



Town of Bethel

Planning Board

PO Box 300, 3454 Route 55
White Lake, NY 12786

The Town of Bethel Planning Board held a Work Session on March 7, 2016 at 7:00 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake, New York. A regular meeting of the Planning Board followed on the same date at 7:30 PM. On the agenda at that time were the following:

In attendance: Daniel Gettel, Chairman, Steve Simpson, Vice Chairman, Michael Cassaro, Susan Brown Otto, Wilfred Hughson, David Slater, Robert Yakin, Alternate, Bette Jean Gettel, Code Enforcement Officer, Jacqueline Ricianni, Attorney, Jannetta MacArthur, Recording Secretary, Daniel Sturm, Supervisor, Vicky Vassmer-Simpson, Liaison, Glenn Smith, Engineer.

Excused David Biren

Seating Robert Yakin, Alternate

Pledge to the flag

Motion to approve the February 1, 2016 minutes by Steve Simpson, second by Mike Cassaro

All in favor - 7

Opposed - 0

Agreed and carried

1) Public Hearing for a 2 lot subdivision located at the former Smallwood Golf Course, known as Bethel Tax Map#: 51-1-27.1, proposed by the Town of Bethel.

Daniel Gettel: The first item on the agenda is a public hearing for a two-lot subdivision of land of the Town of Bethel. There are quite a few things we have to do before we open the application up for a public hearing. I would like to run through those first. Due to the fact it is a subdivision we have to run through SEQRA, but before we run through SEQRA we have to address a waiver that the town has requested. Dan (Sturm), do you want me to read it into the record?

Daniel Sturm: Yes.

Daniel Gettel: (Reading letter on file into record) “Zoning Section 300-21B(3)(d) of the Town Code states that *“All flag lot access rights of way shall be titled in fee-simple ownership to the flag lot property owner and shall not be used to access any property not part of the original tract. Such owner shall bear the responsibility for maintenance of the improvements”*. This fact has been discussed on the record at several Planning Board meetings, but in this particular case has become problematic. This zoning requirement has not only created difficulties with the development of the new parcel, but also the implementation of the approved mining plan on the adjoining lot.”

Daniel Gettel: This is in a letter that the town submitted.

Daniel Gettel: (Continuing reading letter on file) “Section 300-5A of the Town Code states, in part, that *“The Planning Board shall have the power to authorize waivers and modifications from the requirements of this chapter when, in its opinion, unreasonable hardship will result from strict compliance therewith, provided that the resolution shall state therein the facts on which the Planning Board bases its finding that unreasonable hardship will result from strict compliance with this chapter. The subdivider shall submit applications for waivers or modifications in writing at the time an application and fee are submitted for a Public Hearing”*. And the town says, please accept this letter as our request for your consideration of a waiver of Section 300-21B (3) (d).”

Daniel Gettel: This letter has been on file with the town, I do feel that if we do grant the waiver tonight, we will probably rely on a lot of the information provided in this letter, so I would like to read more of it into the record.

Daniel Gettel: (Continuing reading letter on file) “Section 300-5B of the Town Code sets the requirements for granting a waiver when the following conditions occur. Condition (1) states *“When it is impractical, because of natural or unique natural or physical circumstances, that the property be developed in strict conformity with the provisions of this chapter”*.

“The parcel to be subdivided off exists southerly of the mining parcel, quite a distance off the bounds of Ballard Road. This parcel would be inaccessible without the development of some sort of right of way. Although the parent parcel, and the adjoining park parcel, have ample road frontage the majority of the road frontage is restricted by the existence of wetlands in the area. This road frontage is also further restricted by a conservation easement that encompasses much of these wetlands and the adjoining parklands. The mining parcel and the parcel to be subdivided off have limited road frontage, being only in the area of the original driveway.

If the right of way to serve the new parcel were conveyed in fee simple the existing road frontage the parent parcel enjoys along Ballard Road would be reduced by the width of the right of way, in this case fifty feet. The reduction in the limited amount of road frontage the parent parcel would have after this conveyance would possibly put the project in violation of Section 300-21B (3) (c) of the Town code which states that *“No right of way shall be established over an existing parcel of land to reach a new lot to the rear that would reduce the length of the front lot line of the existing parcel to less than 150 feet”*. In order to conform to this section of code the Town had proposed to increase the amount of road frontage by building, taking over and maintaining a new town road to serve both lots, a costly endeavor that would not be needed if the right of way were not required to be conveyed in fee simple.

