Motion passed.

This becomes Action #9 of 2015.

PUBLIC HEARING #3**Jason Arnold, Applicant/Reputed Owner – 4384 Meadow Lane – TM #76.14-01-44.000 – Front Yard Less than Allowed**

Chairman Plew recognized the applicant who was seeking an area variance to construct a pool deck around his existing above-ground swimming pool, as shown in the aerial photo accompanying his application. When built as shown, the deck would be closer to the front yard than allowed.

Chairman Plew asked if there was anyone else from the audience who wished to speak on this variance request; there were none.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:38 p.m.**

DISCUSSION/DECISION

After a brief discussion, **a motion was made by Member Aloï to grant an area variance for the pool deck closer to the front yard property line than allowed, as requested. The motion was seconded by Member LeFevre with the vote recorded as follows:**

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

Motion passed.

This becomes Action #10 of 2015.

PUBLIC HEARING #4

Sunday Earle, Applicant/Shawn & Sunday Earle, Reputed Owners – 3986 Woodside Road – TM #85.16-01-16.000 – Storage of Snowmobile Trailer on Front & Side Yards

Chairman Plew recognized the applicant who was seeking an area variance to park their enclosed 8-ft. snowmobile trailer on their side yard during the summer months, and on the side of their driveway during the winter months, as stated in their application.

Member Finn asked PZO Weber to clarify the need for a variance. PZO Weber responded that “as long as it’s parked outside of the required front or side yard, then it’s legal. What’s happened is that it’s being placed in a side yard and then also, potentially, during certain times of the year, in the front yard. The restriction is that it cannot be in a required front or side yard.” Chairman Plew asked the applicant if they could put the trailer behind their deck so it would be conforming. The applicant stated their rear yard is sloped and there was not enough flat space there. Mrs. Earle showed the Board photographs of her property.

Chairman Plew still felt the area next to the right of the deck is level, but he didn’t know how they would get it out in the winter; maybe they would have to rent a storage unit then or else plow it out. The applicant disagreed that the trailer could be placed by the deck as suggested. She then stated that she had 20 feet from her garage to the property line and the trailer is 8 feet wide. If she paved an area to place the trailer next to what is now the driveway, the estimated cost is from \$1500 to \$2000.

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

Robert Gardner – 3992 Woodside Drive – Opposed to granting of variance. His property shares property line with applicant. Trailer has been in side yard for 17 months; it’s unsightly. It’s an eyesore. Hasn’t left property in 17 months. Sometimes it moves forward, sometimes back, but it’s always there. Visible from my kitchen window, back patio, and side yard. It’s parked “right in our face.” There’s no way he cannot see it. Does not look nice. There’s flat land behind the house where there’s a large batting cage; three trailers would fit where this cage is. (Presented letter containing his comments to PZO Weber for the record.) He also showed his photos to Board and PZO Weber. He remarked that the Code should be enforced.

Shawn Earle – Reputed Owner – Mr. Earle countered that the trailer doesn’t move unless there’s snow. Ideally, he stated, it would be in the front or side yards, as they are close by a snowmobile trail and, on occasion, they take it elsewhere with their family.

Chairman Plew asked Mr. Earle why he could not keep the trailer in his existing two-car garage, and he responded that it wouldn't fit because of its height.

Mrs. Earle commented that even if they put the trailer in the back yard, it would still be visible to their neighbors. Mr. Earle commented that they would move the batting cage over. He then asked if he could get a "seasonal variance" from November to March? PZO Weber advised the ZBA that they could put conditions on any variance.

Robert Gardner – 3992 Woodside Drive – Still finds it objectionable if it was seasonal in the side yard.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:57 p.m.**

DISCUSSION/DECISION

The Board then discussed the issues and possible alternatives.

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

1. Can the benefit sought by the applicant be achieved by some other means feasible to the applicant?

Board's Finding: Yes. All agreed.

2. Will an undesirable change be produced in the character of the neighborhood or to nearby properties?

Board's Finding: Yes. All agreed

3. Is the requested area variance substantial?

Board's Finding: Yes. All agreed.

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

Board's Finding: No. All agreed.

5. Is the alleged difficulty self-created?

Board's Finding: Yes. All agreed.

Chairman Plew proposed that the applicant put the trailer in the back where it's flat and, in the winter, have the means to pull it out or else put it in a storage unit somewhere else.

At the close of the Board's discussion, **a motion was made by Member Aloï that the area variance be granted to allow the storage of a snowmobile trailer on the side yard from December 1st thru March 31st only; storage of the trailer must conform to regulations the remainder of the year. The motion was seconded by Member Bilodeau, with the vote recorded as follows:**

**Ayes: Chairman Plew
Member Bilodeau
Member Aloï**

**Nays: Member Finn
Member LeFevre**

Motion passed.

