



Town of Bethel  
*Zoning Board of Appeals*  
PO Box 300, 3454 Route 55  
White Lake, NY 12786

The Town of Bethel Zoning Board of Appeals held its monthly meeting on March 21, 2016. The meeting was held at the Duggan School, 3460 State Route 55, Kauneonga Lake, at 7:30 PM. On the agenda at this time was the following:

In attendance Steve Morey, Chairman, Jim Crowley, Vice Chairman, Richard Conroy, Jesse Komatz, Cirino Bruno, Jim Ahearn, Alternate, Bette Jean Gettel, Code Enforcement Officer, and Jacqueline Ricciani, Attorney. Also in attendance, Daniel Sturm, Supervisor, Dawn Ryder, Liaison, Lillian Hendrickson, Vicky Vassmer Simpson, Board members, Daniel Gettel, Planning Board Chairman, Mike Cassaro, and David Biren, Planning Board members.

Excused: Victor Kask and Dan Brey

Pledge to the flag

Seating Jim Ahearn, Alternate

***Motion to accept minutes from the February 22, 2016 meeting by Richard Conroy, second by Jim Crowley.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

- 1) Public Hearing for a Use Variance for a sign to be located at Rivers Edge Restaurant, 951 SR 17B, Mongaup Valley, known of Bethel Tax Map #: 38-2-63, proposed by Bright Advertising.***

Steve Morey: Mr. Siegel do you have anything that you would like to add before we open this up to a public hearing?

Jeff Siegel: Not at the moment.

***Motion to go into public hearing by Jim Crowley, second by Cirino Bruno***

All in favor – 6

Opposed-0

Agreed and carried

Return Receipts received

Steve Morey: We have a couple of options here. We have a lot of correspondences, which we could read first. What is the pleasure of the board?



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Consensus of the board - Open to the public first

Mike Cassaro: Good evening. My name is Mike Cassaro, my residence is 867 Lt. Brender Hwy, in Ferndale, and my business is 1022, Rt 17B. I am also a member of the Planning Board. I would like to share a few facts and opinions with this board tonight. While commercial business or storefront signs advertising the business located on that property may not be considered billboards, all billboards are certainly a type of sign within their own category. The billboard category consists of three different signs. You have static billboards, which contain one message on a single face, tri-fold billboards, which contain three messages per face on rotating spindles, the third type is digital billboards containing up to ten changing messages on a single face. On State Highways such as 17B, a NYSDOT permit is required for all off premise advertising signs or billboards. Off premise advertising meaning those signs or billboards advertising a business not legally operating out of a structure or building located on that same property. That is the State definition, which is similar to the Town's definition of a billboard as found in the town code 345-5 –12. One of the many requirements of the State is that the local municipalities, in this case the Town of Bethel, grant a permit complying with their laws and zoning. Then and only then will a State permit be considered. The State would never overrule a town by issuing a conforming permit without the town permits first. The reason for the strict State requirements can be found in the Highway Beautification Act of 1963 inspired by Ladybird Johnson and signed into law by President Lyndon Johnson in 1965. This law requires all states to create and enforce strict sign control regulations on their state roads as a prerequisite to receiving federal highway monies. Once licensed the owners of the billboard are subject to random inspections and license fees annually. Under our current sign code this digital billboard proposed here tonight would fail under a number of requirements. First of all it is a billboard. It couldn't pass on colors, lighting, size, gateway standards and most of all distraction. All these regulations can be found in 345-23 signs and 345-18 gateway design guidelines. I would like to give some insight to the distraction factor, which I feel is paramount when considering this application. As we are aware, from DMV statistics, Mongaup Valley at the proposed location of this billboard has the highest crash and fatality statistics along 17B. This proposed billboard would be located within that segment of 17B which has entrances and exits at the VEO, 7X Motors, and the automotive repair shop next to the 7X, two residences, the intersection of Plank Road on the south side, and Creamery Road on the north side, as well as the entrance and exit on the proposed site. All in a 55 mph speed zone. Numerous research programs conducted on the distraction effect of digital billboards since the late 1990's when they were first starting to come out. In April of 2009 a summary of these studies was published in the Wachtel Report of 2009. The report was prepared by Jerry Wachtel, a planning engineer and president of The Veridian Group of Berkley, CA. In the 190 plus page report it summarizes the safety impacts of the emerging digital display technology for outdoor signs. The findings confirm that digital billboards are three times more distracting than static billboards and traffic signs. The static boards are the ones with one message or speed limits, or directions, and they don't change. The glance time is significantly increased due to the brightness of direct light to the traveled way and also the increased glance time in anticipation of the next ad to be displayed. The distraction time can be compared to texting while driving and it is for this reason that four states have already



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banned digital billboards along with numerous cities in other states. One hundred cities alone in Texas. In the recent past, the billboard proposed on 17B by American Electric did not come to fruition through the ZBA. I would only hope that this digital billboard would not set precedent in our zoning laws by allowing any segment of the Bethel Gateway to have a digital billboard. One final consideration I would like to bring up would be the thousands of dollars granted to local businesses by the Sullivan Renaissance and the Town of Bethel to create a more natural appearance along the entrance to and through Bethel. In my opinion this type of billboard sign being proposed here would be contrary to their ongoing efforts and generosity. Thank you for your time

