

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

September 11, 2008

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Thursday, September 11th, 2008 at 7 pm.

Roll Call:		
	Ron Rubin	Present
	Glen Herbert	Present
	Jim Crevelling	Present
	Jim Bird	Present
	Mike Steppe	Present
Alternate	Ed Seus	Present
Alternate	John Hoffer	Present

Others present included: R. Parker Reynolds, Bryan Lanahan, Paul Troy, Les Wood William Yarborough, Roger and Brian Ribble, John F. Phillips/CEO, and other interested citizens.

APPROVAL/CORRECTION OF MINTUES

Chairman R.Rubin reported to board members that following last month's meeting he along with the Zoning Secretary had contacted Town Attorney Philip Bailey regarding the Zoning Board's decision for Area Variance Application #938. It was noted by Attorney Bailey, in referencing the Board's decision and conditions as they appear in the minutes, are acceptable. Regarding the board being able to grant the variance with these kinds of conditions, the Attorney referenced a previous case where similar specific conditions were given and were enforceable, thus the conditions concerning the decision of #938 should be as well.

Chairman R.Rubin also stated that in his discussion with Attorney Bailey that the Zoning Board is permitted to rule on issues between the high and low water mark provided the area has been quit claimed by the property owner's deed.

Chairman R.Rubin asked that the August 14th, 2008 minutes have the following addendum: that the Zoning board is permitted to rule on situations between the high and low water mark as long as the property deed references a quit claim between high and low water mark. Mr. R.Williams deed Liber 372, Pg. 106 recorded in the Yates County Clerk's Office on 8/6/91 does show quit claim between high and low water. This addendum to be added as a new paragraph on pg 2 after paragraph #7.

A motion by J.Bird and seconded by J.Crevelling to approve the August 14th, 2008 Zoning Board minutes as amended with the addendum. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

There were two letters of communications regarding Application #941(B). These letters were copied to zoning board members and filed with the application.

AREA VARIANCE REVIEW

Chairman R.Rubin stated that he has known Mr. Reynolds for a long time and is therefore excusing himself from the review of this application. Vice-Chairman G.Herbert will conduct the meeting for review of this application and Alternate Ed Seus will sit in for R.Rubin.

Application #941(A) for R.Parker Reynolds owning Keuka Vista Trailer Park at 126 West Lake Rd. PY, to ask for an interpretation of the ordinance for required living space for a single family dwelling in the General Business Zone.

Mr. Reynolds explained that since the first of April, two of the older mobile home occupants had left the trailer park. The mobile homes were so old that Mr. Reynolds couldn't give them away and ended up having someone come in and dismantle them for scrap. The empty lots were advertised with no response. Mr. Reynolds was approached by two individuals who asked if they could bring in sizeable travel homes, self-contained and rent the lots for six months.

Mr. Reynolds was present to explain that he had asked the Code Enforcement Officer about allowing a travel home to be placed on the vacant lot within his mobile home park. He was told that the travel home did not meet the required square foot living space for a single family home.

Upon reviewing the code, Mr. Reynolds stated that it was not specific in the General Business Zone about the 600 sq.ft. living space and therefore, is asking the Zoning Board about the CEO's interpretation.

Mr. Reynolds stated that he had never actually entertained the idea of having these motor-homes/travel trailers in the trailer park let alone for six months. However, after having the two vacant lots empty for 4 to 5 months, he thought that if these could be set up in the mobile home park on the two empty lots he would be able to generate some income.

He also stated that it was not his intent to be in competition with the State Park as far as having a campsite where these travel homes/Rv's go in and out on a daily or weekly basis. He would have at least a six month lease rental to occupy the lot.

Board members asked if he intended to use just the two empty lots, and Mr. Reynolds stated that he would like to use the two empty lots as well as any other lot that might become available if any of the other single family mobile homes were to leave.

Yates County Planning Board reviewed this application and based on the referred materials submitted recommended that the proposed action be approved.

Keuka Vista Trailer Park is a pre-existing, non-conforming use located in the General Business Zone. There were three places for travel homes to occupy a specific area in the Park when Mr. Reynolds purchased the property. Since the travel home area was not in actual use at time of purchase and has not been used since the property purchase, this use of the mobile home park is gone based on the zoning ordinance.

Mr. Reynolds presently has eleven lots in the mobile home park and nine of these lots have single family homes on them of which the majority are owned by the occupants. He also noted that the wastewater disposal for these mobile homes goes into three separate private septic systems. He hires Ribble's septic service to pump the septic tanks if and when needed. The trailer park itself is not located in the Zone 1 District (referring to the Town of Jerusalem Wastewater Regulations). At the present time, hook-up to the public sewer system is not an option for this property.

The water hookup is to public water which he originally purchased from the Village of Penn Yan, until the area was taken over by the Town of Jerusalem. He noted that when he was serviced by the Village of Penn Yan, there were individual meters for each mobile home in the park. When the Town of Jerusalem took over, a master meter was required.

Comments from the audience were both for and against this proposed application. A letter was written and read by Mr. Brian Lanahan, of 134 West Lake Rd., (copy on file). Verbal comments were heard by Paul Troy, with concerns about the septic smell in the area where he just recently purchased a home located near the corner of West Lake Rd. and Sylvan Dr.

Roger Ribble, of Ribbles Septic Service, asked if he could address the problem of the septic smell. His Company has done work for Mr. Reynolds. Mr. Ribble stated that he had done extensive work for Town of Jerusalem and their sewer pump systems, including the sewer line in front of Mr. Troy's house. He stated that the sewer line, was not developed for anyone to be hooking on. It was a closed system, and was only developed for Keuka Park, working off a pump system and there are two pump systems, one at Indian Pines and one at Keuka Park.

