

**TOWN OF CORINTH
ZONING BOARD OF APPEALS
600 PALMER AVENUE
CORINTH, NEW YORK 12822
518 654-9232 EXT 5
FRED C. MANN JR.
ADMINISTRATOR**

*August 2, 2007
Zoning Board of Appeals Minutes*

A meeting of the Corinth Zoning Board of Appeals was held on Thursday August 2, 2007 at 7:00 P.M. and called to order by Chairman William Clarke.

Present: X Sigrid Koch X Jeffrey Fedor X William Clarke X Glen Tearno X Philip Giordano X Attorney Cathi Radner X Fred Mann Administrator X Linda Hamm Secretary

Absent: With excuse Attorney Pozefsky

Public: Greta Obach, Sal Speciale, Speciale Construction, Duane and Linda Allen, Arleen Springer, Fred Koch, Kevin Skinner

A motion to accept the minutes as written was made by Glen Tearno and seconded by Sigrid Koch.

Roll Call: Y Sigrid Koch Y Jeffrey Fedor Y William Clarke Y Glen Tearno Y Philip Giordano

5 AYES 0 NAYS

Old Business: Mr. & Mrs. Duane Allen come back to us with an open public hearing to discuss the results of them going to their mortgage company for permission to subdivide their property. Chairman Clark asked if this was a conceptual? Secretary stated no this is a continuation of their public hearing. Glen Tearno asked Mr. Allen if they had gotten back to the bank about letting them subdivide the property. Mr. Allen stated that he had called them several times and went to their office and

still they have no answer to that. The last time I was there they told me that the representatives were on vacation and that he would have to discuss this with them. Mr. Clark stated to Mr. Allen that it is his understanding that you have enough property to subdivide. Yes, stated Mr. Allen we just need the permission of the mortgage holder. Chairman Clarke states he thinks that we should table this hearing until the Allen's are able to get in touch with the mortgage representatives and at such time get their subdivision in the Planning Department. Attorney Radner states you can keep the public hearing open and adjourn the meeting until such time. Mr. Allen agrees to the public hearing adjournment and will return when he gets permission from his mortgage company to subdivide his property and gets his subdivision completed with the Planning Board.

Secretary states to the board that Mr. Obach returns with his contractor for a public hearing to build his garage 15' from the property line. Mr. Chairman there was only one written comment mailed to us in this matter. Chairman Clarke states he regrets he was not here last month and asks Mrs. Obach to fill him in. Mrs. Obach stated that they were looking for a variance to build the garage 15' from the property line. This would give them direct access to back the pontoon boat into the garage. Are you also building a home? Yes, but this won't be built for possibly 5 years. We just lost our camp up north and need somewhere to store the boat and motors while rebuilding. Chairman Clarke asks if they had considered staggering the buildings and then you would have the setbacks and not need a variance. Mrs. Obach states, yes it is an option. What happened is a miscommunication on the off set of the side setbacks. It was stated 15' in the zoning book and it wasn't realized that with a building this size there were different setbacks. We had the property prepped on that side for the garage so when we came in for the application that is when we found out it was really 30'. The point we are at now is we are trying to clean out the camp area from the fire and trying to start the repairs. We do have some of our property in a rental garage on Route 9N, but now we are in a jam with placing our boat.

Glen Tearno asks, when you say you started prepping the property, what exactly has been done? Mrs. Obach stated that the lots are level, but there is quite a dip from the road. Mr. Tearno states so if you were to continue that driveway further back on that same side that would be all right? Chairman Clarke states to Mrs. Obach we do have the power to

grant a closer set back, but I believe what the board is feeling is, that if you stagger the buildings you wouldn't need a variance at all. I realize that we are putting you out a little bit but coming to the board for this variance is secondary. Glen Tearno asks how high the building will be. Mr. Speciale states it will be 19'. Jeffrey Fedor states he has some concerns with a building this large being granted so close to the property line when it will be next to the home that will be built in the near future.