If the fifty foot wide right of way is conveyed in fee simple it would have to be conveyed along the easterly bounds of the parent parcel. Not only has this been shown to create a misshapen right of way, as the easterly bounds of the parent parcel are irregular, but it also forces the right of way to be routed along grades that may not be optimal. Also, if the right of way is not conveyed immediately along the easterly bounds, and is straightened out and pulled further into the parent parcel, irregularly shaped unbuildable slivers of land would be created. The County would then be required to assign these voids tax lot numbers as “land hooks” to the parent parcel cannot be considered when crossing private roadways.

Similarly, the mining plan that is in place requires that the mine be provided with a fifty foot wide screened buffer zone between the mining operation and adjoining properties. The irregularly shaped fee simple right of way would have to be conveyed along the easterly bounds of the parent parcel, and then a fifty foot wide buffer zone would have to be installed to shield the privately owned drive from the mining operation. Interestingly enough, the Town would then be required to construct a service driveway parallel to and approximately one hundred feet westerly of the privately owned driveway to conform with the mining plan requirements for an access roadway around the perimeter of the parcel. The loss of land area to create the buffer zone and second driveway would monetarily cut into the potential yield of the mine.

None of the above referenced hardships would be encountered if the fifty foot wide right of way were not required to be conveyed in fee simple.”

Daniel Gettel: The other requirements are:

“The above hardship would be unique and not shared by other properties in the immediate vicinity”.

Daniel Gettel: The town writes:

“The development of the parent parcel is limited not only by physical site restrictions, but also by the restrictions placed on the adjoining parcel as part of the conservation easement that was

put in place to preserve the natural beauty of one of the last remaining, uniquely large sized lots that exist in this area. There are no privately owned lots in the immediate vicinity that are of the size of the parcel to be subdivided.”

Also, *“The variation or waiver would not change the character of the area and would preserve the purposes and intent of this chapter”*.

“If a waiver is granted a fifty foot wide right of way from Ballard Road to the parcel in the rear would be proposed, but the “pole” portion of that flag lot would not be conveyed in fee simple to the purchaser of the lot. That lot would be granted a right of way over the mining parcel lands, but that portion of the driveway and right of way would be owned and maintained by the operators of the mining parcel, in this case the Town of Bethel. This is in conformity to the original contract on this parcel, would not change the character of the area and is in my belief that is constant with the purpose and intent of the zoning code. “

Daniel Gettel: And they ask that we consider the waiver. I think the town would get into more detail when they give the actual presentation. It might be better to understand it. Like I said, this is something we do have to read through. Just so the public is aware, they are also requesting a waiver. Jacy, due to the fact that this is a subdivision we also have to run through the EAF, I believe.

Jacqueline Ricciani: Yes you do.

Daniel Gettel: Do we have to vote on it, or just run through it?

Jacqueline Ricciani: You should run through it, and vote after the public hearing. If the public wants to comment on the EAF after the public hearing, then you can discuss, and do the resolution.

Daniel Gettel: Okay, the town did submit a short environmental assessment form, which is what we requested. We did discuss it, Glenn if you would. It is a simple conveyance of the land and it really doesn't create a disturbance of property.

Glenn Smith: Administratively, yes.

Daniel Gettel: So the application is for a subdivision of lands which is the former Smallwood Golf Course, it is off of Ballard Road in Smallwood, tax lot 51-1-27.1. The applicant requests subdivision approval.

Daniel Gettel: (Reading Short EAF)

- *Does the proposed action involve the legislative adoption of a plan, local law, ordinance, administrative rule or regulation? No.*

- *Does the proposed action require a permit approval or funding from any other governmental Agency? There are no permits from any other government agency.*
- *a. Total acreage of the site of the proposed action? 61 acre parcel*
 - b. Total acreage to be physically disturbed? 125-acre parent parcel, controlled by the town.*
 - c. Total acreage (project site any contiguous properties) owned or controlled by the applicant or project sponsor. 125-acre parcel.*
- *The area is forest land, parkland, residential*
- *It is permitted in the zoning district, and is consistent with comprehensive plan.*
- *There are no critical environmental areas in the Town of Bethel, so it does not adjoin a critical environmental area.*
- *There won't be a substantial increase in traffic.*
- *It won't affect public sewer.*
- *No waste water lines.*
- *There are no historic structures on the parcel*
- *There is no forested land that will be affected.*
- *There are no endangered species on the parcel*
- *No Storm water discharge*

Daniel Gettel: This form has been on file with the town, so I am kind of skimming through it.