When the sewer pumps kick on the volume in the sewer line is so great and the sewer line does not have the capacity to accept this volume. Meanwhile, the empty line has sewer gas (methane) in it and now with this full flow of sewer waste coming through the line it forces the sewer gas to act like an airhose and it has to go somewhere. In the older homes, that were originally hooked up to the sewer main, in this area, did not have traps or check-values installed in the lines that went to their home. With the new hookups, the check-valves are now being required. One homeowner added an additional length of vent pipe which only diffuses the gas. The gas problem is quite severe in the Sylvan Dr. area. If there is no breeze when the pumps kick on the smell is very distinct. On a windy day the smell is not so evident.

Mr. William Yarborough of 129 West Lake Rd. PY, read a letter which he had written (copy on file) having comments regarding the Mobile Home Park property which lies next to a major culvert and drainage ditch that goes into Keuka Lake.

He noted that runoff, septic, and manmade debris enters this culvert/drainage ditch every Spring through the snowmelt which then flows into Keuka Lake. Traffic safety was another area of concern.

Mr. Les Wood of 133 West Lake Rd., PY, commented favorably concerning this application. He is the immediate neighbor to the south. He stated that Mr. Reynolds operates a good mobile home park and would not be opposed to this use of the park on a probationary period and see how it works out.

A written letter received and copied to board members from Patricia Tinney, who actually lives in the older two-story home located beside the mobile home park was in favor of allowing the smaller units to come in and be set up. Ms. Tinney's mother was the former owner of this Mobile Home Park and in the 1970's there were smaller mobile home units in the Park.

A written letter received and copied to the board from Mr. Pat Cahill was not in favor of allowing these smaller units in the mobile home park.

Vice-Chairman G.Herbert noted that while the Branchport Service Park District (BSP) allows single family dwellings it does not state a minimum sq. ft. requirement and the same is true in the General Business Zone (B1).

CEO Phillips stated that he used the 600 sq. ft. minimum because even though the two business districts do not state a minimum requirement for 1 story single family dwellings, all the other zoned districts have the 600 sq. ft. minimum requirement. The BSP was added as a new district in 2003 (an area made up mostly of marinas) which was formerly zoned as the Lake-Residential (R1) District. The B1 district was amended to allow single family dwellings in the General Business Zone, noting that there were already many pre-existing homes in these areas when zoning was adopted.

Board members discussed the issue of the 600 sq. foot minimum being required in all other zone districts except the BSP and B1 zones. It was noted that even though the sq. foot minimum did not get put into the code for this requirement in these two districts, it seemed unlikely that there would be any logical reason why this requirement would vary from zone district to zone district even though not specifically stated.

Vice-chairman G.Herbert stated that by the code not stating a minimum requirement, he felt that it could leave the decision open to a legal challenge.

A motion was made by E.Seus and seconded by J.Bird to uphold the Code Enforcement's decision that single family dwellings built in the B1 district would be required to be a minimum of 600 sq. ft. based on the fact that all the other zone district's except the BSP district give a minimum sq. foot requirement. It was felt by most of the board members that the minimum sq. foot requirement is implied even though not specifically stated. It is also recommended by the zoning board that the zoning review committee consider updating the zoning code for the minimum requirement in these two districts.

The motion was carried with a poll of the board as follows: J.Crevelling-in favor, M.Steppe-in favor, G.Herbert-not in favor, J.Bird-in favor, E.Seus-in favor.

Part B of Application 941 was then discussed, that of allowing an area variance to let smaller sq. foot units be set up in the mobile home park.

It was again pointed out that right now there are only two empty lots available for these smaller travel homes/Rv's, but if other single family mobile homes were to leave the trailer park, Mr. Reynolds would like to be able to rent the lot similarly.

When asked if he had looked into buying a used home himself to set up on the lot and rent it out, he stated that he had not. He noted that these two lots have been empty since April and was concerned about not losing the ability to even allow any single family mobile to come on site.

CEO Phillips stated that he was not looking at the lots being empty as being an issue as long as the mobile home park continues as it is, even if it takes up to or over a year for a single family mobile home to come into the mobile home park.

Mr. Reynolds stated that there are deed restrictions that tenants of the mobile home park have to abide by. G.Herbert noted that while there may be deed restrictions in place, they are not recognized or enforceable by the Town.

Board members had been given a copy of the NYS Department of Health (DOH) regulations pertaining to mobile home parks (copy on file with application). Keuka Vista Mobile Home Park operates under a permit issued by DOH.

Vice-Chairman G.Herbert read two paragraphs pertaining to DOH requirements of the size and set up of units in the mobile home park.

The area variance questions were read with the following results: #1(4-yes, 1-no); #2(5-yes, 0-no); #3(5-yes, 0-no); #4(0-yes, 5-no); #5(4-yes, 1-no).

A motion was made by J.Crevelling and seconded by M.Steppe to deny area variance application Part B as applied for. J.Crevelling stated that while he understood Mr. Reynold's desire from a business standpoint, he did not think the door was closed to having a mobile home (with the 600 sq. ft. minimum requirement) come to rent one of the vacant lots within the Keuka Vista Park.

The motion was carried with a poll of the board as follows: E.Seus-denry; J.Bird-denry; G.Herbert-denry; M.Steppe-denry; J.Crevelling-denry.

There being no further business to discuss, a motion was made by J.Bird and seconded by M.Steppe to adjourn the meeting. Motion carried (5-yes, 0-no). The meeting adjourned at 8:30 pm.

Respectfully submitted,
Elaine Nesbit/Secretary