

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

**July 5, 2007
Zoning Board of Appeals Minutes**

A meeting of the Corinth Zoning board of Appeals was held on Thursday July 5, 2007 at 7:00 P.M. and called to order by Chairman William Clarke.

Present: X Sigrid Koch X Jeffrey Fedor William Clarke Philip Girodano, X Glen Tearnio X Attorney Pozefsky X Fred Mann X Linda Hamm, Secretary

Absent: Philip Giordano with no excuse.

Public: Fred Koch, Arleen Springer, Duane Allen, Linda Allen, Speciale Contractors for Mr. Ronald Obach, Mr. Ronald Obach

A motion to accept the minutes as written was made by Glen Tearnio and seconded by Jeffrey Fedor.

ROLL CALL TAKEN : X Sigrid Koch X Jeffrey Fedor X Glen Tearnio

3 AYES 0 NAYS

Old Business : Mr. Mark Eggleston's application has been tabled for the last two months for his variance to keep the mobile and use it as a storage unit. Mr. Eggleston has not attempted to attend the meetings. Sigrid asks Attorney Pozefsky what their next step is with this case, considering Mr. Eggleston does not come to the meetings.

Attorney Pozefsky states that the board has sent at least two letters to Mr. Eggleston and called him and I don't think there is any question that he knows he needs to be present. As I said last month the boards time frame kicks in only if you schedule a public hearing and I just don't think should go that far. I would

recommend that the board not only not take any action but also not even put it on the agenda any further unless he comes forward.

Glen Tearno makes a motion to table the Eggleston case until such time Mr. Eggleston addresses the board. Jeffrey Fedor seconds.

ROLL CALL VOTE: X Sigrid Koch X Jeffrey Fedor X Glen Tearno

3 AYES 0 NAYS

New Business: Sigrid states we now have a public hearing for Mr. & Mrs. Duane Allen for a variance to keep the pre existing mobile for his son & daughter in-law and family to live in because they need help taking care of the children due to illness of the wife. Secretary states to let it show the legal ad in the Post Star as part of the minutes.

SIGRID ASKS the public if there is anyone here to speak either for or against Mr. & Mrs. Allen keeping their mobile home. Sigrid states to let the record show we have one letter from a neighbor stating they are against the Allen's keeping the mobile home. Secretary states we received this by fax. Sigrid asks Mr. Allen if he would like to refresh us on the request for the mobile? Mr. Allen states we would like to keep the mobile there for my son and his family due to medical reasons. We do have documentation on their medical problems if you would like them. Other than that there is nothing any different except that the trailer has been updated. A new one replaced the other existing one my mother and sister lived in. Everything is up to code and electrically inspected. Sigrid asks Mr. Allen what the time frame was that your mother and sister left? My mother is staying with the kids, my sister moved and bought a place over on Angel Road. Then my mother moved out and my son moved right in. We had to do this because of the problems with family court. Jeffrey Fedor asks what is the date your mom moved out? Mr. Allen states, a year ago probably. Sigrid Koch states to Mr. Allen; you're aware that your one neighbor doesn't like the idea of you having the trailer? Yes! Sigrid asks have you spoke to them about this, is there a particular reason? Mr. Allen states he doesn't know. The only one I can think of writing the note would be Don Wagner and if not then I don't know who it would be. I don't understand because the trailer has been there it's really nothing new. We went through this process before, everybody was notified. There was no problem then.

Sigrid asks Linda if she received any other letters? No, stated Linda this was the only one. Attorney Pozefsky states that the letter should be entered in the record of course. Mr. Allen stated that there was some confusion. Some of the neighbors were to the understanding that we were putting a second trailer on the property. There is only one trailer on the property. Sigrid asks and then the stick frame? Mr. Allen states yes that's correct. Sigrid states her concern here is that you did have a signed contract here, stating that when the circumstances changed that the trailer would be removed. You signed that in April of 2002. Here we are in 2007 and the

occupants are different. Attorney Pozefsky states that just to refresh, Mr. Tearno wasn't here last month and we had a discussion if this was an accessory structure or something else. I think we decided where someone else could possibly live in there, it wouldn't be an accessory structure there fore it would be an area variance they would be seeking. I believe that is what he is seeking here, and as you know the variance granted by the town expired on it's own terms when there was a change in ownership. So that variance is over with so in fact they do need and area variance from this board. I do think the board has to keep in mind on an area variance you have to weigh the benefits of the applicant verses the detriment to the health, safety and welfare of the community. That's your ultimate balancing test here on whether or not to grant an area variance. Mr. Fedor asks Attorney Pozefsky if this is a prime case of what's to come in regard to the old elderly cottage, where we are looking at moving a second primary home on a lot here? Attorney Pozefsky states yes we talked last month about your having these situations come up with some frequency that use to be elder cottages. Now it isn't and you now have to file for an area variance for that use. It's a residential use and it's permitted in that zone but you can't have two residential uses on one lot. Mr. Tearno states you have a little over 13 acres right? Yes, states Mr. Allen. We are far enough away from the property lines. Mr. Allen states that I realize that we didn't react with this as quick as we probably should have but we were put into a predicament at the time and had to get them in as soon as possible. I do have the documentation in the strong box and can bring it in to you; I have no reason to lie to you. Attorney Pozefsky states to the board that unlike some of the other situations this board has faced, it is possible they could subdivide this property into two lots and that would elevate the need for the variance. Sigrid states this is what my question was, can't we just have them go to the Planning Board and do subdivision? Attorney Pozefsky states it's a definite possibility. I was asking Fred what size the lot was like you say and I don't see any problems there. Fred Mann states you only need an acre lot. Mr. Allen stated he wouldn't have a problem with looking into that either, the only thing is that the bank won't let you subdivide while they are holding a loan on the property. I tried to do that back when we put in the first trailer. Mr. Fedor stated that he would have to subdivide and sell the piece of property to his son. Mr. Allen stated that the bank would not let you do this. Besides my son is not financially stable enough to have a mortgage. This is why we had to go this route. My intentions are that when the property is paid off I am going to subdivide the land so the trailer has it's own property and the easement will be through my driveway. Attorney Pozefsky states he would like to make one other point, he raises a good issue about whether a bank will let you subdivide it and then release on of those lots from their mortgage. Most banks don't like to do that because they loose some security there. Mr. Allen stated again, that the bank would not allow them to subdivide the land as long as there is a mortgage on it. Attorney Pozefsky stated that perhaps then that Mr. Allen could get a letter from this bank stating so. They may write a letter stating that he may be able to subdivide and keep both parcels in his name and unable to sell one or convey one.