- *Has the site of the proposed action or the adjoining property have a solid waste management facility – No*
- *Has the site of the proposed action on the adjoining property been the subject of remediation ongoing or completed for hazard waste? No.*

Daniel Gettel: Should I read Part II, or wait until we see what the public says.

Jacqueline Ricciani: Right.

Daniel Gettel: Like I said this is a public hearing it is not a public debate, we are simply here to get the public's comments on that.

Motion to open the meeting up for a public hearing by Susan Brown Otto, second by Wilfred Hughson,

All in favor - 7

Opposed - 0

Agreed and carried

Daniel Gettel: Mr. Sturm, if you would please make a presentation. Please address the audience.

Daniel Sturm: Good evening. Thank you again for this opportunity to be here tonight. This is the third time we have been here in front of the Planning Board. I am glad so many people came out. I am just going to go briefly over what we are trying to do here. A lot of people have not been following what we have been doing here. In 2011 we purchased this property from the County. The entire parcel was the former golf course, plus another parcel, it is about 190 acres. We bought it from the County. We had to fulfill some requirements; otherwise they would have the opportunity to take the property back. Over the last five years we have been working very hard to fulfill those requirements and what we wanted to do with the parcel. For example, out of the 190 acres, there is now a 125-conservation easement. That is forever protected, wild, walking paths, bike trails, anything that we intend to do there. That is for walkers, hikers, and light recreation. We did a conservation easement. It is not buildable. You cannot build on it. There are wetlands, there is protection. We did some extra wetlands protection around the well here. We added some property easement around there, to protect the well that is in Smallwood. About 150 feet around the whole thing is what we added into the conservation easement. That was one of our concerns, was to protect that entire parcel. Secondly, so that is 125 acres that is already subdivided, that has nothing to do with what we are doing here tonight. What we are doing is there is about 60 acres that are left, what we call the old fairways, the old golf course fairways. The entrance is off of Ballard Road here, there is a gate, and there is a right of way to get into the parcel. We have been using it for years to get into that property. Everybody knows where that property is. Our intention is to get a mining permit, which we did, it took probably two and half years to get the mining permit from the State, the DEC. We do have it, and we will be making sand this year. That is on this 23 acres, as soon as you pull off the right of way, off of Ballard Road, you go straight up where the old fairways used to be, towards the back is where will start making sand. We will work our way back. We believe we have sand for a very long time, based on the borings that were done. The other part of it is what we are here for tonight, is to divide this 60 acres into two parcels. The one for the 23 acres is our sand parcel, which of course we are going to keep. The other one is to be sold. Our agreement with the County specifically said that we had to sell a portion of this entire property for taxable development of some kind. So in other words, we couldn't just sit on it. This property has been on the market since 2011. We have somebody that is interested in purchasing this property right here, approximately 38 acres so we need to come to the Planning Board and divide these two parcels. That is all we are dividing. We are dividing the 38 acres off of the 60-acre parcel. We keep the sand parcel, and the remaining 38 acres is for the new owner. His plan right now is to build one house, maybe two down the road. I believe they would have to go to the Planning Board for

further subdivision for the second home. It is five acre zoning. You need five acres to build a house on that conservation area. That is the zone. That is why we are here. That is the requirement, we just can't sit on the property, and we can't keep it for ourselves. The County is mandating that we sell the property, at least at market value, which we are trying to do. That is all I have as far as why we are here. I am sure there are some questions and comments.

Daniel Gettel: Can you just point out the right of way we are talking about so they know what the area is? I don't know if you did.

Daniel Sturm: Off of Ballard Road, there is the right of way. The gate is there now. (Showing on map)

Lester Jackson: Where that gate is, is mine.

Daniel Gettel: The driveway will be relocated by the town.

