

TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS
Public Hearings/Meeting Minutes - Tuesday, 27 February 2018 – 6:30 PM
Town Hall Court Room – 3577 Terrace Road – Cortland, NY

Board Members (*absent)

John Finn, Chairman
*David Plew
Thomas Bilodeau
Joanne Aloï
Bernice Potter-Masler

Others Present

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

Applicants & Public Present

Tom Kile, Applicant; Jeff Arnold, Applicant; Brian Buttner, Applicant; Kevin Walsh, Anne & James McLorn, Pam Jenkins, Arthur Bell.

The Public Hearings were opened at 6:30 p.m. by Chairman John Finn, who read aloud the Legal Notice as published in the *Cortland Standard* on 14 February 2018, 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, January 30, 2018 at 7 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 Tom Kile (CNY Living History Center), for property located at 4386 NYS Route 11, Tax Map No. 76.15-01-30.000, for a variance in the terms and conditions of Article XVIII, Section 178-11 B & 112 Note 2a, to allow for a free-standing sign closer to property line than allowed and a height greater than allowed.*
2. *In the matter of the application of Jeff Arnold (Classy Car Wash) for property located at 867 NYS Route 13, Tax Map No. 95.16-02-78.100, for a variance in the terms and conditions of Article XVIII, Section 178-111 F & 112 Table 1, to allow for building-mounted signs to extend above the wall of the building, a greater number of signs than allowed, and building-mounted signs to be illuminated.*
3. *In the matter of the application of Brian Buttner for property located at 1062 Blue Creek Road, Tax Map No. 76.00-07-03.000, for a variance in the terms and conditions of Article III, Section 178-14 A (Bulk Regulations), to allow for a lot with an area and width 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.

John Finn, Chairperson
Zoning Board of Appeals

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

PUBLIC HEARING #1

Tom Kile, Applicant/CNY Living History Center, Reputed Owner – 4386 US Route 11 – TM #76.15-01-30.000 – Area Variance – Sign Height & Location

Chairman John Finn recognized the applicant who introduced Kevin Walsh, the organization's President, and explained to everyone that the History Center was seeking an area variance for a free-standing sign closer to the property line and at a height greater than allowed, as shown on the map/photo accompanying the application. The sign would be placed in the parking lot, right on the right-of-way line, whereas a 15-foot setback is required. The Board discussed the pros and cons of its location, particularly with regard to vehicles backing from parking spaces.

The applicant wants the height of the proposed sign to be twenty (20) feet because there are a lot of campers/trailers that turn around/exit after visiting and their line of sight would be compromised with a lower sign. The maximum sign height is eight (8) feet. Member Tom Bilodeau commented that the higher sign would be more safe. Member Joanne Aloï stated that the sign for the business across the street is higher.

Chair Finn asked if there was anyone from the public who wished to speak on this matter; there was no one.

**With everyone being heard who wished to be heard,
Chair Finn closed the Public Hearing at 6:43 p.m.**

DISCUSSION/DECISION

At the request of Chair Finn, Member Aloï proceeded with the required questions (balancing test) for an area variance; the responses given by the ZBA members, were as follows:

1. Would there be an undesirable change in neighborhood character or to nearby property?
Finding: No. All Board members present agreed.
2. Can the benefit be achieved by other means feasible to the applicant?
Finding: No. All Board members present agreed.
3. Is the requested variance substantial?
Finding: Yes. All Board Members present agreed.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?
Finding: No. All Board members present agreed.
5. Has the alleged difficulty been self-created?
Finding: No; highway upgrades/sidewalks changed the ROWs. All Board members present agreed.

At the conclusion of the test, **a motion was made by Member Tom Bilodeau to grant the area variance, as requested. The motion was seconded by Member Aloï, with the vote recorded as follows:**

Ayes:	Chair Finn	Nays:	None
	Member Bilodeau		
	Member Aloï	Absent:	Member Plew
	Member Potter-Masler		

Motion passed.

This becomes Action #4 of 2018.

