

**TOWN OF CORINTH
ZONING BOARD OF APPEALS
600 PALMER AVENUE
CORINTH, NEW YORK 12822
FRED C. MANN JR.
ADMINISTRATOR**

**William Clarke
Chairman**

**Sigrid Koch
Vice Chairman**

Jeffrey Fedor

Glen Tearno

Philip Giordano

DECEMBER 4, 2008

A meeting of the Corinth Zoning Board of Appeals was held on Thursday December 4, 2008 at 7:00 P.M. and was called to order by Chairman Clarke.

Present: Y Sigrid Koch Y Jeffrey Fedor Y William Clarke Y Glen Tearno Y Philip Giordano Y Attorney Pozefsky Y Fred Mann Jr. Y Linda Hamm, Secretary

Public: Leslie Trawin, Margaret Clark, Steven Santiago, Angelina Santiago, Rex Moon, Pinkie Moon, Deane Pfeil, Elizabeth Huntly, Ralph Federiconi, Ken Rimany, Arleen Springer, Fred Koch, Debbie Kropf, Chris Schuh, Michael Vasquel, John Caffry

A motion to approve the November 6. 2008 minutes as written was made by Glen Tearno and seconded by Philip Giordano. A roll call vote was taken.

Y Sigrid Koch Y Jeffrey Fedor Y William Clarke Y Glen Tearno Y Philip Giordano

5AYES

0NAYS

Old Business: Chairman Clarke states we will continue with the

public hearing for Debbie Kropf. I would like to thank you for your efforts this has really been a very difficult application I understand with all the public feed back, you have done a great job on your application. Debbie Kropf states she would like to add one more thing. One of the last comments I wrote in my letter was that I had made a proposal to Tawiskarou that, if the subdivision were approved that I would appease their concerns about what was happening with that other piece of property on County Route 10. They got back to me and they had wanted to post pone this meeting until negotiations were set up and I said no, really I have got to move forward with this. This is really your decision and if you decide it is approved then I will appease their concerns. Chairman Clark asks if she has anything else she would like to add to your application? The only thing for Tawiskarou is to understand that I thought this was going to be easy. I could have done this another way, and just put an easement on the property and I believe the boathouse could be built right back in the same place. Chairman Clarke states, as a part of the larger lot. Yes, stated Mrs. Kropf as part of the larger lot. I just felt this was a clearer and more straightforward way to proceed. When the market was better and the economy hadn't dived.

Chairman Clarke asks if there is any other input from the public as far as this application? Attorney Caffry speaks for the Tawiskarou Association stating that he would like mostly to respond to the letter that the applicant filed with you after the last meeting. She was kind enough to e-mail it to me, so I could look it over. There are some places in there that she states that the board can interpret; the board can take into account extenuating circumstances. I really think you have to follow code and follow the law and not bend it just because she is a nice person and she is trying to do something to help her mother here. We did speak with her about postponing tonight's meeting so we could try to nail things down as to what she is willing to do. Her stating she would try to appease their concerns is too vague, if it was in writing, concrete then it would be something the board could take into consideration. We don't know what she will agree to or not. Those are our main concerns about that. Another concern since the last meeting is if there is anything in the file authorizing her to be the spoke person for the family, because if she's not the proper spoke person then anything she says may not be binding. To conclude, if you look at the (5)

part-balancing test for an area variance. We think they have alternatives. We feel it is a self-created problem. These are very substantial variances. We ask that you deny it.