Daniel Sturm: And that is something we can discuss. That is the right of way we intend to use, or close to it. That is what we will use to get into our sand mine. That is where the trucks will go in and out, and there will be a right of way through that property a little bit to the left to get to the back. The owner of the new parcel is going to have to do construct a driveway to get to the back. It's going to be a long driveway.

Daniel Gettel: BJ, did you get the return receipts?

Bette Jean Gettel: Yes, the return receipts have been received.

Daniel Gettel: Mr. Jackson, would you come up to the mike please?

Lester Jackson: How many acres are buildable, how many homes?

Daniel Sturm: Because of the wetlands there are maybe 20 buildable, give or take a few, because of the wetlands that are on both sides, so you can have four homes comfortably on that property. This whole back portion is 38 acres.

Mr. Jackson: What is surveyed out, out of those portions?

Daniel Sturm: We figured 18 to 20 acres is buildable, after the wetlands are subtracted. They would have to come to the Planning Board for a subdivision.

Dennis Dietrich: My concern is the same. This is the water source for the community, 800 homes. A lot of taxpayers survive on that water seasonally. I see you are saying the green is buildable?

Daniel Sturm: No, the green is not buildable, that is the wetlands.

Dennis Dietrich: As we know, it is great sand. It is a gravel pack well. In layman's terms there is no casing in the bedrock. This sand pit is going to leak sewage. That is my concern. I stopped in and saw Dan (Sturm) this afternoon. He said this is a preliminary thing. You are just looking to subdivide the land right now. We are not talking about building anything. I will definitely bring the Health Department in to this. I have no other choice, for my license. I own the water company and I am here as the water plant operator and it is my duty that these people have water for the rest of their lives. I have nothing against the town recouping their money. I have lived here all my life too. It is something that I am concerned about. That is all I have to say on the matter right now.

Daniel Gettel: Would anyone else like to comment on this application?

No one

Motion to close public hearing by Steve Simpson, second by David Slater

All in favor - 7

Opposed - 0

Agreed and carried

Daniel Gettel: Glenn, your comments on the water separation, any home that is built, how far would it be from the well?

Glenn Smith: Any homes built on the subdivided parcel? Any home would be a minimum of 500 to 600 feet away.

Dennis Dietrich: Being gravel packed well, not a well casing, isn't it in more of a dangerous situation with sewage?

Glenn Smith: You are right.

Dennis Dietrich: That was my concern. If it was in bedrock I wouldn't even be here.

Daniel Gettel: Glenn, moving forward, do you think it is a concern before we move forward?

Glenn Smith: Based on the separation of the well, even with a gravel pack well, it probably wouldn't hurt to have the Health Department look at it.

Daniel Gettel: Would you take care of that, or Mr. Dietrich?

Dennis Dietrich: I will bring to Glenn Illing tomorrow.

Daniel Gettel: As far as moving ahead with the EAF, we can't address the EAF until we deal with that. Are there any comments from the board?

None

Daniel Gettel: At this time all we can do is discuss the waiver. I think the zoning was set up to address small subdivisions. We all had several subdivisions where there were flag lots and clusters of homes and people were sharing driveways. I think that is the intent of the section of zoning when you talk about multiple houses sharing driveways, and those people actually have to own those rights of way. I don't have a problem with the waiver. If we grant them a waiver tonight, Jacy, we will do a separate resolution and I suggest that we rely on the information provided in the letter if that is okay with the board.

Motion to receive and file the waiver request letter from Town of Bethel, dated February 18th, 2016, by Susan Brown Otto, second by Mike Cassaro

All in favor - 7

Opposed - 0

Agreed and carried

Jacqueline Ricciani: You expressed on the record that you are supporting the waiver, and there are those three criteria that Dan (Gettel) read through the letter, the factual basis about the uniqueness and the change or the character of the neighborhood.

Daniel Gettel: That would be a hardship. Does anyone have a problem with that? If not I would entertain a motion that we grant the town the waiver of the right of way requirement as outlined in their letter.

Motion to grant the Town of Bethel a waiver of the right of way requirement as outlined in their letter by Mike Cassaro, second by Wilfred Hughson

Roll call

Mike Cassaro – Yes

Susan Brown Otto- Yes

Robert Yakin - Yes

Wilfred Hughson – Yes

David Slater – Yes

Daniel Gettel – Yes

Steve Simpson – Yes

Motion Passed - 7 - 0

Daniel Gettel: Mr. Sturm, did you want to say something?