Jeffrey Cohen, 74 Horseshoe Lake Road – Good evening. I am not exactly sure why I am here, but I am here I guess for some reason. It has been a long time that I have spoken in front of the board in the Town of Bethel. It is my understanding that this is the Zoning Board of Appeals, and when you have a Zoning Board of Appeals, you need to have the zoning in place that they can look at and try to recommend and create variances whether it is a use variance or whatever, but it is my understanding. I have read through the zoning and I can't find anywhere in the whole zoning where this type of use is anywhere. This type of billboard has a lot of environmental issues, traffic safety issues, so you need to first write a law and then you can find variances for that law. I'm not sure that the Zoning Board of the Appeals actually writes law; it should really be the Town Board that writes laws. So I personally feel that the applicant is in front of the wrong board, and should really be speaking to the Town Board in trying to create a law that can fit this kind of billboard. When I read through the sign zoning, I mean it discusses a lot of things. It discusses fluorescent lime green, which you don't want, but this is going to have flashing lights and things like that. And we don't know how many foot candles, how far the light is going to go out, what kind of a distraction, how close to the road. These are all the kinds of things that need to be first made into law. It doesn't exist in the Town of Bethel at this point. It should really be the opinion of the Board that this kind of use you can't even give an answer for, because there is no law to even base it on. When you go through the laws...the sign, which will achieve readily visible without becoming an unnecessary distraction for the highway view or deterrent to highway scenery. When I last spoke in front of the board, it has to be seven or eight years now, it seems like there was a different feeling that was going on in front of the Town of Bethel, you wanted quaintness, scenic rural character. This totally takes it to a new level. These are the kinds of things that should be billboarded on the New Jersey Turnpike, right near Newark Airport, and not in a rural community like ours. I think that is something you really think about, it should really go to the Town Board, and as far as whatever jurisdiction you have over this; I'm not sure what jurisdiction you do have. It is a good way for the applicant to come in through the back door, to see if they can get this approved, but it is really the Town Board that should decide, and once the Town Board writes the laws, the Planning Board then takes it and then decides how it all fits in with the character and everything. Thank you very much.

Gayle Rubenfeld, 55 Starlight Drive Smallwood. I am here tonight because I too oppose the application for a use variance that has been required for the proposed sign on 17B. My first and foremost concern is traffic safety. As was mentioned before, and just to reiterate, 17B is one of the busiest, if not the busiest



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road in Sullivan County, and it comes to my attention based on my conversations with law enforcement, that this particular corridor of 17B has been the site of a large number of traffic accidents. Certainly, the addition to the area of the sign proposed, with its large dimensions is distracting, constantly rotating electronic messages, can only pose a greater hazard to motorists in an area already noted as accident-prone. Additionally, the applicant is actually seeking what appears to be approval for a billboard since the sign will be advertising businesses that are not located at the site of the sign. That is in your town code 345-5. And that is why this application is before you tonight since the billboard is not a permissible use and the applicant cannot proceed without receiving a use variance. The criteria for the entitlement for a use variance is set forth in Town law 267-b. The required showing for entitlement to a use variance is quite stringent. This is so since a use variance permits land to be utilized for a use, which is not otherwise permitted by a legislatively enacted zoning codes and plans such and the Town of Bethel Code. And reviewing criteria set forth in 267-b, which I am attaching to my statement that I am going to be submitting, there can be no question that the application for a use variance must be denied. That statute mandates that no use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. Nothing close to such a showing has been advanced here. To prove an unnecessary hardship, the applicant must show:

1. That the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence.
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
3. That the resulted use variance, if granted, will not alter the essential character of the neighborhood, and
4. That the alleged hardship has not been self-created.

Now, I don't believe that the applicant has made such a showing here, but it should also be noted, and I am kind of confused about this, the applicant is not the actual landowner, who is seeking the variance it is somebody who is not the landowner who wants to put up a sign in a particular location. So I am not even sure that this is something that could be the subject of granting a use variance, somebody who doesn't own the land certainly could not establish economic hardship of any kind, or any kind of substantial hardship, so I would urge you to please take a look at town law 267-b, and consider what the law says that it shall not be permitted unless the applicant can show all of the things that are set forth in the statute. Thank you.

Jacqueline Ricciani: I would just like to clarify for this board, the statute that Ms. Rubenfeld referenced is almost identical to the criteria that you have in your code.



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Steve Morey: Thank you. Before you go on, Mr. Cohen, you didn't state your address for the record.

Jeff Cohen: I have two addresses. My Bethel address is 74 Horseshoe Lake Road, Kauneonga Lake.