Chairman Clark asks if there is anyone else from the public that would like to speak this evening. There were several. Leslie Trawin the president of Tawiskarou Board, of the Tawiskarou Association. I was unable to attend that last meeting as I am from New Jersey and it is a rather long trip. I did pay attention to the correspondence so I know you have all ready heard our concern about the lake, our long history of our stewardship of the lake. The thing that stuck with me, as I thought about this whole situation is that dividing a substandard lot in creating this little (25') strip, was just about access to the lake. Usage of the lake. I couldn't figure out any other reason for it. Our concern about that is that, there have been many other ways the Kropf's have been approached by members of the lake and it wouldn't have come to this. It's striking as being part of that self-created difficulty. When Debbie came to our former president Bill Chamberlin and explained their situation with their mother. He sat down and spent untold hours trying to craft a response and proposal that would be good for us and for the Kropf's. The proposal was for us to buy lot 39 at fair market value and offer membership to the lake. To get the money into the Kropf's hands very quickly to resolve their concern about her mother. We would have left that land wild so it would have been in keeping with how we treat the property around the lake. There was no response at all, not even any negotiating with our proposal. Not even an acknowledgement of that proposal. I feel there could have been many other ways to resolve this.

Chairman asks if there are any others to speak tonight. With that Mr. Rex Moon spoke reiterating what was spoke here tonight and at last month's meeting along with restating the codes of an area variance. Mrs. Deane Pfeil spoke as well. Mrs. Debbie Kropf responded to the comments stating that. First I'll respond to Deane's comment and specifically what prevents the other lots, first of all those lots are of varying shape their trapezoid in shape. The only one that I know is Mallory Digges lot, which is actually a rectangle in shape, the other ones are a lot more shallow and trapezoidal in shape and they are in Tawiskarou. So Tawiskarou has every authority to deny any type of subdivision. So that right there throws that

argument right out the window. I wanted to do a mirror image of Bob Hancock's. Bob Hancock, and Rimany's lot are 100' and 50'. That's what I thought my original application was going to be for. This was when the boathouse still existed. The boathouse was destroyed in a windstorm and the, Adirondack Park Agency said if you do 25' and 125' you don't have to go through a variance with us. So that's how the 25' strip was started. If I had kept it the 150' then there is a similar pattern. A development which brings me to Rex's comment and I appreciate the laws, I'm a licensed Architect I have to abide by building codes every day. I have been before boards and the building departments of various communities. In many other jurisdictions the authority really left up to the Planning Boards and the Building Inspectors for certain instances. I could understand if every other lot around me was (3) acres, and then I want to put in this tiny substandard lot but every lot in that development whether they compare, they are grandfathered in. That's the pattern of the neighborhood, and to talk about changing the character, there are (3) year round camps up there right now. Now when we were growing up, how many year round camps were up there? Zero! Now you have the camps. They are bigger, much bigger! So that is all ready changing the neighborhood.

Chairman Clarke asks if there is anything else from the public before the board deliberates? I think we can probably make a decision tonight. Chairman Clarke asks Fred Mann if he has anything to add to this? No, I think it is pretty much cut and dry from the discussion. Clarke asks the zoning is a Low Intensity area? Yes it is stated Mr. Mann. The one thing is that Mrs. Kropf did do is get a demolition permit for the dismantling of the houseboat after it was destroyed. Chairman Clarke states that under current town code, it could be rebuilt on the 25' lot though? Yes, stated Mr. Mann. With meeting the setbacks? Yes, stated Mr. Mann. Chairman Clarke asks the structure is not grandfathered where it is. Yes, on the current size lot. If it was subdivided it would have to meet the setbacks for that lot size, or she would have to get a variance. Sigrid states she would like to reassure Rex that I was listening and that I did my homework. Linda and I have worked the last couple of weeks at redoing our application format, so we have spent some serious time in our books. Just to answer the (5) steps as I was going thru it and reading through war and peace, our minuets, article 10.2-C talks about the area