PUBLIC HEARING #2

Jeff Arnold, Applicant/Clifton Land Company, LLC, Reputed Owner (dba Classy Chassy Car Wash) – 876 NYS Route 13 – TM #95.16-02-78.100 – Use Variance – Signage

Chairman John Finn recognized the applicant who explained that he was seeking a use variance to place building-mounted signs above the wall of the building, a greater number of signs than allowed, and the illumination of the building-mounted signs, all as shown on the location map/drawings accompanying the application. Mr. Arnold stated that they were expanding the car wash, formerly called “Cortland’s Best Car Wash.”

Alternative signage was presented to the Board for their review: three signs to be placed on a sign tower, as shown on Drawing A-4, Jan. 2018, Proposed Sign Addition, prepared by ALA Architects of Rochester, NY, OR an “alternative” monument sign as shown on a 12/8/17 drawing prepared by Kassis Superior Signs of Syracuse, NY. Copies of all have been placed on file for the record.

Mr. Arnold stated that they will be removing the existing pole sign and incorporate the new signage as part of the building structure, thereby increasing the line of sight when exiting the car wash onto Route 13. Although a monument sign was shown as an alternative, it was not the company’s preferred signage. Also proposed were new directional signs which would be internally illuminated.

Chair Finn asked if there was anyone from the public who wished to speak on this matter; there was no one.

**With everyone being heard who wished to be heard,
Chair Finn closed the Public Hearing at 6:56 p.m.**

DISCUSSION/DECISION

Board members reviewed the elevation drawings presented. Signs were proposed on the north, south, and west sides of the sign tower (cupola) as explained by PZO Bruce Weber. Member Aloï commented that the alternative monument sign “could be hazardous” as it would “obstruct the view.”

At the request of Chair Finn, Member Aloï proceeded with the required questions (balancing test) for a use variance; the responses given by the ZBA members, were as follows:

1. Has the applicant demonstrated that the applicant cannot realize a reasonable return, and that the lack of return is substantial and has been demonstrated by competent financial evidence?

Finding: Yes. Signage critical to financial success of this business; current car wash not very visible. All Board members present agreed.

2. Has the applicant demonstrated that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood?

Finding: Yes. Location of building is unique because of way it is situated and the size and shape of the lot. All Board members present agreed.

3. Has the applicant demonstrated that the requested use variance, if granted, will not alter the essential character of the neighborhood?

Finding: Yes. All Board Members present agreed.

4. Has the applicant demonstrated that the alleged hardship has not been self-created?

Finding: Yes. Building/location are pre-existing as are the entrance/egress lanes. All Board members present agreed.

Chairman Finn then read aloud Part II of the Short Environmental Assessment Form. Negative responses were obtained to all questions in Part II.

A motion was then made by Member Aloï that, based on the information and analysis of the SEQR concerning this application, the Town of Cortlandville Zoning Board of Appeals has determined that the proposed action will not result in any significant adverse environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

Ayes:	Chair Finn	Nays:	None
	Member Bilodeau		
	Member Aloï	Absent:	Member Plew
	Member Potter-Masler		

Motion passed.

This becomes Action #5 of 2018.

With no further discussion, a motion was then made by Member Bilodeau to grant the use variance for (1) the building-mounted signs to extend above the building wall, (2) a greater number of signs than allowed, and (3) the building-mounted signs to be illuminated. The motion was seconded by Member Potter-Masler, with the vote recorded as follows:

Ayes:	Chair Finn	Nays:	None
	Member Bilodeau		
	Member Aloï	Absent:	Member Plew
	Member Potter-Masler		

Motion passed.

This becomes Action #6 of 2018.

PUBLIC HEARING #3

Brian Buttner of ADR Associates, Applicant/Art Bell, Jr., Reputed Owner – Blue Creek Road – TM #76.00-07-03.000 – Smaller Lot Area & Width

Chairman Finn recognized the applicant who explained that the owner was seeking an area variance to allow for a lot with an area and width less than allowed. He explained that, as shown on the accompanying map indicating Parcels A, B, and C (actual and proposed), the owner wished to modify the existing conforming lot areas of Parcels A and B by taking a 109± ft. strip from Parcel A and combining it with Parcel B. This would result in reducing Parcel A from 2.73± A. to 1.740± A. and increasing Parcel B from 2.008± A. to 2.98± A, making Parcel A a non-conforming lot (two acres are required).