Chairman Clarke states, we did receive a letter from the owner of the property adjacent to you with some concerns of the garage being that close. Mrs. Obach asks if she may read the letter? Yes, of course. Sigrid asks Mrs. Obach what the style of the home is they are planning to build? Mrs. Obach stated with the loss of the camp we are looking at 5 five years down the road. Right now we need the garage to store the pontoon boat and other items we are cleaning out from the fire. Sigrid asks if there are any trees for a buffer. Mrs. Obach stated she asked for a boarder of trees and the person that cleared the lot for us, was also the owner of the lot when we bought it, he had the lines wrong, so on the left side I have trees, the right side is where they were taken out. Sigrid states that the point I am getting at is if you move the house up to the 25' setback you don't have to go back another 5'. Mrs. Obach states that the house is going to have a breezeway that will connect them with the garage. This is the reason for the positioning this way. Mr. Speciale of Speciale Contractors LLC asks the board what the difference of a garage being 19' high or lets say a ranch style home? Both are the same height! Mrs. Obach all ready stated that a breezeway would be attached to the house. Because she is building the garage first does this mean she is not going to build the home? Attorney Radner states that this is not the issue.

The issue is how can she build to comply with the setbacks so she doesn't need a variance. Mr. Mann you make it sound easy to say no, she is going to build the house there with a breezeway to the house. It's only going to be a difference of two feet. Fred states that I believe I only stated that I have not seen any plans for a home. Maybe in (5) five years she may not want to put that breezeway across to the garage. Mr. Speciale states he doesn't believe that she would be changing the plans, she paid good money for them. Again, that is not my decision the board makes that decision. Mr. Speciale asks the board to take into consideration that Mr. & Mrs. Obach are going to build a home there and that the height of the building is not as high as everyone seems to see, the height is only 19' to the pitch and the pitch is 9-12. All together it is 9'6" plus the 10' on the building. Mr. Fedor states that his concern is that we

have the setbacks in place and try to maintain a village atmosphere. We are dealing with a vacant lot here, which means to me there is room for maneuvering open thinking on this. So I would have to say I am opposed to this. Sigrid states she would have to agree. If this was a standard size garage, but this is an imposing building. I believe this would be a negative impact on what is hopefully going to be a nice developed area. Mrs. Obach explains that in order to access the garage to park the boats, we need the 40'. By moving the garage to the left that is going to obscure my way of getting to the doors of the garage. The way you want it set we would have to work around the house and turn again. I'm willing to work with you but this is the reason we need to place the garage at the point we are showing you.

Chairman Clarke states the dimension on the projected house is 30x45 and if you give it a spin around that would give you the space you need. Chairman Clarke asks if there is any public input? Chairman Clarke motions to close the public hearing. Attorney Radner states, Under Town Law 267.B there are (5) area that need to be considered whether you decide to grant or deny an area variance. If you go through each of the (5) criteria and explain your rationale, then you create a clear record of why this variance should be denied or granted. Those (5) five are 1. an undesirable change in neighborhood character or to nearby properties 2. whether benefit can be achieved by other means feasible to applicant. 3. Whether request is substantial 4. Whether alleged difficulty is self-created 5. Whether request will have adverse physical or environmental effects. Jeff Fedor states I want to point to then with a letter received from Michael J. Palma there is consideration here in regard to the impact on the neighboring property and a primary residence expressed that the secondary setback remains 30' with concern value of their home. This is a 50% decrease in a side setback for a secondary structure. This is quite a sizable decrease. We in good faith have shown a few attempts to guide you possibly in some other directions towards the setting of the structure I believe that covers #1 Whether benefit can be achieved by other means feasible to applicant #2 undesirable change in the neighborhood #3 whether request is substantial, we also discussed this #4 whether request will have adverse physical or environmental effects, this was pointed out with a letter from a neighbor, #5 Whether alleged difficulty is self-created. Yes because we showed you other options and placement of the garage. What we are imagining is a village setting and I think there is some concern here that by granting this variance we might be pulling away from

that concept. Jeffrey Fedor makes a motion to deny the applicant's variance and have them ask the engineer to work on another design of placement of the garage. Sigrid seconds the motion. A roll call vote was taken.