Karen London – 328 Woodstone Trail, White Lake. A number of the points that I wanted to make have been very eloquently made already. I won't repeat them. I will submit my written testimony to BJ. But I do want to emphasize two things. There were both aesthetics consideration with respect to our own design criteria for signs, which I don't think this proposal does satisfy. Last week or two I was sitting at the Sullivan Renaissance Conference at Bethel Woods, where the Town of Bethel has secured an award. And they emphasize every year that aesthetics matter. Aesthetics matter to attract people to our town, both as tourists and homeowners, both secondary homeowners and primary homeowners, as myself. I think we need to think about that because it is reflected in our comprehensive plan, which wants to have a more aesthetics-inviting gateway to our town. We actually have in the comprehensive plan that it may be appropriate to phase out the use of large billboards for offsite advertising. And that wasn't even taking into account a digital billboard such as this being proposed. The second that I want to mention and it was very well stated by our first commentator here is about the safety. I wanted to emphasize that especially during the summer, we have hundreds of people walking on 17B, and we don't have sidewalks there. You see families with young children, you see mothers with strollers walking and it is a major distraction to have a digital billboard that intended to attract your eye away. I think it is a real safety concern. I think we should be going the opposite direction, frankly, to be a more pedestrian friendly community as much as possible being how rural we are, but we certainly don't want to add to the safety risk of having families walking particularly in the summer as they do on 17B, and being at risk of a driver who is distracted. Thank you.

Steve Morey: Is there anyone else from the public who would like to speak?

*No one.*

Steve Morey: We have received some letters?

Bette Jean Gettel: There were nine letters received by email. Please bear with me as I go through them. Reading into the record.

1. Wendy Robinson – 84 Homestead Trail – White Lake.
2. Denise Frangipane – West Shore Road
3. Randi and Scott Pomerantz



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4. Jeffrey Allison
5. Stephen Metts
6. Laura Berger
7. Jess Irish – PO Box 96, Smallwood
8. Harriet and Steve Fleissig
9. Larysa Dyrszka – Chapin Estates

***Motion to return to regular session by Jim Crowley, second by Richard Conroy.***

***All in favor-6***

***Opposed-0***

***Agreed and carried***

Steve Morey: Mr. Siegel, if you would like to address the board, please do.

Jeff Siegel: Sure. A couple of things. First, the size of the sign is 6 ft x 9 ft, not what was in some of the letters. I think some of the information is misinformation because there was something printed in the River Reporter, and it had the wrong information in it. With regards to rotating, I also think peoples perception of rotating that there is this moving carousel of advertisements on the board, and as I have explained to the board previously the ads are just there. There is just a transition, there is nothing moving. It's just like it is on the board outside tonight. As far as the beautification part, again, as we had presented, there would be a flower box under the sign. The sign is not going to be 6 ft off the ground or what not. The sign is actually smaller and takes up left square footage than the sign that is currently at Rivers Edge. The stonework that would be done on the bottom would match the building to keep in accordance. It is not just a static billboard. As far as requesting the use variance as was discussed before by the board, it is not specifically listed for this type of sign. There are rules and laws in place listed for various reasons. Sometimes those rules need to be changed or amended. That is why we are here looking for a use variance to do that. I think it was Denise Frangipagne that said the reason it was chosen is because it is a high traffic area, every billboard, including Keller signs would be in a high traffic area because if it were above Roscoe, no one would see it. That is not a high traffic area. Billboards typically do not go in non-traffic areas. These types of board aren't in small towns like New Paltz. They are in bigger towns like Kingston, they have this size board. Not on a super highway. But I don't see that it would be any more distracting. As far as the traffic issue and the safety issue a digital sign is not going to cause more accidents. In fact, on a digital sign when there is a problem, we can post on the digital sign; we can put on it to slow down. It cannot be done in any form; this is where the technology is taking us and the next progression in signs. We would still have to go to the Planning



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Board. Because there is one, doesn't mean there will be 200 more. Last but not least, we do meet all of the state requirements on how the boards need to be operated, how they need to be clean, and so on and so forth. I don't think having a digital board anywhere, will cause more accidents. The state wouldn't approve the permit for the boards. Thank you very much for your consideration. One last thing, we are not a franchise. Mark Mclewin and I are two local guys. I was born here, and we have local business' here. This is just another local business to help our local economy, and bring more money to our communities.

Steve Morey: Anyone from the board have any questions for Mr. Siegel?

*None.*

Steve Morey: We have a short form to complete.

Bette Jean Gettel: Just for the record, The Town of Thompson was notified, because we do border them. They have been aware of this application, but they did not respond.

***Motion to receive and file nine letters, two DOT letters, and the County 239 by Jim Crowley, second by Richard Conroy***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

DOT letters are from Scott Ferguson and Terry Pritchard

Steve Morey: At this point we should be doing SEQRA.

Short Form EAF

1. ***Will the proposed action create a material conflict with an adopted land use plan or zoning regulation?*** Yes, moderate to large. It's contrary to what is in the regulation.
2. ***Will the proposed action result in a change in the use or intensity of use of land?*** No.
3. ***Will the proposed action impair the character or quality of the existing community?***

*3 yes, 3 no*

Richard Conroy: When I first read about this sign, I said, oh no, we can't have this sign. After I saw it, and found it is going to be toned down, it is going to be smaller; I don't think it would change too much



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of the character of the town.

Steve Morey: My thought is, variances for a use to put a billboard there, what type of billboard it is, is not necessarily ours. Am I wrong on that? It is more Planning Board. I want to say the answer to that is no. I would like to hear what everybody else thinks.