Daniel Sturm: Yes. I just had a question. My only thought was that we have been here three times, and we had a public hearing, and my thought is, and it is a valid concern that we are hearing tonight about the well. We concur with that. However, if I am not mistaken, if there are any tentative approvals, if there are any conditional approvals, perhaps you could just make it a conditional approval, like you would any other entity DEC, or DOH, that we can't finalize, in

other words as a condition that we can't close on this subdivision until we get DOH approval, I think they would do that Glenn?

Glenn Smith: DOH and DEC have done conditional approvals for other projects.

Daniel Sturm: I would ask that you consider that.

Daniel Gettel: How do we deal with the EAF Jacy?

Jacqueline Ricciani: I'm not sure this board is in a position to make a finding of the environmental impact from this subdivision.

Daniel Gettel: I think that would be a no, Mr. Sturm. I appreciate the effort. So the public is aware, this is the end of the public hearing. We will not receive public comment on this in the future. Mr. Dietrich please work with Glenn (Smith) and Dan (Sturm) to work it out. There will not be a public meeting again.

Dennis Dietrich: No problem.

Daniel Gettel: Any thoughts, board comments?

Jacqueline Ricciani: If the applicant is under some kind of time constraint, there have been times in the past where we have held special meetings in between our regular meetings.

Daniel Gettel: Do you have a time constraint?

Daniel Sturm: No, other than we have been consistently coming back, that is fine.

Daniel Gettel: I don't want to set a precedent.

2) Application for a 3-lot subdivision located on Perry and Brook Road, known as Bethel Tax Map # 15-1-11.3, proposed by Susan Harte.

Daniel Gettel: Susan (Brown-Otto) I believe you have an interest in this property, so you should recuse yourself.

Susan Brown Otto: Yes, I would like to recuse myself.

Daniel Gettel: After the agenda was published, I was advised that the applicant couldn't be here so I told her I would walk through this portion of the application for her.

Daniel Gettel: Glenn you had some discussion with the engineers or surveyors about the perc tests. Could you come up and give us a brief idea on the perc tests. That is what was missing last time.

Glenn Smith: Mr. Chairman, did you get my review letter?

Daniel Gettel: Yes, I do have it.

Glenn Smith: At the last meeting we gave Ms. Harte a couple of items that should be addressed. The topography on the plan and showing the gratuitous dedication of the two town road rights of way. I will summarize my letter. The property is in the Ag zone, it is a permitted use, the parcel sizes are 17 acres for the one, 8.5 acres of the other, and almost 14 acres was the third. They are much larger than required in that zone. All test pits were 4 feet deep on all three lots. The perc tests ranged from 26 minutes to 36 minutes per inch, which are fine. I didn't see a problem with that. They showed the location on the three lots where the percs and pits were done. They put topo on the map, which we requested. There is a DEC wetland on the easterly portion of the neighbor's property, a little sliver of DEC wetland that comes onto this parcel, on lot # 1 & 3, along with a 100 foot buffer. There is potential buildable area on those lots. Because it was in the Ag district they would need a 239 review by the County.

Daniel Gettel: Ag data statement, or 239 review?

Bette Jean Gettel: 239 and Ag Data statement.

Glenn Smith: (showing on the survey map by Packer Associates) They have shown a 25 foot wide gratuitous right of way dedication on Perry Road and Brook Road for the lots as requested by the board. We asked them to show a flood zone, because Hurd Brook runs along Brook Road and floods it all the time. For some reason, they did not show the flood limits on the map.

Daniel Gettel: I don't believe it would impact the driveway location or the house location.

Glenn Smith: My last comment was I didn't get a short EAF. We did do lead agency last meeting.

Daniel Gettel: Yes.

Glenn Smith: That is all I have. I don't see why we can't schedule a public hearing.

Daniel Gettel: Are there any comments from the board? It is a pretty straightforward subdivision. We reviewed it last month. Jacy, do you have any issues with it?

Jacqueline Ricciani: No, but I don't have the most recent map.

