

**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

Tim Sullivan

January 7, 2009

A meeting of the Corinth Zoning board of Appeals was held on Wednesday January 7, 2009 at 7:00 P.M. and was called to order by Vice-Chairwoman Sigrid Koch.

Present: Y Sigrid Koch Y Jeffrey Fedor Y Tim Sullivan Y Attorney Pozefsky Y Linda Hamm Secretary

Absent: William Clark, Chairman and Glen Tearno and Fred Mann. Mr. Mann is attending the Organizational meeting with the Town Board.

Public: Steven and Angelina Santiago

A motion to approve the minutes as written was made by Jeffrey Fedor and was seconded by Sigrid Koch

Roll Call Vote Y Jeffrey Fedor Y Sigrid Koch Y Tim Sullivan

3 AYES 0 NAYS

Secretary Hamm welcomes Mr. Sullivan to the Zoning Board of Appeals. Mr. Sullivan replaces Mr. Giordano who submitted his resignation.

Old Business: Mr. and Mrs. Santiago return for their public

hearing for the area variance being requested by them to keep their temporary carport at the present location.

Mr. Sullivan stated he read the December minutes and looked over their application but asked Mr. Santiago if he would mind giving a recap for him to catch up? Mr. Santiago explained his situation to the board members in regard to the pre build shed and the newly placed carport that is too close to the property line and without a building permit. Along with the discussion Sigrid Koch stated to Mr. Santiago that zoning had been in place now for 4 and a half years, your pre build shed was placed on the property as you stated about 3 and a half years ago. Sigrid states that the Zoning Board has had time to get out into the public with signs in plain view entering the village stating we require building permits and that the Town has Zoning in our community. So with that being said she feels that the carport should be moved to the minimum setbacks. With all the workshops we have attended there have been several legal cases in regard to some similar situations.

I just feel the carport should be moved. Mr. Fedor states the issue here is that with the shed they can overlook, it has been there for 3 and a half years and the ZBA was new. We are now 4 and a half years old and the information is out there for the public. Mr. Santiago stated that when talking with Fred he was unsure if a building permit was required for this temporary building.

Mr. Fedor states that in Article 4.3 of the Land Use law it says that before the construction, relocation, or alteration of any structure as to the outside dimensions and structure, a building permit shall be obtained. No site preparation for any building shall begin unless and until a building permit has been issued. Attorney Pozefsky states that this is a question that Fred has to address. What I think the Zoning Board has to do, and again the precedent is really important here is to decide whether or not a structure like this, if it is temporary or not is governed by the zoning regulations. This is one of the first cases, that I am aware of in this town where your crossing this bridge and your now setting the precedent for the future. Again, I think Fred wasn't even sure. Mr. Fedor states he did ask Fred during the last meeting if a full structure was a temporary structure. His answer was no. It's here in the minutes. Mr. Fedor states, yes with you going to your

neighbors and discussing this temporary carport was a good thing because it shows being a responsible neighbor but do we as a board start setting a precedent letting structures be built whether it be they temporary structure, garages or full houses and then let people come and apply for the variance? When the board is put in that position from the applicant, justifiably so have a lot invested in this. They have money, they have time. Sometimes it is a make or break situation. Obviously not the case here, with your wood shed, but if it was a garage or a house now we are put into a position of that we all most have to approve it because, I don't know of the emotional factors.

Mr. Fedor states when the application is done before the structure is built, then it is based on the merits of the variance and the input of the neighbors that they give and the law. Mr. Santiago states, with that being said it was a board member that stated that it would be okay where it is. Sigrid states what we all have to remember in our casual conversation because people look to us as being more expert, is make the reference back to the building department to get the absolute information that is necessary. Which would be the setbacks you would have to meet from your property line and would need a building permit. Mrs. Santiago states that obviously that would have been less stressful for us, we just were not aware.

Mr. Sullivan states he believes that this is what Sigrid is getting at, yes he is a member of the Zoning Board however, it is not one of his duties to issue a building permit nor to establish zoning laws on his own. I believe he was acting out of the interest of a neighbor, not as a zoning board member. Mr. Fedor asks Attorney Pozefsky if it is a reasonable statement to say that, when the applicant builds the first structure in the first year of zoning coming in? Attorney Pozefsky states that I do think there is a distinction there, and I think you are on firm legal footing to differentiate the two structures based on when they went in. It is a process and it does take some time for the people to catch on. Mr. Fedor states that once the violation has been removed, you can still erect that structure on your property where ever you like according to the zoning laws, of if you do want to put it somewhere that it doesn't meet the setbacks, before you do you need to apply for a zoning variance. I know you are trying to do it with concern for your neighbors, you can put it in the front, the side where ever you

need as long as you can meet the setbacks and not have to come to the zoning board.

Mr. Jeffery Fedor makes a motion that the Zoning Board approve the variance on the pre existing shed that was put into place one year after zoning laws were instituted in the Town of Corinth I would also like to move that we deny the variance for the carport structure based on Article 13.2 which states, no building permit or Certificate of Occupancy issued or variance granted under this Local Law for premises upon which there is an existing violation of this Local Law or any related town regulation governing either building construction or the use of land and structures within the Town of Corinth. On this motion the Santiago's have until July 1, 2009 to remove the structure. Tim Sullivan seconds that motion.

Roll Call Vote taken:

Y Sigrid Koch Y Jeffrey Fedor Y Tim Sullivan

3 AYES 0 NAYS

Attorney Pozefsky states for the interest of the board a SEQRA motion was not required in this area variance request.

A motion to adjourn the meeting was made by Jeffery Fedor and seconded by Sigrid Koch.

Vote:

Y Tim Sullivan Y Sigrid Koch Y Jeffrey Fedor

3 AYES 0 NAYS

This meeting closed at 8: 22 P.M.

Our next meeting will be on February 5, 2009

Respectfully submitted,

Linda Hamm

Secretary

Chairman William Clarke