Jim Crowley: I say no, because there are billboards all down through there. What is the difference if it is a board or an electronic billboard? It is still the same.

Jesse Komatz: Yes, because we are going in a different direction than the Planning Board wants to go.

Steve Morey: We don't have any digital in the town.

Jim Crowley: Any billboard is distracting. That is the whole purpose of a billboard. You don't put billboards in the Ag district.

Jim Ahearn: No

Steve Morey: Let's come back to it.

4. *Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?* No
5. *Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?* No
6. *Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?* No
7. *Will the proposed action impact existing:*
  - a. *public/private water supplies* No
8. *Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?* No
9. *Will the proposed action result in an adverse change to natural resources (e.g. wetlands, water bodies, groundwater, air quality, flora and fauna)* No



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10. *Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?* No

11. *Will the proposed action create a hazard to environmental resources or human health?* No

Return to question #3

*Will the proposed action impair the character or quality of the existing community?*

Jesse Komatz: The idea of the Planning Board, you do have billboards there with the intention that they will eventually rot and go away. Instead of taking the billboards away, we are adding to it instead of taking it away.

Richard Conroy: You are just replacing the sign, my opinion.

Steve Morey: Let's talk about that for a second. Just to review, this billboard is going to replace the sign that is there now.

Jeff Siegel: Correct. It is not that sign plus the River Edge sign. The River Edge sign totally disappears. Another sign goes exactly in its place. In fact, according to NYS DOT, as requested in the email, it would be two feet closer to the building, to comply with the state.

Richard Conroy: Does Rivers' Edge have an advertisement on that sign?

Jeff Siegel: Yes. Rivers' Edge will have an ad on that sign. The Town of Bethel will have a complementary ad on as well, such as an amber alert that can all be done because it is connected to the internet, and as soon as we have the information it would only take us a few minutes to put that information up there, along with other paid advertisers.

Richard Conroy: So if this sign just had the advertisements for Rivers' Edge we wouldn't be here.

Jacqueline Ricciani: It would not be a billboard; it would be an on premises sign.

Steve Morey: How many ads?

Jeff Siegel: There is a maximum of ten on each side.

Jesse Komatz: I think you guys misunderstood what I was saying. The billboards that are there, I am not talking about the sign that is on Rivers' Edge, I am talking about the other billboards. The town



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wants to restrict those. At some point they are going to rot and go away. As time goes on, we are going to have less billboards. Maybe 15 years from now.

Jeff Siegel: The owner of the billboard, who has some sort of land lease with the property owner, they are just going to put up new sheets of plywood, and put the ad up again. They won't disappear.

Jesse Komatz: But they won't add to it. That is my point.

Jeff Siegel: The only thing I can say is, if Rivers' Edge was just going to have a digital board, there is really not any difference if there is a digital sign or billboard. The difference is the paid advertisements on the same type of board. That is the issue, the paid advertisements on the board.

Steve Morey: Are we still 3 yes' and 3 no's?

Jacqueline Ricciani: If this is approved, Rivers' Edge is going to want to have their own sign on the building, in addition to this billboard, correct?

Jeff Siegel: Correct. But that won't be a digital sign.

Richard Conroy: Can we put this aside, and go onto the tests? We are going to be stuck on this. If we go through the tests for the use variance, and it doesn't make it, we don't have to complete this.

Steve Morey: There are a few issues I have in mind, are we able to declare a negative declaration with a tie response on question #3?

Jacqueline Ricciani: You have to answer all the questions. But it is the consideration of the totality of all of those answers that are supposed to guide you in determining whether there is a significant environmental impact or not. The fact that you are stuck on one question given the other answers, that one question may not sway the overall outcome whether there is or is not a significant environmental impact so with that in mind, you might want to give it a little bit more discussion. You do have to answer the question though. To some there is an impact, it is going to impact the character, and to some there it is not. I guess you could have two answers to that question. The real issue is whether that is going to impact the overall determination of this board.

Steve Morey: I may have phrased my question wrong by using the words negative declaration; we need to make a declaration for this form. Somebody needs to be swayed, I suppose.

Jeff Siegel: So there are 15 towns in Sullivan County. Not all of the towns necessarily would be in line for billboards of any kind. Just because the lack of traffic, that might be in a particular town, and a



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particular area. However, Bethel, Fallsburg, Liberty, Monticello, Rock Hill, Wurtsboro would be more in line because of the traffic that is on those local state roads. 42, 52, the County Roads. Some of the other towns, like Thompson has granted us the permits. I have a permit from the Town of Thompson. I don't know if that helps.

Steve Morey: I appreciate your input, but I want to get past this question.

Jeff Siegel: Some of these towns are going to have billboards. They would like to keep the country the country. However, Middletown, Suffern, Monsey, they were like Bethel. People move, things change, times change as well as technology. Are you not going to go shopping somewhere because there is a digital sign outside?

Jacqueline Ricciani: You are way over the top, I'm sorry.

Steve Morey: We have someone in the audience. Michael, if it is pertinent to this point that we are at right now that I would ask for your comments, but if it is going to take us off another tangent.