*Y Sigrid Koch Y Jeffrey Fedor Y Bill Clarke Y Glen Tearno X
Philip Giordano*

5 AYES 0 NAYS

Variance has been denied.

New Business: Mr. Kevin Skinner is requesting an interpretation of his request to have a personal services business on Route 9N South in the SCH zoned area. Sigrid asks where does the line comes for the Hamlet? I was under the impression it was just the small area like Chapman Street and such, not Route 9N. Mr. Mann states it takes in a larger area and includes part of Route 9N as you can see. I have a map here if you don't have yours in your book. Chairman Clarke asked Mr. Skinner if he bought the property next door from Mrs. Streeter also. Yes, I did and I subdivided it and I just sold the house. Chairman Clarke states so then what you are asking the board to consider this a use variance for that property?

Mr. Skinner states he was sent here for an interpretation of a personal service business. Attorney Radner states to the board members that they are being asked to give an interpretation of the zoning ordinance for the benefit of the Planning Board. If the use that he intends, which I understand it is some home made crafts and retail sales this falls in the definition of a personal service establishment, it is an allowed use in this area. So you want him to describe for you what his intended use is so you can make a determination whether for this board his business fits within the definition of a personal establishment business. Chairman Clarke asks Mr. Skinner what his plans were? Mr. Skinner states he is going to have a workshop and make Adirondack Furniture ,sell it and also sell other peoples merchandise. Seasonal things like fruit, vegetables, plants things like this. Attorney Radner reads to the board members the definition of a personal service establishment. A commercial operation, store, or other place of business catering to the personal needs of a customer, such as normally conducted by a beautician, dressmaker, or

tailor. It is up to you to decide if you think the business you were just described were intended for this. Mr. Fedor asked Mr. Skinner, the pole barn structure is going to be 640 sq. ft. ? Mr. Skinner stated yes. I'm just trying to get a visual of it. Percentage wise how much is for the manufacturing of the furniture and how much for retail? Mr. Skinner stated 20% manufacturing space 80 % retail. It will be you, a couple of people working with you? Just me to start. Not sure where it will go. Mr. Skinner stated he would love to be able to say he would be hiring but I can't at this time. Would the supplies and materials be coming into this main driveway? There will be a service entry coming in heading South.

Sigrid states she was at the Planning Board meeting where this was discussed and they pretty much went through every definition in here trying to fit it and there was the most terrible tension amongst them because most of them agreed it was not personal services establishment. This is construction, manufacturing and sales. I tend to lean that way, were talking storefront and manufacturing. Mr. Skinner stated that it would be a business, meeting the needs of the personal customer. Mr. Tearnio asks in what way? Mr. Skinner stated when a customer special ordered something. Mr. Tearnio asks then, your going to cater to the customer and also, be doing custom furniture? Mr. Skinner states, Yes. Sigrid states when she looked at it she feels it comes more under the if we were going in that direction to the accessory use. Artisan I mean the building of furniture would be manufacturing rather than specialty furniture, it's more artisan and craft. Then your basically talking, if your bringing in other furnishings to your store there will be a variety this is the reason for the interpretation. Mr. Tearnio states it becomes difficult to separate out because a personal service establishment includes the word "store".

Well, usually stores are retail operations. But then it goes on to talk about, specifically catering to the personal needs of the customer such as normally conducted by, the beautician, dressmaker or tailor. So it's not just a retail store, I don't think its going to be a store where fruits and vegetables, can goods or something that could be manufactured would be sold, other than something by a skilled crafter. A dress maker a beautician, someone that has developed a specific skill. It's a little different Mr. Terno states that its also difficult too, because it is almost like a cottage concept when you are talking rustic furniture as opposed to a furniture factory. Mr. Tearnio asked Mr. Skinner if he had any plans on using the house? No I sold that house. Chairman Clarke asks then you don't plan on living on this property? No, stated Mr. Skinner. Chairman