Daniel Gettel: BJ has them I believe. It is the same map but it shows the perc locations and the topo on the map. We have the original here from the original meeting. They met our conditions, their next step is a public hearing, and I would suggest we do that.

Motion to grant this application a public hearing for April 4, 2016 set to begin at 7:30 pm by Steve Simpson, second by Wilfred Hughson

All in favor – 6

Opposed - 0

Agreed and carried.

Daniel Gettel: Just for the record I did speak to the applicant. In the event that we gave her an April 4th meeting, she said she would be available that night. Glenn if anything comes up between, let us know?

Glenn Smith: Yes, I will.

3) Site Plan approval for an inground pool located at 85 Silver Lake Road, known as Bethel Tax Map 11.1.16.2, proposed by Camp Chipinaw (Newburg)

Marvin Newburg: Good evening everyone. Will Illing is here also. All the applicant is asking for is an amendment of the site plan to allow construction of this state of the art swimming pool. With Camp Chipinaw, there are basically two campuses. One campus is on this side of the map where we propose to put the swimming pool, and the other campus, two separate owners, but they are both owned by the Camp Chipinaw people, and they run Camp Chipinaw on both properties. This is a very high-class camp and they have to compete with other camps all over, so they want to put in this swimming pool. I did give a memo, with law, that the fact that this swimming pool is an assessor use at a sleep away camp that it is something that is customary and incidental to the use as a sleep away camp. Therefore, the side yard setbacks under your zoning code Section 345-15, is 10 feet. This swimming pool itself is 35 feet away, the fencing etc, the slide, is 15 feet away, so it fits within. Being an assessor use and it is an existing camp here, the plans for construction, you can ask questions of Will, will be dealt with the Building Department. There doesn't seem to be any density issues. You have lots of buildings, and tennis courts, and all the things you have in a first class camp here. So we are asking that you allow an amendment of our site plan to put in a swimming pool on this half of the camp.

Daniel Gettel: The original site plan that was submitted, in your own zoning table, stated that you need 100 feet from the property line for a swimming pool. Where did that number come from?

Will Illing: A misread of the zoning code.

Marvin Newburg: When that was submitted by the engineer, he didn't put in that it is also an assessor use, but he didn't consider it being an assessor use. There is something in your code, if you are going to have a separate property that is used as a recreational facility just as a pool, etc, yes it would be subject to 100 foot setback. Here we have an existing summer camp. I have

provided to the attorneys and to the town and to the board, a memo of law. There have been plenty of cases on this. Where you have a school and wanted to put in some tennis courts, it is an accessory use. You have a swimming pool to an existing use of a camp, it is an accessory use. I also point out that you have a unique property here, yet there are two separate owners. This is Silver Lake Realty, which operates Camp Chipinaw, the other property is Camp Chipinaw Co LLC, but they are all used for Camp Chipinaw. You really have the same identity in reality. It is one unit. It happens you don't have a situation where there is a neighbor that is going to be impacted, these properties are interchangeably used. Under the law, and clearly under your definition of accessory use, it is a use for a structure serving a purpose customarily incidental to the use to the principal building or use. It is a summer camp. You should have a swimming pool. It is certainly customary and incidental. I just ask that you approve that as an accessory use. I don't think there are any other technical issues. Will is here to answer them, but it is pretty straightforward. Perhaps you know the history of Camp Chipinaw. They are a good neighbor, and run a high-class business.

Steve Simpson: The camp is for recreational purposes, right? The amusement and recreational use of the section of the code, they say 150 feet. Not accessory, it is a recreational facility.

Marvin Newburgh: It is a summer camp, which is a permitted use subject to site plan approval, in this district. Not as a recreational, in your table, it is right in your table. It is not someone opening up a tennis court and charging separately, or opening up a swimming pool and charging. In the code, I think this is the RD district. It is right at the bottom there, the last use there, it is a permitted use. It is not recreational, it is a summer camp.

Daniel Gettel: Give us a minute please. The original plan we had to review did not have this on there.

Marvin Newburgh: It is on the next page, right on the bottom.

Daniel Gettel: Summer camps are a special use permit. Jacy, your thoughts on the waiver as well as the approval of the site plan for a special use on the property?

