

TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS
Public Hearings/ Meeting Minutes - Tuesday, 29 July 2014 – 5:30 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

Sam Fish, Jr., Applicant; Connie Contento for Janelle Marks, Applicant; Johnathon Burk, Applicant; Jason Arnold, Applicant; Glenn Evans, Applicant; J. Lee Ambrose, Applicant; Robert Felt, Applicant; Florence Blixt, Marilyn DeLorenzo, David & Kathy Jacobsen, Karl Blixt, Paul Gallow, Christina Felt, Erin & David Peppel, Attorney William J. Pomeroy, Bryan & Katie Ford, Joseph Ferro, Yvonne Deligato, Doug Park, Elizabeth Ambrose; Tyrone Heppard, CS Reporter.

The Public Hearings were opened at 5:30 p.m. by Chairman David Plew, who read aloud the Legal Notice as published in the *Cortland Standard* on 17 July 2014, 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, July 29, 2014, at 5:30 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 Samuel Fish, Jr., for property located at 1045 Route 222, Tax Map No. 86.13-01-37.100, for a variance in the terms and conditions of Article IV, Section 178-116, to allow for two dwellings on a single parcel.*
2. *In the matter of the application of Janelle Marks for property located at 4203 Sweeney Road, Tax Map No. 85.00-08-20.000, for a variance in the terms and conditions of Article III, Section 178-13A, to allow for a front yard less than allowed*
3. *In the matter of the application of Johnathon Burk, for property located at 3687 McGraw-Marathon Road, Tax Map No. 99.00-01-07.000, for a variance in the terms and conditions of Article III, Section 178-13A, to allow for a front yard less than allowed.*
4. *In the matter of the application of Jason Arnold, for property located at 4384 Meadow Lane, Tax Map No. 76.14-01-02.000, for a variance in the terms and conditions of Article IV, Section 178-17 B 4, to allow for a front yard less than allowed.*
5. *In the matter of the application of Glenn Evans, for property located at 1307 Starr Road, Tax Map No. 96.11-01-10.000, for a variance in the terms and conditions of Article V, Section 178-20, to allow for a community woodshop.*
6. *In the matter of the application of Dr. J. Lee Ambrose, for property located at 1199 DaVinci Drive, Tax Map No. 76.00-02-13.000, for a variance in the terms and conditions of Article V, Section 178-16, to allow for a storage building on a parcel.*
7. *In the matter of the application of Robert Felt, for property located at 3993 Northway Dr., Tax Map No. 85.16-01-14.000, for a variance in the terms and conditions of Article IV, Section 178-17 B 2 to allow for a storage shed with a front yard 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, 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

Samuel G. Fish, Jr., Applicant/Reputed Owner – 1045 NYS Route 222 – TM #86.13-01-37.100 – Two Dwellings on a Single Parcel

Chairman Plew recognized the applicant who was seeking a variance to allow two dwellings on a single parcel. Chairman Plew asked, “#1 – if this application is approved, what are you going to do with the vehicles that are parked there?” He stated that there were two trucks, an SUV, and a tractor. Mr. Fish answered that one vehicle belongs to someone else and he has asked the owner to remove the vehicle. One vehicle needs repair, one is his plow truck, the other is his tractor. Chairman Plew then read aloud from Mr. Fish’s 19 June 2014 letter to this Board, and was sympathetic that the subject home was built by his family in 1925 as a wedding gift for his maternal grandparents. However, Chairman Plew asked “Why not sell the structure you’re in now and remodel that and move in?” Mr. Fish advised those present that he is looking to provide a home for his son and preserve heritage; his son will be 21 in October. He stated he was being forced by NYS’s Eminent Domain proceedings to vacate the property where the dwelling lies. He would like to move it from its current location to his other property located west of NYS Route 281, as shown on the aerial photo accompanying the application.

Mr. Fish stated that the two dwellings will be single family and will be used by his family and his son’s. There will be no rental; strictly family. Chairman Plew then asked the appellant, “If I was to drive by there in six or seven years, is the existing structure on this house going to look the same way?” Mr. Fish stated he hoped to have new siding on it. Chair Plew then asked about a cow he had seen on the property, asking if she was fenced in. The owner responded that she was tied there.

