

MINUTES OF THE TOWN OF WAYNE
ZONING BOARD OF APPEALS
September 11, 2014

The meeting opened at 6:30 PM with a roll call of the members.

MEMBERS:		PRESENT	ABSENT	LATE ARRIVAL
Bill Feinstein, Acting Chair		<u>X</u>	—	—
Greg Blessing		—	<u>X</u>	—
Candy Dietrich		<u>X</u>	—	—
Wayne Hand		—	<u>X</u>	—
Bernadette Ervin, alternate		<u>X</u>	—	—

ALSO PRESENT: Gill Harrop, Code Enforcement Officer

Cathy Warden	Bruce Corwin
Bob Shaffler	Don McIntosh
Suzanne Rice	Al Rice
Dan Harsh	Patty Harsh
Vickie Parker	Joe Kelly
Pat Kelly	Richard Hammula
Suzanne Rose	Eugene Rose
Nicole Eddy	Richard Lempold
Luann Simmons	Evelyn Brechbill

MINUTES:

The July 10, 2014 minutes were unable to be approved as Mr. Blessing was not in attendance to vote.

Ms. Dietrich made a motion to approve the August 14, 2014 as amended, seconded by Mr. Feinstein.

A roll call vote was taken.

	Aye	Nay	Abstain	Absent
Bill Feinstein, Acting Chair	<u>X</u>	—	—	—
Greg Blessing	—	—	—	<u>X</u>
Candy Dietrich	<u>X</u>	—	—	—
Wayne Hand	—	—	—	<u>X</u>
Bernadette Ervin, alternate	—	—	<u>X</u>	—

Ayes-2 Nays-0. Abstain-1. Absent-2.

NEW BUSINESS:

USE VARIANCE APPLICATION NO. 07V14: Neva Jacobus. Property located at 9533 and 9487 Lakeshore Dr., Town of Wayne. Request to operate a campground not allowed in commercial or R-2 district. 6.2.3

Both Mr. and Mrs. Rose were present to state that they wanted to purchase the Jacobus' property that was previously used as a campground and stated the following:

- The campground has been vacant since 2007.
- There were 35 existing sites with pads and electric poles.
- It would be an asset to the community by bringing in potential revenue.
- Purchase of the property was contingent to whether they could operate the facility as a campground.

Mr. Feinstein opened the public hearing and instructed those present to state their names prior to making any comments.

The following individuals were present to state their concerns:

Mr. Kelly, located at Sunset Trail and across from the campground, stated he had no objection to their reopening it as a campground, noting his only concern was who would enforce noise and animal control.

Ms. Parker, located on W. Waneta Lake Rd., stated the following:

- Her property backed onto the campground.
- When the campground was in operation, the noise level was a major concern, due to her need to go bed and to get up early for her job.
- She preferred not to see the campground become operational again.

Mr. and Mrs. Harsh stated they no objection to the campground and stated the following:

- They never had a problem when the campground was operational.
- It was a convenience when company came and needed a place for their recreational vehicles.

Mr. and Mrs. Rice, were present to state:

- They had occupied a spot in the campground for seven years and would be thrilled if it was allowed to be reopened.
- They knew of at least 6 or 7 people who would like to come back to the area.
- Dogs had to be restrained by Town ordinance.

- The Jacobus' made sure all was quiet by 11:00PM.

Mr. McIntosh stated he used to come to the campground and was in favor of its reopening.

Mr. Shepherd stated:

- Currently all work done by the Rice's have been an improvement to the property.
- His main concern was for potential water runoff, dust and additional traffic.

Mr. Leopold stated:

- His son approached the owner while the campground was still operational but the purchase offer was declined at that time.
- He was concerned about the number of sites.
- The current septic system would need to be addressed and brought up to standard.

A letter was received from Richard Mamula dated 9/11/2014 (on file), stating he objected to having the campground become operational again.

Mr. Feinstein closed the public hearing.

Ms. Dietrich stated the following:

- She has been a resident for over 23 years and was here when the campground was both operational and when it wasn't.
- She had no problem with allowing the campground to become operational as long as it met all State requirements and kept current on all inspections.

Ms. Ervin stated the following:

- She had no problem with allowing the campground if the Town deemed it an allowable use in the regulations.
- Right now the applicant was caught between a rock and a hard place due to requirements for acquiring a Use variance.

Mr. Feinstein stated that NYS law guides what the Zoning Board of Appeals had to address when considering a Use Variance. Further noting there was a much higher burden to prove hardship when a use is imposed on a property that is not zoned for that particular use.

Mr. Feinstein then reviewed the four question test to applicant, noting that if any one or more of the four questions was not proven, NYS law required the Zoning Board of Appeals to deny the variance.

Mr. Harrop stated the following:

- It was the Zoning Board of Appeals job to enforce the existing Land Use Regulations and not change them.
- The first step is to appeal process.
- The next process would be either go to the Town Board and ask for a change in the regulations or seek an article 78 if the Zoning Board denied the Use Variance.

Upon discussion, the Zoning Board stated the following:

- They encouraged the applicant and those present the need to address their concerns about any possible change in the zoning regulations to allow a campground in a commercial district to the Town Board at their next meeting.
- The applicant may need to seek a lawyer who is knowledgeable in zoning law.

Upon further discussion, Ms. Dietrich made a motion to table Use Variance No. 07V14, seconded by Ms. Ervin.

An aye vote was taken. Ayes-3. Nays-0.

As there was no further business, Ms. Dietrich made a motion to adjourn, seconded by Mr. Feinstein. Ayes-3. Nays-0. The meeting was adjourned at 7:20PM.

Sincerely,

Maureen Kurtz