Mike Cassaro: Outdoor Media Corp: I have been in this business for better of 45 years. What happens with this, you pass a digital billboard, it is a billboard. You open the door for more billboards. Whether it is digital, static, trifold etc., it doesn't matter. I will tell you this right now that once someone spearheads into a town with a digital billboard like this, you will have Lamar looking, you will have Highway Display's looking, you will have Clear Channel looking, and all of them will be looking. You will open the door for this. You are not just approving this sign, you are setting a precedent for other companies to come in and compete with this. And these companies don't need local businesses to put up digital signs. They will use national ads, the national companies, like Rotor Rooter, which will put our local guys out of business. Or Pizza Hut that will put a dent in our pizza parlors. If you guys set this precedent and open that loop hole, I know you will have Rock City Media, Highway Displays, and Lamar. I can't speak for Clear Channel, they might not be interested here yet, but once that casino comes they will. They will try to grab anyone coming from Pennsylvania, and they will find a landowner. The difference between the billboards that I own, and the billboard being proposed is, some of my boards are conforming boards. The difference between conforming boards, he is looking for a conforming board, which the State will never let go there. Just their setback rules are 25 ft off the right of way that would put the sign in the dining room. The nonconforming boards are boards that were built prior to zoning, prior to the beautification act, and they were grand fathered in as a nonconforming board. The State saw the board, and they said well it's not that bad it's not cluttered, that board will stay as a nonconforming board. That board cannot be repaired more than 50% of the time, and it will stay there. If the board comes down, it is down. If the board is in disrepair, and I go through an inspection, it is an eyesore, it comes down. That is those boards. Like he said, once they are gone, they are gone forever, they are not coming back. A conforming board likes this opens up a big loophole.



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Bette Jean Gettel: One last time, I am going to repeat the question.

**3. *Will the proposed action impair the character or quality of the existing community?***

Richard Conroy– No

Jesse Komatz – Yes. How many times have you gone past the one that was working at the fire company? They had different messages on there. You spent more time looking at the messages on the board, and then you did at the road. You anticipate seeing the next message. Don't tell me you don't. It is going to change the atmosphere of what Bethel is supposed to be. Are we going to start worrying about money in the Town of Bethel, or worrying how our town looks like?

Cirino Bruno: Jesse, rather than argue the merits, you have a town code pursuant to a comprehensive plan. This should have been brought up to the town to see if the code could be revised. They didn't. That's not our problem. We had more than ten people come to speak against it. You had a lot of thought go into the comprehensive plan; we had nine or ten people that spoke against it. With the exception of Mr. Siegel who is not a landowner, and who would like to put up signs, and in respect to the fact that I don't find that sign so offensive, I don't think we should assert the work of the comprehensive board and the community that came out to speak against the change.

Steve Morey: This is a sign, by code definition; it is a billboard type sign because it is advertising off premises businesses. That is what makes it a billboard. There are other billboards in that neighborhood. Forget the fact it is a digital billboard, it is simply a billboard. In my mind I don't care what type of billboard it is, now does a billboard have the effect that is being stated in question number 3. The reason why I say no is because there are other billboards. That doesn't mean I am in favor at this point or opposed to this application. No we need to decide as we go on with these deliberations. That is what he is asking for. He is asking for a use variance for a sign at that location. The type of the sign I don't believe has an impact on the question that is being asked there. .

Richard Conroy: If we are going to look at them as billboards, and there are billboards there already, I don't see how one more is going to change the character of the neighborhood, one way or the other.

Jesse Komatz: I don't care; you can say a billboard is a billboard. It is still not the same type. It is completely different. One billboard you look at, you are going to look at it for a second, you don't look at it again, and you already know it.

Richard Conroy: We are not down to approving or disapproving anything. We just have to get past this environmental issue. That is why I said can we go past the environmental review and go to the tests?



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Jesse Komatz: Take another vote.

Richard Conroy: No, we can't. It seems backwards to me.

Steve Morey: Does anyone have any changes?

*No one.*

Steve Morey: We have to respond to this as a board.

Jim Crowley: We might have to wait until we have seven members then.

Richard Conroy: There is no environmental impact as far as I can see. Adverse impact.

**3; Will the proposed action impair the character or quality of the existing community?**

Steve Morey: Let's go by roll call.

Roll Call:

Jesse Komatz: Yes

Richard Conroy: No

Cirino Bruno: Yes

Jim Crowley: No

Jim Ahearn: Yes

Steve Morey: Yes

In favor – 4

Opposed-2

The answer to question is yes by majority

Bette Jean Gettel: Is it small impact, or moderate to large impact.

*Small Impact – Consensus of the board.*



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Steve Morey: We have one question that we said was large to moderate impact.

Bette Jean Gettel: It was contrary to the zoning regulations. Part 3 reads, for every question in Part 2 that was answered moderate to large impact may occur, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Show in sufficient detail identify the impact including any measures or design elements that have been included by the project sponsor to avoid or reduce impact, Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed according to a setting probability of occurring duration irreversibility, geographic scope and magnitude. Also consider the potential for short term, long-term cumulative impacts.

So your answer to #1 was contrary to the zoning district regulations.

Richard Conroy: There is no change no matter what you do.

Steve Morey: The zoning regulations evolve around the comprehensive plan.