Member Tom Aloï commented that the property does not look good, and asked Mr. Fish if he was going to clean the property up, or was all the junk going to stay there.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request. There was no one.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 5:40 p.m.**

DISCUSSION/DECISION

Chairman Plew stated he wanted the “cars out of there.” PZO Bruce Weber advised that the appellant was allowed two unregistered, uninspected vehicles. ZBA Member John Finn asked about the expense of moving the dwelling, and Mr. Fish stated that he was receiving approximately \$90,000 from the State to move it. Member Aloï felt this was a hardship case. It was noted that the Cortland County Planning Board had recommended granting the use variance (with three contingencies). A copy of their report/Resolution has been placed on file for the record.

Chairman Plew commented that the problem is, in five to eight years “it will look the same way as it is today.” Board Member Tom Bilodeau stated that, based on the amount the applicant

was to receive, why not subdivide the property? Member Finn then asked, if the variance was denied, “would it improve the looks of the property that we’re concerned about?” He then read aloud the three contingencies contained in the County’s resolution.

At the conclusion of a lengthy discussion, **a motion was made by Member John Finn to grant the variance to allow for two dwellings on a single parcel, as requested, conditioned upon (1) compliance with the Town’s Property Maintenance Code, and (2) any unlicensed, uninspected vehicles need to be kept out of sight. The motion was seconded by Member Aloï, with the vote recorded as follows:**

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

Motion passed.

This becomes Action #16 of 2014.

PUBLIC HEARING #2

Janelle Marks, Applicant/Reputed Owner – 4203 Sweeney Road – TM #85.00-08-20.000 – Front Yard Less than Allowed

Chairman Plew recognized Connie Contento, representing the applicant who was seeking a variance to allow construction of a handicapped ramp to be used by the Marks family to assist their young (age 7) son enter and exit the home in his wheelchair. Ms. Contento and PZO Weber explained the diagrams submitted with the application. Member Aloï commented that he had visited the property, and this was a hardship case. The Board agreed.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request. There was no one.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 5:59 p.m.**

DISCUSSION/DECISION

With no further discussion, **a motion was made by Member Tom Bilodeau to grant the variance as requested. The motion was seconded by Member Finn, with the vote recorded as follows:**

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

Motion passed.

This becomes Action #17 of 2014.

PUBLIC HEARING #3

Johnathon Burk, Applicant/Reputed Owner – 3687 McGraw-Marathon Road – TM #99.00-01-07.000 – Front Yard Less than Allowed

Chairman Plew commented that “you’re coming close to the road.” He stated that if we had three or four feet of snow and a plow comes by at 30 or 40 MPH, the appellant would “have a bunch of snow on your front deck.” He then asked Mr. Burk if he really wanted to come out eight feet. The appellant explained that he wanted to build a front porch they could sit on, but doing so would make it closer to the road than allowed. Member Aloï commented that the proposed porch would actually be set back farther than the existing garage.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request. There was no one.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:02 p.m.**

DISCUSSION/DECISION

With no further discussion, **a motion was made by Member Finn to grant the variance as requested. The motion was seconded by Member Bilodeau, with the vote recorded as follows:**

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

Motion passed.

This becomes Action #18 of 2014.

PUBLIC HEARING #4

Jason Arnold, Applicant/Jason & Felicia Arnold, Reputed Owners – 4334 Meadow Lane – TM #76.14-01-42.000 – Front Yard Less than Allowed

Chairman Plew recognized Mr. Arnold who was seeking a variance to erect an above-ground swimming pool closer to the front property line than allowed, as shown on the aerial photo accompanying the application. The subject parcel is a corner lot, with the dwelling fronting on Meadow Lane, and its side yard on Hillside Drive. Mr. Arnold stated that although technically it is a front yard on Hillside Drive, it is actually their back yard. They would like the pool to be placed 10 feet from the rear (Hillside Drive) property line.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request. There was no one.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:02 p.m.**

DISCUSSION/DECISION

With no further discussion, **a motion was made by Member Finn to grant the variance as requested. The motion was seconded by Member Aloï, with the vote recorded as follows:**

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

Motion passed.

This becomes Action #19 of 2014.