variance determination, and I believe it was Mr. Yunick who was concerned as to this setting precedence. That is one of my concerns with this. I feel that there is an undesirable change to the area. I feel this could set a precedence and I feel the organizations and the first statement that was made when this case was brought to us, was don't the associations have regulations? That is where I felt the decision should have been made to begin with. I was particularly concerned with the immediate neighbor, Mrs. Digges. Her comment being you all ready had boat access which I assume is available to anybody to use there. So I don't see the need for the Kropf's to need a separate access. I believe there is also an access road next to the lot # 39. Mrs. Kropf states yes, if those lots were part of Tawiskarou, but they are not. Sigrid states but the access is still there ! Mrs. Kropf states but not for me. The lot that is in Tawiskarou is up for sale, the other two lots currently do not have access. Sigrid asks is it not Boat Launch Road? Mrs. Kropf states that is part of Tawiskarou. That is for members only. Mrs. Kropf states the other two lots are not part of Tawiskarou. Sigrid states the second point is that the benefit can be achieved by some other method other than the area variance. I think it has been offered here as a membership to the lake. I do consider it to be substantial, at the last meeting the attorney brought up some of the math and this is a considerable offer. I do feel this situation has been self created. The application from the APA, talked about building a house on the property and had a very nice design for it but the whole situation has been self created. It could have easily been eliminated by family joining the association. So with that I could give a motion, or does anybody else have anything to say?

Glen Tearno states that one of the things that concerns me the most is we have had a lot of talk and comments about the associations rules about the associations community and the associations stewardship of the lake, and I appreciate the stewardship of the lake, but I have a couple of concerns. That's an at will community. You buy into that property, you are bound by it's rules. This property is not part of that community. While it abuts it, it is not a part of it. The family that owns it has chosen not to make it so. The associations rules do not apply to those folks. As a sense of community I want to make sure we are considering the town as the community not the association . While the association may be

the neighbor, that's not necessarily the community that we need to consider. As far as percentages, and how substantial they are, we have considered substantial variances in the past. Most recently the veterinary clinic where it was over 50% and that got very little consideration. So how substantial it is and how relative it is needs to be addressed specifically I think to this piece of property. Again, I want to make sure that, that's what's taking place. Also if I'm not mistaken, we talked about this access, currently the Kropf's have access to the lake through their own property. Should they chose to sell a lot that is currently in the association, they would for-fit their access to the lake. However this would give them and allow them to maintain access to the lake. The fact that they have a unique opportunity to attach this access, to a larger piece of property I think is a unique condition that should be given some consideration. While you have to look at each law and take each case on it's own merits, you have a unique situation here, while this is a substandard lot it's all ready a pre-existing lot. In fact all of the lots are substandard. If I'm not mistake anyone that has currently one of these substandard lots could build on it. Which would certainly change the character of that community and of that association. I just wanted to bring those points that separates the association communities and that we consider the uniqueness of the opportunity for the use of this land. Mr. Giordano asks Attorney Pozefsky where is it in the Town Code that it says you can not create a substandard lot? Sigrid states that it is Article 4- 4.2 C .

Sigrid makes a motion to deny the request for an area variance for a subdivision to property on Jenny Lake owned by Jane Kropf and represented by Debbie Kropf. Lot (36) is a preexisting substandard size lot and Article 4.2-C of the Land Use Law of the Town of Corinth states that no yard or lot existing at the time of passage of the Local Law, effective May 15, 2004, shall be reduced in size or area below the minimum requirements set forth. Philip Giordano seconds.

Y Sigrid Koch Y Jeffrey Fedor Y Bill Clarke N Glen Tearno Y Philip Giordano

4AYES 1 NAY

Secretary, states to Debbie Kropf that her request for an area variance has been denied. Attorney Pozefsky, states to

Chairman Clarke that for the interest of the board a SEQRA motion was not required in this area variance request.

New Business: Angelina Santiago comes to the board for two area variances as they have a pre-built shed too close to the property line and an open car port too close to the property line.