***Motion to grant negative declaration by Richard Conroy, second by Cirino Bruno***

***Roll Call Vote:***

Jesse Komatz: Yes

Richard Conroy: Yes

Cirino Bruno: Yes

Jim Crowley: Yes

Jim Ahearn: Yes

Steve Morey: Yes

All in favor – 6

Opposed-0

Steve Morey: We had a lot of discussion last meeting about billboards, signs. I reviewed that myself through the codebook and the definition. In my mind, this is a billboard; it falls under the category of a sign. I think we all know that billboards are not permitted in this zoning district. As a matter of fact, I



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went through all of the districts, and I can't find anywhere in the town where a billboard is permitted. Just for information purposes.

Richard Conroy: I wish the town code was a little bit more clear about billboards size wise.

Jacqueline Ricciani: It is based on content, not size

Richard Conroy: I like to see size. Everything I looked up on the internet talked about billboards as being big. Pictures of billboards are all big billboards. I would think a size consideration would certainly help.

Steve Morey: If it pleases the board I would like to go through our test criteria.

Jacqueline Ricciani: The test should be your last thing. You have some other letters to review.

Steve Morey: What letters?

Jacqueline Ricciani: The County letter, the DOT letters. You need to make sure the board is aware of them.

Steve Morey: Reading into record.

Sullivan County

NYS DOT #1

NYS DOT #2

Steve Morey: These have already been received and filed.

We will go with on with our test criteria

A use variance may be granted by ZBA's only if certain tests are met by the applicant. The statutory rules, which are easy to understand, specify what must be proved. In order to obtain use variances, therefore, applicants must now demonstrate that the zoning regulations have caused them unnecessary hardship. To show such a hardship, they prove that:

- 1. They cannot realize a reasonable return, provided such lack of return is substantial as demonstrated by competent financial evidence:*** No, we have no financial hardship evidence.



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**2. The hardship is unique-it does not apply to a substantial portion of the district or neighborhood:** No

**3. The requested use variance, if granted, will not alter the essential character of the neighborhood;**

Steve Morey: How do we feel as a board?

Roll call:

Jesse Komatz: Yes – because it will change our gateway to Bethel. It will open the door for other signs of this nature.

Richard Conroy: No, there are billboards there already.

Cirino Bruno: Yes, for all of the same reasons as Mr. Komatz as well as the comments from this evening and what the comprehensive plan for the gateway envisions.

Jim Crowley: No

Jim Ahearn: Yes. It is not compatible to our natural landscape.

Steve Morey: No

Tie vote

Steve Morey: A tie vote is permitted in this part of the process.

**4. The hardship has not been self-created:** Yes. Because he doesn't have a vested interest in the property. If he didn't want to put the sign up, we wouldn't have an issue.

Steve Morey: We do have an owner's proxy; do we have any detail to that proxy?

Bette Jean Gettel: The owner is here tonight.

Steve Morey: I don't know what it states.

Bette Jean Gettel: The owner of the premises describes the foregoing application that he/she has authorized Jeff Siegel from Bright Advertising to make the foregoing application as described therein.





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builders in they had another survey done. They believe at the time of the construction, there were meetings with then building inspector, I think it was Tim Dexter at that time, as well as the Woodstone Homeowners Association, Mr. Dubrowsky, who was in charge of the HOA at the time, and they reviewed the setbacks, and a Certificate of Occupancy was granted at the time when the building was completed. The determination was that it was within the setbacks. I was under the impression, and the surveyor was under the impression that there were surveys that were provided to the building department, but there are none in the file. So it must not have been done at that time. Either way, at the present time, the house is in the process of being sold, a new survey was done, and the survey shows that the house is now outside of the setbacks, about 18 ft I believe, at one point, and 22.5 ft at its farthest points. There are maps that are blown up that show, which is of the new survey which shows the amounts that we are requesting with the rear setbacks. I have had some conversations with Mr. Dubrowsky who indicates there are issues where the high water marks have changed, where there were other houses that were constructed that had setback issues as well. It is based upon a line. In any event, we are here asking for a variance.

Richard Conroy: There is no survey in the building department's file; you mean to tell me the owner didn't have a survey?

Michael Mednick: I have a survey, showing the building. The surveyor who did it at the time, there is a survey with a proposed building, that were within the setbacks, as were marked on the original 2004 survey. I have copies of those from 2004. When this new survey was prepared and provided to my office, we took, I went to the owner, get your surveyor on the phone and find out what the story is, the email I got back from him was when it was done when the construction was complete in 2008, they were provided to the builder, he believed they were shown and utilized with the town at the time the Certificate of Occupancy was issued.

Richard Conroy: Is there a mortgage on this property?

Michael Mednick: I do not believe so.

Richard Conroy: So there was no mortgage, no title insurance.

Jim Crowley: Is this the newest survey?

Michael Mednick: Yes, the most recent survey yes.

Jim Crowley: With the building and the whole bit?

Michael Mednick: Yes.



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Jim Crowley: We are saying 18 ft and 22 feet?

Michael Mednick: The farthest spot is 22.5, and the other spot is 18ft.

Jim Crowley: Is this from property line or high water mark?