PUBLIC HEARING #5

Glenn J. Evans, Applicant/New Apostolic Church, Reputed Owner – 1307 Starr Road – TM #96.11-01-10.000 – Use Variance for Proposed Community Woodshop

Chairman Plew stated that this was for a community woodshop at this site, a former church. He then stated he had no questions about the request, but asked for questions from the Board members. Member Finn asked if there would be classes; Mr. Evans stated yes, every two weeks, mostly evenings/weekends. He expected from 10 to 15 class members. Woodworking tools/equipment would be provided. Members would pay a monthly fee for access to a professional-grade woodshop.

Member Tom Aloï noted that there were neighbors who were opposed to granting the variance and the Board had received a letter from Martin Mack stating that fact; a copy of this 25 July 2014 letter has been placed on file for the record. Member Aloï was concerned about the neighbors' concerns (noise, dust, traffic, etc.). Chairman Plew noted that different projects would require different times. The shop would also be open for members to use at different times for their own personal projects; supervised hours would be set.

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

Joseph Ferro – 1318 Starr Road – Owns two properties in the neighborhood. It's a residential neighborhood. Church has closed and he is afraid a business is going in there. Will there be a limit to number of people there? Terrible corner with a great amount of traffic. Not a place for this business. Concerned with property appearance and depreciation of his property value. Opposed to granting variance.

Letter to Town of Cortlandville from New Apostolic Church, Reputed Owner – Chairman Plew read aloud a 10 July 2014 letter to the Town, signed by Randolph M. Bauer, Chief Operating Officer of New Apostolic Church USA, explaining their hardship and reasons for requesting a variance. A copy of this letter has been placed on file for the record.

Yvonne Deligato – 1304 Starr Road – Concerned about increased traffic which has become "worse and worse." Property across from them is vacant lot; what if this becomes commercial too? Opposed to granting of variance.

David Peppel – 1335 Starr Road – Also speaking for his wife, Erin. Live across from church. Read aloud and submitted 29 July 2014 letter to Chairman Plew and ZBA Board members. Letter opposed granting of the variance as a woodshop is a complete change of use. Adding a commercial business with potential for shipments/deliveries, noise and increased traffic, is not at all consistent with the intended zoning for their residential neighborhood. Proposed use will likely have a detrimental impact on their property value. If variance is granted, it will likely lead to an erosion of the residential quality of our neighborhood. "It is our hope that you will reject the application for this variance and, in doing so, maintain the integrity of our neighborhood."

Brian Ford – 3633 NYS Route 215 – Said he “echoed Mr. Peppel’s remarks.” It’s a great idea, but the wrong location. Granting of requested variance will change character of the neighborhood. Opposed.

Chairman Plew asked the appellant if there was an unnecessary hardship. Mr. Evans stated that this was the only property in the area that would support this type of community activity. PZO Weber stated that the hardship has to be from the property owner in this instance. Member Finn thought proposed use was a very good idea, but it was a church, now is not a church, and it will sit there and deteriorate or be an expense to someone. Maybe this is not as bad of a change in use as there could be.

Chairman Plew then read the comments received from the County Planning Department, a copy of which has been placed on file for the record. The County recommended approval of the variance, with the conditions set forth.

Mr. Evans explained proposed traffic that would occur. He would like to keep evening/weekend hours.

PZO Weber, in response to someone’s question, explained that what is being requested is not a change to the zoning classification of the property; it is a use that is being applied for, and only that use.

With regard to fumes, dust, ventilation, noise, etc., Mr. Evans advised that the church is air-conditioned, so windows would be kept shut at all times.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 6:37 p.m.**

DISCUSSION/DECISION

PZO Weber recommended that the Board undertake the SEQR review. The Board Secretary read aloud Part II of the Short Environmental Assessment Form. No or Small to Moderate Impact answers were received to all questions in Part II.

A motion was then made by Member Finn that the action, based on the information submitted, will not cause any significant environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

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

Motion passed.

This becomes Action #20 of 2014.

ZBA Member Tom 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. Is the applicant substantially unable to make a reasonable return from the property, as shown by competent financial evidence?

Board’s Finding: No financial evidence has been supplied. (PZO Weber advised that the Board needs to request this information from the owner.)

2. Is the hardship somewhat unique, or at least not shared by a majority of parcels in the same zoning district?

Board’s Finding: Yes, it’s unique.

3. Will the requested variance alter the essential character of the neighborhood?

Board's Finding: No. All agreed.

