

**TOWN OF BETHLEHEM
BOARD OF APPEALS
April 18, 2007**

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York was held on the above date at the Town Offices, 445 Delaware Avenue, Delmar, New York. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom, Board of Appeals Chairman
Michael Moore, Counsel to the Board
Gil Brookins, Board of Appeals Member
Anthony K. Umina, Board of Appeals Member
Lenny Micelli, Board of Appeals Member
Mark Hennessey, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: JKC Realty LLC
United Development Corp.

Chairman Hodom called the meeting to order at 7:00pm.

Public Hearing

JKC Realty LLC

The first order of business was a continuation of two (2) public hearing for Variances under Article XIII, Section 128-100, Schedule of Area, Yard and Bulk Requirements, minimum lot width and minimum highway frontage for Lot #1 and Lot #2 requested by JKC Realty, LLC represented by Mr. Bruce Whiting for property located at 448 Route 9W, Glenmont. The applicant wishes to subdivide an existing lot into two (2) separate parcels. The applicant would retain the lot with the existing business and the newly created lot would be sold.

Mr. Platel said that the applicant proposes to subdivide the existing lot into two (2) separate parcels. Lot #1 would have a lot width of ninety-one point zero nine (91.09) feet, this is eight point nine one (8.91) feet shy of the required one hundred (100) feet. Lot #1 would have ninety-four (94) feet of highway frontage, which is six (6) feet short of the required one hundred (100) feet. Lot #2, which would be vacant land, will have a lot width at the building setback line of seventy-two point three eight (72.38) feet which is twenty-seven point six two (27.62) feet shy of the required one hundred (100) feet required and the lot will have seventy-two (72) feet of highway frontage which is twenty-eight (28) feet shy of the one hundred (100) feet required. The property is located in a Commercial Hamlet District and the existing use of the property is a business.

Pastor Lou Giampaglia, senior pastor of the Kings Chapel Church, addressed the Board for the Church's interest. He said he was not at the last meeting and some questions were raised about potential environmental issues. The Church had been speaking with Mr. Whiting over the past three (3) months concerning the strip of land along Mr. Whiting's property that the Church owns. The Pastor was

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

concerned that environmental issues were brought up at the meeting but never discussed with him. The student ministry pastor at Kings Chapel worked in the environmental field for twelve (12) years. He looked at the property and he said there was some debris but it did not seem to warrant an official investigation. Pastor Giampaglia and some of the elders went to the site and they cleaned up the debris. The debris included stovepipes, mufflers, transmissions, house parts and glass. He said the church would continue to keep the property clean. He said he was concerned because he thought some of the debris was moved to that site. He was not aware of how long the debris had been there. He had spoken with the owner of Monroe Muffler about making sure their debris did not find its way to the Church's property. The Church feels that they have been fair in their negotiations with Mr. Whiting. He had taken the time to speak with other business individuals in the area as to land value. He was still willing to negotiate with Mr. Whiting.

Mr. Whiting, owner of JKC Realty, applicant for the variance, spoke. Since the last meeting he had looked further into acquiring the Church's land that runs along the southern portion of his land. He had walked the property in the afternoon and saw that indeed the Church had cleaned up the surface debris. He had a brother that was an environmental geologist for a firm in Connecticut and he had walked the property and decided that because of the type and age of the debris, the lot would need at least a Phase I Environmental study. He then spoke with a real estate professional and his attorney. His attorney had suggested that he not purchase the property. Mr. Whiting had a concern with what was under the property after seeing what had been on top of the property. He thought this issue would make a mortgage hard to obtain. He was not willing to purchase the property.

Chairman Hodom asked if any offers had been made on the property. Mr. Whiting said he had not but if he didn't obtain the variance, he would pursue a land lease though he didn't think that was a viable option.

Mr. Peter McKee, an Associate Broker that specializes in Commercial Real Estate, said he had been working with Mr. Whiting for a number of months. He said it was a nice area and was good for professional offices or low-density retail. He said that land/ground leases would be difficult to impossible to do on this size parcel. He said there weren't any ground/land leases currently on the market in the Town of Bethlehem. He thought that in future years it would be more common but there didn't seem to be any interest at this time.

Chairman Hodom asked Mr. Whiting if he would be willing to make one of the lots compliant and also allow the other parcel to share the existing driveway and parking lot. Mr. Whiting said he would. Chairman Hodom asked if he had done any environmental studies on the property that he currently owned. He said he had not. He then asked Pastor Giampaglia if the Church had done any Environmental Studies on the property they owned. He replied no, they had not. Even with a study Mr. Whiting did not want to purchase the parcel. Mr. Brookins asked if Mr. Whiting had considered subdividing the lot on the other side of the driveway. Mr. Whiting said that would still not give the highway frontage necessary to not require a variance. That would also create some side lot problems.

Chairman Hodom declared the hearings closed.

United Development Corp. – Glenmont Road, Glenmont

Chairman Hodom said the hearing that was scheduled for United Development Group was cancelled because the applicant had given the incorrect address on the application. The applicant has been asked to

resubmit the application materials with the correct address and once that has been received the hearing will be rescheduled.

A motion to adjourn the hearing for 236 Glenmont Road to a date uncertain, due to the information the Board currently has is incorrect and upon receipt of the corrected documents, the hearing will be rescheduled was offered by Mr. Umina, seconded by Mr. Hennessey and approved by all Board members present.

The Board reviewed the draft minutes of April 4, 2007.

A motion to approve the minutes as amended was offered by Mr. Micelli, seconded by Mr. Brookins and approved by all Board members present.

A motion to adjourn was offered by Mr. Brookins, seconded by Mr. Umina and approved by all Board members present.

The meeting adjourned at 7:35PM.