Michael Mednick: Property line.

Jim Crowley: So 50 ft is required.

Jacqueline Ricciani: And these numbers on the map are what is existing, or what you need?

Steve Morey: Is it typical at the issuance of the Certificate of Occupancy, when I think of Certificate of Occupancy it pertains to the structure. The information regarding setbacks, is that part of it?

Bette Jean Gettel: The high-water mark has changed from time of construction. That is the problem. You can thank FEMA for that.

Jim Crowley: Are we going by property line or high-water mark?

Bette Jean Gettel: This one had to be measured off the high-water mark. On top of that in their deed covenant is another, they have to be off 100ft.

Jim Crowley: We are just dealing with property line, nothing to do with watermark.

Steve Morey: You mentioned a Mr. Packer survey. I guess that was the original survey when this lot was subdivided, or whatever.

Michael Mednick: When the lot was originally sold in 2004 there was a survey from Gary Packer that showed the empty lot.

Steve Morey: How many surveys have been done?

Michael Mednick: I have two. I have the original one from Gary Packer, and I have the one from 2008 before construction started, with the setbacks and the proposed building. I do not have it, but I was told when the house was built it was prepared at the time it was completed.

Richard Conroy: But the homeowner does not have it. It is to late now anyway.



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Michael Mednick: At this time, it doesn't matter. We have a new survey in contemplation of the sale, and that is why we are here.

Jacqueline Ricciani: Why is the line that is being measured going through the middle of the house?

Bette Jean Gettel: The dotted line is the setback line.

Jacqueline Ricciani: A portion of the entire house is in the setback.

Michael Mednick: Correct.

Steve Morey: You said this is in the process of being sold?

Jacqueline Ricciani: It should be measured from the house. Why are they measuring from the setback line? The property line is the dark line.

Jesse Komatz: It would be 27.5 feet back.

Jacqueline Ricciani: Why is it measuring from the dotted line, and why isn't measuring from the edge of the house? Because if the house has to be 50ft back, but parts of it are already.....

Steve Morey: Where it shows from the dotted line....

Jacqueline Ricciani: The house is infringing in the setback. It is supposed to be 50 ft back. Part of it is let's say, 20 ft back; you need a 30 ft variance. It is not telling me how far the structure is from the property line. I can't do the math and figure out the variance they need.

Jesse Komatz: The dotted line is the setback that is where the house should be, behind that line. The house is over the setback by 22.5. The greatest amount is 22.5.

Cirino Bruno: Mr. Mednick, do you have a larger, more readable map?

Jacqueline Ricciani: What does the 36 ft number signify?

Steve Morey: I think that is the high water mark.

Jacqueline Ricciani: Somebody told me that was the property line. When you look at the large one it says property line.



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Bette Jean Gettel: 1075 is your high water mark. To give you a little information, Woodstone was building the house. He has a surveyor come out and stake it out to make sure they are not in the setbacks. With this particular property, the property owner did not hire Woodstone, They did it themselves. That is why there is the discrepancy that you are now going through.

Jacqueline Ricciani: It is oddly shaped, in the past I can think of a project, not including the deck, which is the theory that the deck can be subtracted; it is not actually part of the structure.

Jim Crowley: He needs 34 ft.

Jacqueline Ricciani: That is including the deck. We are taking the two ends, because of the odd shape. You need an 18.9 variance, and a 22.5 that is including the deck. We are taking the two ends of the house that encroached the furthest.

Steve Morey: It is front yard, rear yard, and side yard. This is in the process of a sale? What point are you at?

Michael Mednick: We are in the process of contract. This is holding it up.

Richard Conroy: What are the consequences if the variance is granted, the sale doesn't go through?

Michael Mednick: The sale gets delayed or sale doesn't go through. There is a certificate of occupancy on the property. If the town revokes the certificate of occupancy, there will be some kind of activity.

Jacqueline Ricciani: Litigation.

Michael Mednick: I don't know if there would be any other choice.

Steve Morey: That information should be in the file. The Certificate of Occupancy is typically given for the structure that is built, not necessarily where it is built.

Bette Jean Gettel: When we issue a building permit it is for everything. Foundation, electric, plumbing, etc, and setback. They are supposed to be complied with.

Jim Crowley: With the foundation they wouldn't necessarily measure, they go for a foundation inspection to make sure; they don't look at setbacks and stuff.

Steve Morey: That plotting on the parcel is that information in the file?



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Bette Jean Gettel: It is, we have the original site plan, if the homeowner had followed the plan.

Jacqueline Ricciani: You assume the builder is building it according to plan.

Steve Morey: I would request a better map, rather than wait a month, and try to decipher this all over again, on the copy of what you are supplying to us, somehow chart what the setback is supposed to be, and what the setback is.

Michael Mednick: It is marked on the map.

Jim Crowley: Bring a stamped and signed copy.

Jacqueline Ricciani: The board can usually waive the public hearing; I don't see that in the code though, which means if you bring him back next month for a more specific map that means you are not looking at the public hearing until May.

Jim Crowley: This is a very hard map. Let's get a map we can work with.

Steve Morey: I agree with Jim. It isn't signed. This is a scaled down version.

