

TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS
Public Hearings/Meeting Minutes - Tuesday, 27 September 2016 – 6 PM
Town Hall Court Room – 3577 Terrace Road – Cortland, NY

Board Members (*absent)

David Plew, Chairman (Partial)
John Finn, Acting Chairman (Partial)
Thomas Bilodeau
Lenore LeFevre
Joanne Aloï

Others Present

Bruce Weber, Planning/Zoning Officer
Joan E. Fitch, Board Secretary
John B. Folmer, Town Attorney

Applicants & Public Present

Lorna M. Wall, Applicant; Christopher V. Kumbar for APD Engineering & Architecture, PLLC, Applicant; Jeri Ann McCracken.

The Public Hearing was opened at 6:02 p.m. by Acting Chairman John Finn, who read aloud the Legal Notice as published in the *Cortland Standard* on 16 September 2016, 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, September 27, 2016 at 6 p.m. at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, in the Town of Cortlandville, New York, to consider the following application pursuant to the 1986 Zoning Law:

1. *In the matter of the application of Lorna M. Wall for property located at 613 Lime Hollow Road, Tax Map No. 95.00-06-06.000, for a variance in the terms and conditions of Article IV, Section 178-16, to allow for a storage building.*
2. *In the matter of the application of APD Engineering & Architecture for property located at 908 NYS Route 13 (Aldi's), Tax Map No. 95.16-02-45.000, for a variance in the terms and conditions of Articles I, IA, XVIII, Sections 178-2C, 21A (1), 111F, 112 Table 1, Notes 2a, for parking size less than allowed, a green space less than allowed, for building-mounted signs to extend above the wall of the building, a free-standing sign with a height and area greater than allowed, for a greater number of building signs than allowed, and building signs to be illuminated.*

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.

David Plew, Chairperson
Zoning Board of Appeals

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

PUBLIC HEARING #1

Lorna Mae Wall, Applicant, Reputed Owner – 613 Lime Hollow Road – TM #95.00-06-06.000 – Storage Building

Acting Chair Finn recognized the applicant who was seeking a Use Variance to place an Amish-style storage building on the subject vacant parcel which is next to the lot on which she lives, as shown on the aerial photo accompanying the application. She stated that her daughter, Ms. McCracken, was moving back home “for awhile,” and there was no room for such a building on her house lot. There are already three small sheds, one in disrepair.

Acting Chair Finn stated he had visited the site and had seen her house and a blue building with white trim (which she said was her home, but there were two lots). The subject parcel was non-conforming to begin with as a variance was never granted; now she wants to put another building on the same parcel, which would make two non-conforming buildings. Eventually, Ms. Wall stated, she would put another house there. She added that the one building that looks like a garage is actually used for storing lawn tractors, etc. There’s no room for her daughter’s items in this existing building as it’s full now.

Acting Chair Finn asked the applicant for some kind of timeline as to how long the storage building would be needed. She responded that it would be at least until her daughter’s divorce has gone through. PZO Weber explained that when a house is constructed, the lot would then be conforming, but without a house on this parcel, it’s non-conforming. Town Attorney John Folmer suggested that a variance could be granted on a temporary basis, i.e., six months. PZO Weber advised that if the storage building was needed for a longer period, then the applicant could come back before the ZBA to seek an extension.

Member Bilodeau thought that granting the variance temporarily would be the way to go; the Board discussed the possibility, and also the status of the daughter’s divorce.

Acting Chair asked if there was anyone present from the public who wished to speak regarding the variance; there was no one.

**With no one present to be heard,
Acting Chair Finn closed the Public Hearing at 6:18 p.m.**

DISCUSSION/DECISION

The Board agreed that this was a difficult situation, considering the Order of Protection which is in place, and the details provided by the applicant and her daughter. Member Joanne Aloï spoke in favor of a “temporary” use variance.

After their discussion, the Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
Finding: Yes, a reasonable return cannot be realized. All Board members present agreed.
2. 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, it’s unique. All Board members present agreed.
3. That the use variance requested, if granted, will not alter the essential character of the neighborhood.
Finding: Yes, it will not alter the essential character of the neighborhood. All Board members present agreed.
4. That the alleged hardship has not been self-created.
Finding: Yes (Finn, Bilodeau, Aloï). No (Lefevre).