Attorney Pozefsky also stated that sometimes depending on where you draw the line, if you make that one acre and you keep Twelve acres sometimes that is

enough for them and they say they will consent to that. Mr. Allen states he will try that again and see if they can work something out there. Mr. Fedor asked Mr. Allen if he owned the current trailer out right? Yes, stated Mr. Allen. Mr. Fedor asks if the Mortgage Company knows this trailer is on this property or is this part of the mortgage along with the house? Mr. Allen stated no, they never assessed the trailer toward the mortgage just the house. They do know it's on the premises. Attorney Pozefsky states to the board members is that what they could do is keep the public hearing open, table it for a month and let Mr. Allen see if he can get a letter from his lender clarifying what they will and will not allow, then come back to the board with that. Mr. Allen states he has no problem doing that. Mr. and Mrs. Allen agree to get the letter and come back next month.

New Business: Mr. Ronald Obach is looking to build a barn for storage on his property before building his home and detached garage.

Mr. Sal Speciale speaks for Mr. Obach as his contractor to explain to the board what Mr. Obach wants to do. Mr. Speciale gives the board members copies of a plot plan showing where Mr. Obach would like to build his garage for storage and showing the proposed home and garage in the future. Mr. Tearno asks there is no structure there on the property now? Mr. Obach states no. Mr. Speciale explains that Mr. Obach has plans of building a home and detached garage at a later time. By having to meet the setback of 30 feet for the storage garage he would not be able to meet the setbacks when he builds his home and detached garage. If we could do the setback of 10 or 15 foot we would be able to do it all. This construction is going to happen in stages as shown on the plot plan. Mr. Tearno asked Mr. Obach if he planned on keeping this garage after the house is built? Yes, stated Mr. Obach. Mr. Fedor states that this is not correct if it is 100 - 145 dimensionally this is not correct. Certainly the 24-40 feet in not correct. Mr. Fedor points out to Mr. Speciale that this board requires a plat plan drawn to scale. Along with this it would be nice to see where the proposed house and garage will be built in relation to this, because I understand the point your making forth of these being side by side, but there is the issue of can the garage be set back or front of the house, which would elevate some of the issue your bringing up by keeping it side by side.

Sigrid states we will schedule the public hearing for next month so that gives you plenty time to draw the plat plan to scale showing the proposed house and detached garage as well. Mr. Fedor states this would help us to make a more informed decision. Fred Mann states he knows Mr. Obach could tie into the village water but he is not sure about the sewer. Sigrid states to Mr. Obach and Mr. Speciale that you just need to see Linda for the list of people you will need to send the letter to certified, receipt requested. These must be returned by the night of your public hearing. Linda will put the legal ad in the local paper.

Sigrid asks if there are any questions from the board or the public. Sigrid

states she has one thing, I attended a seminar put on by BS&K about environmental law, which I found to be very interesting. One of the things they talked about is the importance of having clearly defined laws, so that they are enforceable. I think this is something we have to look at seriously. Bob Crystal, from Saratoga Associates suggested that they have a very good form that they use. We talked about whether we are getting truthful information on our applications or not. Mr. Crystal's form has at the end of it an area where it has to be notarized and it says that, to the best of their knowledge the applicant is giving truthful and reliable information. Also stating a submission of loss information is a misdemeanor. He states that this seems to help quite a bit. People all of a sudden seem to remember correct dates and circumstances. One form that I did come across is an application for an Area Variance and Usage Variance. It explains what the materials are that they need for a completed application. Sigrid asks if there are any other topics or questions? Mr. Fedor asks Fred Mann if he got a chance to look at the mobile home, I can't think of the owner, again reflecting back to the elder cottage on Fuller Road. Fred states yes, the owner's are in the process of subdividing the land, I believe it is coming up in the Planning Board with Mr. Barrass their going to do a boundary line adjustment first then subdivide the land. Mr. Carey Mann just purchased the 27 acres in back of him. Fred states that Jeff was right, that there was someone living in the mobile. Sigrid asks if there are any other questions, comments?

Mr. Glen Tearno made a motion to adjourn the meeting and Jeffrey Fedor seconded.

A ROLL CALL VOTE WAS TAKEN:

X SIGRID KOCH X JEFFREY FEDOR X GLEN TEARNO

3 AYES 0 NAYS

Next meeting will be held on August 2, 2007 at 7:00 P.M.

Respectfully,

Chairman William Clarke