Clarke reads the description of the South Corinth Hamlet .(It is the purpose of this land use district to recognize the hamlet of South Corinth as a district social and cultural place with mixed land uses at a higher density than found in the surrounding countryside. Manufactured homes, mobile homes and other single family dwelling units are allowed in this district.) Chairman Clarke states with this being a residential area I am concerned with all the retail in this area if the service grew too much. Attorney Radner stated to Chairman Clarke that this is not residential, it's zoned Hamlet. Chairman Clarke asks Fred if it is zoned one (1) acre? Fred states yes. Attorney Radner states that if you think that this fits in the definition of personal service shop, then you give him your blessing and he will go to the Planning Board for site plan approval. Sigrid states with looking at the application, I have a problem with personal shop. I don't think of having a place having (10) parking spaces in front of it , to me that is more commercial. Mr. Skinner states to Sigrid but that is one of the definitions of personal services . Chairman Clarke asks Mr. Skinner if he meets the setbacks. Yes, I believe so with the plot plan I gave you.

Mr. Skinner states to the board members that it is his understanding that the church in this Hamlet was once a garage. Repairing dump trucks pulp trucks etc. Glen Tearno asks if anyone knows how long ago that was? Fred Mann states it has been a while, and I had forgotten about it, but he is right. The guy that lives up by the golf course had his dump trucks there. It's been longer than five years asked Glen? Fred said yes, much longer than that. Sigrid asks Mr. Skinner if he purchased the property with this intention in mind? Actually, I was not aware that I was zoned South Corinth Hamlet. Jeffrey Fedor states so in asking for an interpretation from this board its specific to this one issue that we are being asked. Chairman Clarke states that he feels that this business request just does not fit the format here. Mr. Skinner states to them that they are just examples, just examples. Sigrid states that if it were me I would not think of furniture as a personal use. Personal use to me is personal products clothing, food, a hair cut. Philip Giordano states his problem here is that we are setting precedence here and say that manufacturing or building furniture here serves a personal need , someone could want a repair shop in the same spot. I believe you need to come to us for a use variance. Sigrid states that yes some of the property is commercial on Route 9N. some is industrial and the business are in place. Chairman Clarke states that our problem is that this is a personal

service establishment and I agree with you Mr. Skinner, it is a good place for a business of the nature your proposing here but I feel words restraining like the letter of the law we have in front of us. Mr. Skinner asks then, what is the hang-up? Chairman Clarke states, it's not a personal services establishment. Mr. Skinner it is the consensus of the board that we do not see this as a personal service business. I believe what you may want to consider is coming to the Zoning Board for a Use Variance for your furniture store. Mr. Skinner states you make it sound as an impossibility. It is a possibility but, it is a difficult. A use variance starts on the second page of the application. There are (4) steps that you must prove. Attorney Radner states, basically under a use variance you have to show that you can get no reasonable return for your property, with any of the things that are allowed in the zoning. So you mentioned that nobody would build a house with a huge church right next door. If you can demonstrate to this board that nobody would build a house there, that no one would be willing to put a barber shop there because of the unique nature of this property. It can't be used for what is allowed in the zoning then you can get a use variance. But that burden falls on you and you need to speak with a realtor and seeing what a good use is for the property is by bringin in good information about what the surrounding properties are used for, by attempting to sell the property and seeing if anyone would buy it. Those are things you can do. The burden again is on you in demonstrating your need for the variance for this board to grant it.

Chairman Clarke asks for a roll call vote in regard to denying the interpretation on the personal service business for Mr. Kevin Skinner.

Roll Call Vote: Y Sigrid Koch Y Jeffrey Fedor Y Bill Clarke Y Glen Tearnio Y Philip Giordano

5 AYES 0 NAYS

Mr. Skinner asks do I get something in writing. The secretary states she will send him a notification of the determination. Then if you would like to file this as a use variance I would be more than glad to set it up for you.

Chairman Clarke asks if there are any other cases? No states Linda. Is there any comment from the public? No comments.

Motion to adjourn made by Glen Tearno and seconded by Philip Giordano.

*Roll Call Vote: Y Sigrid Koch Y Jeffrey Fedor Y Bill Clarke Y
Glen Tearno Y Philip Giordano*

5 AYES 0 NAYS

*This meeting closed at 8:24 P.M.
Our next meeting will be on September 6, 2007 at 7:00 P. M.*

Respectfully Submitted,

Chairman William Clarke