4. Has there been any self-created difficulty?

Board's Finding: No. All agreed.

After a brief discussion regarding the outstanding issue in Number 1 above, **a motion was made by Member Finn to postpone the ZBA's decision until the Reputed Owner provides competent financial evidence required to support a hardship. The motion was seconded by Member Aloï, with the vote recorded as follows:**

**Ayes: Member Finn
 Member Bilodeau
 Member Aloï**

Nays: None

**Abstain: Chairman Plew
Absent: Member LeFevre**

Motion passed.

This becomes Action #21 of 2014.

PUBLIC HEARING #6

J. Lee Ambrose, Applicant/Reputed Owner – 1199 DaVinci Drive – TM #76.00-02-13.000 – Storage Building on Parcel

Chairman Plew recognized Attorney Bill Pomeroy, representing the applicant who is in the process of selling his home, and the proposed purchaser does not want the storage garage on this parcel, as shown on the aerial photo accompanying the application. Attorney Pomeroy reviewed the previous history of this property. An accessory building is not allowed on a parcel without a dwelling. Therefore, a variance is needed to allow this before it goes before the Town Planning Board for a Lot Line Adjustment to eliminate this flag lot.

Chairman Plew asked if there was anyone from the audience who wished to speak on this variance request. There was no one.

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

DISCUSSION/DECISION

With no further discussion, **a motion was made by Member Finn to grant the variance as requested. The motion was seconded by Member Aloï, with the vote recorded as follows:**

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

Nays: None

Absent: Member LeFevre

Motion passed.

This becomes Action #22 of 2014.

PUBLIC HEARING #7

Robert Felt, Applicant/Reputed Owner – 3993 Northway Drive – TM #85.16-01-14.000 – Front Yard Less than Allowed

Chairman Plew recognized the applicant who stated he had been looking for a place on his parcel to place a storage shed. Due to the topography of their lot, which is hilly, there is very limited flat ground to do so. Therefore, they would like to put a shed at the front of their lot, six feet from the front property line, as shown on the map accompanying the application. He also showed photo(s) to the Board. The proposed shed would be either 10 ft. by 12 ft. or 10 ft. by 14 ft., and be finished to match the exterior of their home.

Chairman Plew asked if there were any comments from the public; they were received as follows:

Karl Blixt – 3972 Woodside Road – Not in favor of allowing storage sheds in the front of a house. Also has issues with RVs parked in driveway and travel trailers parked in front yards. Neighborhood is changing. (Chairman Plew stated that the RV and travel trailer issue had nothing to do with the Felt's property.)

Marilyn DeLorenzo – 3481 Woodside Road – Why not put it in back? Opposed to shed being in front of house. Mr. Felt responded that there were utilities in the way and once beyond those, the lawn rises straight up a hill.

Member Finn shared the Felt's photo with the audience to show them what is being proposed. Member Aloï commented that "It's the only place they can put it."

David Jacobsen – 3980 Northway Drive – Concerned that granting this variance may set a precedent. He objected to granting of the variance

Town Attorney John Folmer – Advised those present that granting of a variance does not set a precedent for this.

**With everyone heard who wished to be heard,
Chairman Plew closed the Public Hearing at 7:07 p.m.**

DISCUSSION/DECISION

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

1. Will an undesirable change be produced in the character of the neighborhood, or a detriment to nearby properties be created?

Board's Finding: No. All agreed.

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Board's Finding: No. All agreed.

3. Is the variance substantial?

Board's Finding: No, it's not substantial. All agreed.

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

Board's Finding: No. All agreed.

5. Has there been any self-created difficulty?

Board's Finding: Yes.

With no further discussion, **a motion was made by Member Bilodeau that, based on the ZBA's findings, a variance is granted to allow for a storage shed with a front yard less**

than allowed, as requested. The motion was seconded by Member Finn, with the vote being recorded as follows:

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

Motion passed.

This becomes Action #23 of 2014.

APPROVAL OF MINUTES – 24 JUNE 2014

A motion was made by Member Finn to approve the Minutes of the 24 June 2014 Zoning Board of Appeals meeting, as submitted. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

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

Motion passed.

This becomes Action #24 of 2014.

ADJOURNMENT

At 7:11 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, TW & DC on 8/17/14.