Glen Tearno states to the board that he needs to recuse himself from hearing this as the Santiago's are his neighbor, but would like to be part of the public. Chairman Clarke excuses Mr. Tearno and asks Mr. Santiago how much of an area variance she needs? Mrs. Santiago states that the car-port is a 12 x 21 open building that they want to use to store wood for their wood stove. This building is 6ft. from the property line asks Chairman Clarke? I believe the carport is about 8 ft and the shed is 11 ft. stated Mr. Santiago. Approximately how long ago did you have this installed? I believe around the 25th of October, stated Mrs. Santiago. Chairman Clark asks Fred Mann about the pre-built shed and what the problem is with that. Mr. Mann states it is believed to be over 140 sq.ft and brought to the property with out a building permit. You need a permit for a pre-built shed, asks Chairman Clarke? Yes stated Mr. Mann, anything over 140 sq.ft. Mr. Mann states the carport was installed professionally and from what he can see is only held down with stakes and concrete blocks. Chairman Clarke asks, then there were no permits issued for either building? No stated Mr. Mann. Chairman Clarke asks Mr. Tearno if he has anything to say as a public? Mr. Tearno states just two things quick. The carport where it is placed now, being closer to the property line, would be more beneficial to me. If it were to meet the zoning requirements the building would be place out farther into his yard and I would be able to see the building in full view as well as its contents. Where it is at right now I only see the roof. Again when Mr. Santiago talked to me about putting it in that location I asked him if he had seen the code enforcement officer . He stated no , it was only a temporary building. I let him know that anything over 140 sq. ft. would require a building permit. That's when I spoke with Fred about this matter because obviously I sit on the board of appeals and I can't give the appearance of impropriety.

Mr. Fedor asks Mr. Mann if both structures are temporary structures? No, once everything gets settled I am going to ask them to get a permit for the shed.

Chairman Clarke states for the future I think we need to look a little more into the portable garages . Mr. Mann states he will be going to classes in Lake Placid I am going to bring this matter to their attention and see if there are any standard rules. Mr. Fedor asks Mr. Mann, that if this metal structure were to fall in disrepair there is no precedence to being able to build another structure on that spot right. They would have to get another building permit? Right, if they were going to be putting a wood or permanent structure, they would have to have a building permit. Chairman Clarke asks Glen Tearno what his feeling is on the small shed? Again it makes no difference to me where it is. It's been in place for approximately for (2) years. Not realizing what size it was when it was installed, but it is fine where it is with me. Where it is now doesn't impact me at all. Chairman Clarke asks the Santiago's what size their lot is. Sigrid states it is 1.06 acres. After several other questions were asked of the Santiago's Chairman Clarke asked if anyone else had any questions in regard to this matter? Any public comment other than you Glen? Mr. Santiago stated to Mr. Clarke that if all possible he would like to be able to keep the carport and the shed in their location as it would be a rather large expense to him to have to move it. He would have to place new stone down for the shed and hire the installers again to take it down and rebuild it again.

Chairman Clarke states that at this point it seems his neighbor does not have an issue with it but we will have to have a public hearing and Linda will give you the letter and explain to you as what needs to be done. Linda stated to the Santiago's to come to the office next week and I will have a letter for you to send out to your neighbors of (500') away, and I will place a legal ad in the news paper. Your public hearing will be on January 7, 2008 at 7:00 p.m.

Sigrid discusses with the board about the new guideline and application divised and would like you to present it to the Town Board because they have to approve this. Linda and I

worked on this and Fred found us the charges in our surrounding communities and we feel our prices are way too low. Just in spending for mailings to us it has become very costly. Some towns have a commercial fee schedule as well. Linda states to the board that she feels this might be something you might want to have in place as there is the possibility of upcoming construction in the future. Sigrid would also like you to look at the changes of the actual application.

A motion to adjourn the meeting was made by Sigrid Koch and Glen Tearno seconded.

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

Meeting ends at 8:40 p.m.

Next meeting will be on January 7, 2009 at 7:00 pm

Respectfully,

**Linda Hamm
Secretary**

**William Clarke
Chairman**