Richard Conroy: No certification or anything on it.

Jacqueline Ricciani: If you are coming back you might as well do it with scale. Put on what is required, what is existing, and what is requested.

Cirino Bruno: Can't we ask him to come back with a signed, certified survey, and also schedule a public hearing?

Jacqueline Ricciani: That is your call.

Steve Morey: If that is at the pleasure of the board. I have some reservations with that. What if he doesn't come back with the things we are requiring?

Jim Crowley: You can keep the public hearing open, correct. We still don't need to come up with an answer. We have 62 days, right?

Jacqueline Ricciani: Your 62 days don't even start running if you keep the public hearing open.

Steve Morey: Is everyone satisfied with that. You understand what we are requesting here.



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Michael Mednick: I do

Jacqueline Ricciani: We need it fourteen days prior to the meeting.

Steve Morey: Certified mailings, please contact BJ.

***Motion to set a public hearing by Jim Crowley, second by Richard Conroy.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Steve Morey: I have a couple of things. We had a training session at the government center a few weeks ago. It seemed to me, I can't remember, I think the gentleman from the State, he made a statement at the time when somebody's appointment comes up, and are recommended to take that position again, that the oath of office has to be done again. I don't believe that has been done. When your term is renewed.

Jesse Komatz: It was done for me.

Richard Conroy: I get resworn in every time I do another office.

Steve Morey: We have all been issued a codebook, and I see next to no one brings it with them. It would be very helpful that everybody has their book so we could all be looking and find the area that we are looking for. Signs is a good example, billboards is a good example. I would appreciate if more would be here. Another idea that I had, if we had at our disposal, a lap top with an overhead projector we could display on the wall for all of us to see it, the code itself if necessary, the comprehensive plan if necessary, and minutes from previous meetings. My hesitation on that...

Jacqueline Ricciani: You need to have a projector, and scroll through 25 pages of Jannetta's minutes to find a discussion.

Jesse Komatz: I don't think so much the minutes but if we have the article....

Steve Morey: Some aspects of different things are in different portions of the code. It does take research. It is probably just as difficult as going through the codebook. My preference is everybody bring their codebook. I wanted to get a feel of how the board felt about this other idea, before we did anything, because it is a cost to the town, with budgeting and everything, I wanted to see what Dan Gettel felt, and then the two boards could split the cost.

Richard Conroy: It may be cumbersome to go through and project things on the wall.



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Jacqueline Ricciani: I know I am not a member of this board, but could I make a suggestion? That you have a work session a half hour before the meeting begins. I will be at the work sessions. BJ is here. She and I are both fairly familiar with the code. That is what we do at the Planning Board.

Dawn Ryder: Most of you have an Ipad or even a tablet, you can connect to the Internet here and you can look at it.

Cirino Bruno: I am in favor of a work session, so we can get here and we are all on the same page.

Bette Jean Gettel: I think after tonight's meeting, for April we advertise that you have a work session at 7pm. You are making two decisions next month on two different projects.

Richard Conroy: At the work session you are not going to make any decisions.

Bette Jean Gettel: No, but at least you are going to talk amongst yourselves.

Richard Conroy: That is what we do here.

Jacqueline Ricciani: The work session gives you the opportunity to hash out some of...it gives you two things. It gives you the opportunity to hash out some of the issues so that when you get to the regular meeting you don't have so much....

Jesse Komatz: Less surprises.

Jacqueline Ricciani: Exactly. If there is something that is different, it gives you the opportunity, if you wanted to know what the definition for a billboard or sign or whatever, and it gives you the opportunity to become more familiar with the project, all aspects of the project before the applicant comes in.

Richard Conroy: And that is open to the public, right?

Jacqueline Ricciani: Correct. It is open to the public, but there are no minutes.

Jim Crowley: I don't think we need one.

Richard Conroy: I don't either.

Jim Crowley: I know how to use a ruler and read a map.

Jesse Komatz: Dan (Brey) was here for the last one so he is a little familiar with the billboard.



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Jacqueline Ricciani: They are both going to have to read the minutes in order to be able to participate. Unless you want to go through the criteria again with them here.

Cirino Bruno: No

Jacqueline Ricciani: They can't participate in the vote if they weren't at the meeting unless they can say they read the minutes and they are familiar with the issues.

Richard Conroy: That is why the minutes are sent out.

Jacqueline Ricciani: You can do it on a case-by-case basis, depending on the projects that are coming in front of you.

Steve Morey: Exactly. Let's take that work session idea home with us. Dawn do you have anything you would like to add?

Dawn Ryder: I think a work session is a good idea. The Planning Board does it, especially when they have a lot of things before them. It does allow you time to hash it out.

Steve Morey: The work session, the public can attend?

Jacqueline Ricciani: It is under the open meeting law, it is done in public. They sit and listen. If they do want to talk, you say it is not a public hearing, we are not taking questions.

Steve Morey: The work session they can attend, but not participate. Anything else?

No

***Motion to adjourn by Jim Crowley, second by Cirino Bruno***

***All in favor 6***

***Opposed-0***

***Agreed and carried***

9:45 pm

Respectively submitted,

*Gannetta MacArthur*

Recording Secretary



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