Jacqueline Ricciani: It is my understanding that this camp has been around so long, they were in existence prior to these requirements for a special use and other things coming into play. They would as we say be grand fathered in on that. On the other hand, they have been back before this board from time to time when they have been adding things, or making changes to the camp and we have been reviewing site plans just to make sure that they conform with zoning, and that they do not create any problems for the general community. Do you want to make them go for a special use permit for the whole camp?

Daniel Gettel: I don't have an issue with the site plan portion other than you and I agree to disagree on the setback question which is fine. I will defer to you on that question. There are a lot of things I don't want to put on the record about this application. I would like to know if there are any board comments.

Susan Brown Otto: For clarification, did Camp Chipinaw come before Planning Board? I know they were before the ZBA.

Jacqueline Ricciani: They were before the ZBA.

Daniel Gettel: We never gave them an approval. They had an approval to build a pavilion close to the road, and the question was they built it in the wrong place. We did not approve the new location. That is why they were here two years ago.

Bette Jean Gettel: They were in front of the ZBA for a variance. On the map above the pool, is what needs to come in front of the board.

Daniel Gettel: That is not part of this application.

Robert Yakin: The proposed theatre pavilion that was also an assessor use, approved by the ZBA.

Marvin Newburg: Which they got. I don't know, I wasn't involved in that. That is a theatre pavilion. That might be an issue of whether it is an assessor customarily used for a summer camp. They went there as a matter of course to get it. I can't say, and I haven't researched it whether it is an assessor use, maybe it is. But a swimming pool for a summer camp is clearly customary and incidental to have. It is necessary, and it is an assessor use.

Jacqueline Ricciani: With all due respect, I don't know how necessary it is. They have operated all these years without it.

Marvin Newburg: There is a swimming pool on the other side. They have two campuses. One is for the kids that are there the whole season; one is for kids who come for a week or two. So there is another swimming pool on the other campus on this other property. So they want to upgrade, have another swimming pool there, on this side, which is necessary. This is not a fly by night operation. To have more amenities, to keep it going in this economy, and keep a high-class operation and a good business here in the town, they need it. It is customary for a summer camp. I never went to sleep away camp, I went to day camp.

Robert Yakin: Do we have any guidance from the town?

Daniel Gettel: Jacy is our only guidance, she agrees with their attorney. Jacy agrees with the letter that was provided by their attorney. I think the only saving thing on this application is the fact that both camps are owned by the same group, let's say. We also have to consider eventually that one camp might be sold off, the other camp might remain. That is a great argument. Moving forward it is a good case. Glenn, I know you are being put on the spot because we are just seeing this tonight. Do you have any thoughts on this, do you want to go out to the site and find out where the camp is?

Glenn Smith: I was talking to Marvin earlier. In the zoning, the definition of a summer camp is “The development or use of a lot, tract or parcel of land for recreation or instruction on a seasonal basis“, then if you go to recreation facility, “a recreational facility operated as a business or open to the public that is conducted outdoors as set forth in § 345-17B.” I would say the camp could be a. recreational facility, commercial outdoor. If you go to the RD zone, under permitted uses for a recreational facility, commercial outdoor that is where the 100 foot side yards setback comes from. I was trying to figure out where the 100 foot came from, that seems to be in my mind, that it is pretty clear. And under Article 5, 345-17, recreation uses, for outdoor recreation facilities, such uses shall include golf courses, swimming pools, ice skating rinks, tennis courts, and open air concerts. It seems to me the pool would be considered a recreational facility, commercial outdoor.

Marvin Newburg: You have a special use for a summer camp, and you have to make a distinction between that and a recreational facility, as I said. If I was to put up a tennis court with a bubble, and that was the one use, and it wasn't a camp, kids aren't coming to stay there, yes, that is a recreational facility. A summer camp obviously has recreation at any camp. You have a separate use under your code for a summer camp. This is an assessor use. If it was a swimming club and someone was going to build a swimming pool, we don't have that around here, you have it in other jurisdictions and they charge money, yes, but this is a summer camp. Look what's here. It is not by itself, here is a volleyball court, here is the tennis court, here is baseball, here is the staff house, and here are the cabins. There is the kitchen.

Susan Brown Otto: It is an outdoor swimming pool. It's not going to have a cover over it?

Bette Jean Gettel: No, it's not going to have a cover over it.