Mr. Buttner commented that this “lot line adjustment” was to preserve the agricultural land. The 109± foot strip, he stated, is an existing agricultural drainage ditch. The owner, Mr. Bell, lives on Parcel B and has had the opportunity to sell Parcel A. However, he would like to preserve the existing ditch. There will be no construction or modification of the existing dwellings planned; it’s really a lot line adjustment with preservation of the drainage ditch, he stated. Mr. Buttner stated that the Health Department found no problem with this request because the existing duplex units already have their septic systems designed. He also commented that this would be part of “that stormwater management for the original parcel.”

PZO Weber, in response to Chairman Finn’s question, advised that “the only thing that this application is for is to allow for a lot with an area and width less than allowed.”

Chair Finn asked if there was anyone from the public who wished to speak on this matter; there were, as follows:

Anne McLorn – 1052 Blue Creek Road – Facts presented by applicant are “*completely false.*” Property adjoins Bell property. Ditch runs along her property. She then read aloud her comments as submitted to the ZBA in a letter dated 27 February 2018. This letter, which extensively explains her opposition to the granting of this variance, and is accompanied by a subdivision map (date unknown) of the parcels, along with four petitions (dated October 2015) requesting denial of a previous variance request for the subject property, has been placed on file for the record.

Pamela Jenkins – 4023 Collegeview Drive – (Transcribed verbatim) - *“I agree with everything my neighbor Mrs. Mc Lorn stated. Mr. Bell is out of compliance with all of the building that he has done to date on the property. Pat Reidy wrote yesterday that the Town is aware that the Bell property was supposed to develop and implement a stormwater plan and that has not been done. So, the development is out of compliance. Because Cortlandville has failed to provide compliance, my neighbor has had to contact the DEC which will be making a site visit tomorrow. This is despicable. We’re paying code enforcement to provide enforcement and it’s not happening. Instead of providing a site plan for the entire development, Mr. Bell is using segmentation to get this development approved piecemeal. This is a violation of SEQR Law. SEQR Law requires that you look at the cumulative impacts of the entire development including the roadway that he built, and what appears to be construction building business which was not on the original site plan and you have this right there where it says equipment, garage, and office, and 2 duplexes, and proposed third residence building. It appears that Mr. Bell did not file a Notice of Intent to Disturb greater than one acre as is required under Environmental Conservation Law. And, to repeat, there is no stormwater plan. There is a Federal Wetland of .336 acres on the property. Today, I was standing in the running water on the property, and there are septic systems on the property. Again, Cortlandville has failed to provide enforcement. Until you see an approved stormwater plan for the entire site, and until it is stamped by a Professional Engineer, and accepted by the Department of Environmental Conservation, I submit that you cannot be giving any more approvals to this person, and that I agree that this level of development has definitely impacted my neighbor’s property. . . so you’re adding all of this impervious surface, plus septic tanks; I don’t buy it that they want to control this ditch because, first of all, half of the ditch is on Anne’s property, so the concept that they want to control this ditch I don’t buy that. I think it’s to allow heavier development off of this land than it can possibly handle. So I urge you to deny this request and deny any further requests until you see the stormwater plan. Of course I’m in touch with my lawyer about this, and of course if Anne needs more advice she will get it.”* She added, *“Please deny this request because it’s not in compliance. It’s a total violation of SEQR.*

Art Bell – 4375 Bell Crest Drive – Parcel C is not why he’s here tonight. The building is under construction and not completed. Also have plans to build a new single-family house there. Entire property is under construction and is not a place of business. Does have stormwater plans and met with his engineer, Tim Buhl, so does not understand where comment comes from. Stormwater plan attached to the Permit, he stated. (PZO Weber commented that CEO Kevin McMahon was not aware of a stormwater plan, and stated he will meet with the CEO to determine what is accurate.)

Chairman Finn asked PZO Weber if a single-family dwelling, plus the under-construction barn, could be on 1.57 acres. PZO Weber responded that when the house is there, and the garage is part of the property as an accessory use, the owner has the right to have a home occupation which is limited to certain criteria. He added that the lot had been subdivided a year and a half ago and, at that time, it was in compliance with the Town's requirements. PZO Weber then explained what has transpired with regard to this subdivision over the past 3± years. He then commented that, given the size of the building and how he would operate a home occupation, he may need a variance for that.