PZO Weber advised the Board that they had gone through the criteria and have determined there is nothing to disqualify the application.

With no further discussion, a motion was made by Member Tom Bilodeau to grant the use variance for the proposed temporary storage building until 1 April 2017. The motion was seconded by Acting Chair Finn, with the vote recorded as follows:

Ayes:	Acting Chair Finn	Nays:	None
	Member Bilodeau		
	Member Lefevre	Absent:	Chairman Plew
	Member Aloï		

Motion passed.

This becomes Action #29 of 2016.

(Note: David Plew arrived at 6:30 p.m. and assumed his position as Chairman of the ZBA).

PUBLIC HEARING #2

APD Engineering & Architecture, PLLC, Applicant/Aldi, Inc., Reputed Owner – 908 NYS Route 13 – TM #95.16-02-45.000 – Storage Building

Chairman Plew recognized Chris Kumbar, representing the applicant’s firm that was the engineer/architect for a proposed new Aldi Store to be constructed on this site. Chair Plew advised Mr. Kumbar that, although they were seeking variances for parking lot spaces, greenhouse space, and signage, the ZBA at this time could only discuss their request as the SEQRA review needed to be completed first. PZO Weber explained that, typically, the Town Board acts as Lead Agency.

Mr. Kumbar went through the variance requests as indicated above and also as thoroughly explained in APD’s letter to the Town of Cortlandville, dated 2 September 2016, and signed by Todd Markevich, PE, a copy of which has been placed on file for the record. Mr. Kumbar displayed drawings to show what was being planned. They plan to construct their new 19,000± SF store on the same site as their existing 14,000± SF store. When the new store is completed, Aldi will then move into that facility and lease the existing store. They were requesting parking spaces that are 9 by 18 feet (10 by 20 feet is required), green space of 49.8% (where 50% is required), and four building-mounted signs (two are permitted). The store will be open from 9 a.m. to 9 p.m.

Member Lefevre asked if any trees will be removed, and Mr. Kumbar responded that if some are removed, they can be replaced elsewhere on the site.

Chairman Plew stated he had no problem with the 18 ft. length of the parking spaces, but he did object to the 9-foot width.

Signage was discussed in detail, including the “wall of the building” extension. The existing 25-ft. pole sign was discussed which could be left. Or a new sign, shared, but only eight feet high to conform with the Guidelines. Member Finn commented that if another sign is needed, then a variance would be required. PZO Weber commented that APD leave the existing sign and then apply for a permit for an additional sign which would have to be a maximum of eight feet in height; they could also ask for a variance to increase the amount of signage on the existing pole.

PZO Weber stated that the application, at this time, was not complete, but this Board could request that the Town Board act as Lead Agency at such time as there is a complete application.

PZO Weber explained the boards involved in the approval process and what each board did. He also advised the applicant, “at some point in time you’re going to have to make a complete application for boards to be able to make a determination. You can go to the Planning Board with a Sketch Plan Conference, but if the Town Board is ultimately the Lead Agency, that’s a big thing and I don’t believe you’re going to get an answer from the Town Board without them going through the process.”

At the conclusion of this discussion, a motion was made by Member Finn to recommend to the Town Board that they act as Lead Agency under SEQRA for the proposed new Aldi store at such time as a complete application is received. The motion was seconded by Member Aloi, with the vote recorded as follows:

Ayes:	Chairman Plew	Nays:	None
	Member Finn		
	Member Bilodeau		
	Member Aloi		
	Member Lefevre		

Motion passed.

This becomes Action #30 of 2016.

ADJOURNMENT

At 7:10 p.m., on a motion by Member Tom Bilodeau, seconded by Member Finn, with everyone present voting in the affirmative, the meeting was adjourned.


Joan E. Fitch, Board Secretary

Emailed to KS, Bd. Members, JBF,
BW, DD, DC, KM on 11/22/16.