Marvin Newburg: As a matter of fact, when the engineers were talking, this is a high-class pool.

Daniel Gettel: Glenn based on our own code, the recreational facility commercial outdoor states that the recreational facility operated as a business and it's open to public. It's not public. I don't necessarily buy your argument.

Glenn Smith: I interpreted it more as a business.

Daniel Gettel: It is a business and open to the public, or it's not a business or open to the public. It has to be one or the other.

Glenn Smith: I agree.

Susan Brown Otto: I agree with what Marvin is saying. This is a high-class camp, for a camp to be competitive in this day and age I think a swimming pool is pretty basic.

Daniel Gettel: So what you are saying is that every other camp that we have reviewed in the past, that required 150 foot buffers, we were incorrect? And every summer camp in the Town of

Bethel that can justify something as an accessory use can place it within 10 feet of the property line. Is what you are saying? Unless we change the zoning code, Town Board, of which we have the majority sitting here, would have to change it. I am not 100% comfortable with it, but I get the argument. I am not going to disagree with Jacy on this. I do not think we should waive the public hearing. I think we should have a public hearing next month.

Jacqueline Ricciani: I think the other argument is, and I understand what you are saying, that any existing summer camp can put in assessorly uses, put in a pools, tennis courts, basketball courts, whatever, within 10 feet of the property line.

Daniel Gettel: Synagogues?

Jacqueline Ricciani: But the alternative to that is taking the position that every structure that is part of a summer camp it is a principle structure, and every structure has to comply with the setbacks.

Marvin Newburg: I appreciate what you are saying. I think that perhaps the Town Board needs to change the requirements. But we are here under these requirements.

Daniel Gettel: I understand, I am not going to disagree with what Jacy is recommending.

Jacqueline Ricciani: If this were a dormitory, we would be having a different discussion.

Daniel Gettel: I think that in the past we have had complaints from the neighbors about Camp Chipinaw building without going through the proper channels. I do not want to waive the public hearing in this instance. The neighbors complained the last time they were here. They claimed they build whatever they want, they don't have permits. This is what the neighbors said. I am not accusing the applicant of anything. I do want to be on the side of caution and have a public hearing.

Jacqueline Ricciani: It's your call.

Marvin Newburg: I was going to ask that you waive it.

Daniel Gettel: Are there any comments as far as the setbacks go?

Robert Yakin: The only thing I have a comment about, for the sake of doing things the same way that has been done in the past, I am not quite sure why they had to come before the Zoning Board for their proposed pavilion.

Daniel Gettel: Assessorly buildings cannot be placed in the front yard.

Robert Yakin: Right, but there was also a setback issue that we dealt with also.

Daniel Gettel: This is strictly a side yard question, if I am correct I think that was a front yard issue.

Jacqueline Ricciani: The ZBA first determined that it was an assessor, and then an assessor can't be in the front yard. They determined that because the way the side road came down, as opposed to the main road. The rear yard, whatever they determined it to be, to make it conform.

Daniel Gettel: I have no objection bringing it forward in the process, but I would suggest we schedule a public hearing after Ms. Harte's.

David Slater: I agree with that.

Daniel Gettel: I would like to have Glenn look at it. I would like him to take the time. I know this has been going around since September, unfortunately, but this is the first time we are seeing it. I don't want to set precedent by waiving a public hearing especially if there is a question of whether it is a special use or not. With a special use we cannot waive the public hearing.

Motion to grant this application a public hearing on April 4, 2016 set to begin at 7:45 pm by Mike Cassaro, second by David Slater

All in favor – 7

Opposed - 0

Agreed and carried

Daniel Gettel: Glenn, do you have a submission you can look at, or do you want us to send something to you?

Glenn Smith: I am okay.

Daniel Gettel: Vicky, anything from the town board?

Vicky Vassmer Simpson: We have a meeting on Wednesday.

Susan Brown Otto: I would like to add something. I attended the class on Monday, the training class, at the Government Center at 5pm. Everyone from the ZBA was there. It was very good. Tim Dexter from Beacon spoke on special use permits.

Motion to adjourn by David Slater, second by Wilfred Hughson

All in favor – 7

Opposed - 0

Agreed and carried

Respectively submitted,

Gannetta MacArthur

Recording Secretary