Mr. Bell advised the Board that the 109±-foot strip can never be developed. All he was requesting was the adjustment of the boundary line as shown. Moving the line as requested would allow Mr. Bell to maintain the ditch.

In response to Board Members' questions, Mr. Bell indicated various locations on his map: adjacent landowners, private road, Stevens' right-of-way, etc. Anne McLorn indicated the strip could be used as a driveway "to reach this property back here." She also stated she had received an email this afternoon from Mike Ryan of the County Health Department, but no copy was provided to the Board Secretary, and no further information is available. However, PZO Weber stated he will talk with Code Enforcement regarding Parcel C as to whether Mr. Bell (who plans to build a single-family home on Parcel C) is in compliance at this time, which is a separate issue from what the Board is being asked at this meeting.

Chair Finn asked if there was anyone from the public who wished to speak on this matter; there was no one.

**With everyone being heard who wished to be heard,
Chair Finn closed the Public Hearing at 6:56 p.m.**

DISCUSSION/DECISION

Member Aloï asked for a timeline with this subdivision, and it was provided by Mr. Buttner. So she now understood that the original plan was for three duplexes; there are now two duplexes and "if we do this tonight, it opens up the opportunity, again, for something else back here which would be pretty close to what we turned down in the beginning." This was her concern. Member Bilodeau also commented that granting of the requested variance would make two conforming lots into one conforming and one non-conforming.

At the request of Chair Finn, Member Aloï proceeded with the required questions (balancing test) for an area variance; the responses given by the ZBA members, were as follows:

1. Would there be an undesirable change in neighborhood character or to nearby property?
Finding: Yes. All Board members present agreed.
2. Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?
Finding: Yes. The lots could stay the same. All Board members present agreed.
3. Is the requested variance substantial?
Finding: Yes. It would create a non-conforming lot. All Board Members present agreed.

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

Finding: Yes (Aloi, Finn, Masler-Potter) because it cannot be controlled. No (Bilodeau).

5. Has the alleged difficulty been self-created?

Finding: Yes. All Board members present agreed.

At the conclusion of the test, **a motion was made by Member Aloi that the Town of Cortlandville Zoning Board of Appeals, after taking into consideration its five findings in the “Balancing Test,” has determined that the benefit to the Applicant does not outweigh the detriment to the neighborhood or community and, therefore, denies the requested Area Variance to allow for a lot with an area and width less than allowed. The motion was seconded by Member Bilodeau, with the vote recorded as follows:**

Ayes:	Chair Finn	Nays:	None
	Member Bilodeau		
	Member Aloi	Absent:	Member Plew
	Member Potter-Masler		

Motion passed.

This becomes Action #7 of 2018.

Mr. Bell argued, regarding #1 of the “Balancing Test,” how do you change something in the neighborhood when it’s only changing on paper? It’s not changing the neighborhood or the physical appearance of the neighborhood, he stated. PZO Weber responded that when the “Town’s Zoning Regulations requires certain areas to be associated with certain uses, part of that is aesthetics as to the open space.” Member Bilodeau added that his objection to granting of the requested variance was that the applicant was making something that was in compliance non-compliant. Mr. Buttner than added that he felt there was a little “fear mongering” that occurred tonight.

APPROVAL OF MINUTES – 30 JANUARY 2018

A motion was made by Member Aloi to approve the ZBA Minutes of 30 January 2018, as submitted. The motion was seconded by Member Bilodeau, with the vote recorded as follows:

Ayes:	Chair Finn	Nays:	None
	Member Bilodeau		
	Member Aloi	Absent:	Member Plew
	Member Potter-Masler		

Motion passed.

This becomes Action #8 of 2018.

ADJOURNMENT

At 8:35 p.m., on a motion by Member Bilodeau, seconded by Member Potter-Masler, with everyone present voting in the affirmative, the meeting was adjourned.


Joan E. Fitch, Board Secretary

Emailed to KRP, Bd. Members, JBF,
BW, DD, DC, KM on 3/14/18. (R)