This becomes Action #11 of 2015.

PUBLIC HEARING #5

Glenn Anderson, Applicant/Reputed Owner – 4444 Locust Avenue – TM #77.00-02-04.100 – Accessory Structure >200' for Home Occupation & >15' in Height

Chairman Plew recognized the applicant who was seeking a bulk variance to construct a 2400 SF (40' by 60') storage building which would contain an office for a home-based business. The proposed building would have a height of 26 feet, where the maximum permitted height for an accessory use in the R-1 District is 15 feet.

Mr. Anderson, in response to Member Finn's question, stated that from the road level to the ground level where the building is proposed there is a 30-40 ft. drop. He plans to bring in approximately 3 feet of fill to level the site, so it will sit below road level.

The applicant will also be building a single-family dwelling on this property. The Board reviewed the annotated survey map that accompanied the application. The location of the storage building was questioned by a neighbor to the north. The applicant will adhere to all setback requirements, but he offered to place the storage building 100 feet from the property line. It will have wood siding which is stained a "darker, natural wood color." There will be pickup trucks there.

Chairman Plew asked if there was anyone else from the audience who wished to speak on this variance request; there were none.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 7:24 p.m.**

DISCUSSION/DECISION

After a brief discussion, **a motion was made by Member Finn to grant the bulk variance to allow for an accessory structure over 200 SF to be used as part of a home occupation, and for said structure to have a maximum height of 26 feet with a setback a distance of 100 feet, if feasible, from the northern property line. The motion was seconded by Member Aloï with the vote recorded as follows:**

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

Motion passed.

This becomes Action #12 of 2015.

APPROVAL OF MINUTES – 28 APRIL 2015

A motion was made by Member Finn to approve the Minutes of the 28 April 2015 Zoning Board of Appeals meeting, as submitted. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

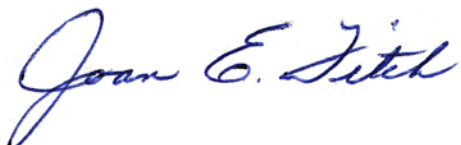
Ayes:	Chairman Plew	Nays:	
	Member Finn		
	Member Bilodeau		
	Member Aloï		
	Member LeFevre		

Motion passed.

This becomes Action #13 of 2015.

ADJOURNMENT

At 7:26 p.m., on a motion by Member Finn, seconded by Member Bilodeau, 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 6/14/15.
Rev. Action #10 on 6/17/15.

ATTACHMENT A

Zoning Board of Appeals
Town of Cortlandville
Raymond G. Thorpe Municipal Building
3577 Terrace Road
Cortland, New York 13045

Dear David Plew and Board Members,

I received a Legal Notice from the Town Of Cortlandville May 21, 2015 (5 days prior to) a public hearing before the Zoning Board of Appeals scheduled for May 26, 2015 at 6:15 PM. I am writing in reference to that notice and in particular:

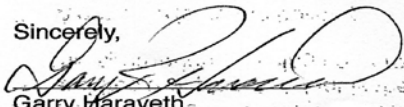
1. In the matter of the application of Gary Lyon for property located on Starr Road, Tax Map No. 96.11-01-01.112, for a variance in the terms and conditions of Article V, Section 178-21, to allow for a storage building.

I am hereby giving my disapproval of such variance and further requesting the Zoning Board do the same until such a time the following questions can be answered, properly and legally, to the Zoning Board and become available to the surrounding residences prior to approval consideration.

1. Is this VARIANCE request due a Financial Hardship? If so, how has this been proven?
2. What is the size of the proposed Storage Building? Has the Board been provided architectural plans? What is the width and length? What is the height? Do all three meet the appropriate building code requirements including materials to be used?
3. What color(s) is the building going to be? Will it blend naturally with the surroundings or will it be the same eyesore as the Gary's Automotive building located on Delaware Street, Cortland, NY which are the same bold colors as the New York Giants football team and hardly blend in with the surrounding area environment. Not to mention a commercial property is within a residential zone.
4. What is the storage building going to store? Is the building solely for private (residential) use or business (commercial) purposes? What is to stop Gary Lyon from using the building for business purposes a year from now and who will monitor that it does not happen. After all, the business and this lot do share the same boarder.

No, I do not approve of the requested variance and pray that the Cortlandville Zoning Board of Appeals has the same upstanding morals as the residence in the Munsons Corners area.

Sincerely,


Garry Haraveth
24 Louise Drive
Cortland, New York 13045