



Town of Bethel  
*Zoning Board of Appeals*

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

Town of Bethel Zoning Board of Appeals held its monthly meeting on April 20, 2015. 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: Stephen Morey, Chairman, Jim Crowley Vice Chairman, Richard Conroy, Jesse Komatz, Daniel Brey, Cirino Bruno, Victor Kask, Alternate, BJ Gettel, Code Enforcement Officer, Jacqueline Ricciani, Attorney, Dawn Ryder Councilwoman, Daniel Gettel, Planning Board Chairman, Jannetta MacArthur Recording Secretary, and David Biren, Planning Board member.

Robert Yakin is excused

Seating Victor Kask

Pledge to the flag

***Motion to approve the March 16, 2015 minutes by Richard Conroy, second by Jim Crowley***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

- 1) Public Hearing for an Area Variance from the setbacks and acreage to construct a single family dwelling on Wachter Drive, known as Bethel Tax Map#: 28-1-15.1, proposed by Carole Mirkin. (Edwards).***

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

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Grant Decker: I am the surveyor representing Mrs. Mirkin. It is a small piece of property, a small lot, and they are trying to get an area variance because the minimum required acreage is half of an acre, and we only have .012. The other variance we are trying acquire is the front yard variance where we established a proposed 24 x 40' building, and that leaves us with 11 ft for the front yard set back instead of the required 25 ft. (Showing on map) Here we have 11.5', it is an existing lot; it is 60 by 102 ft or so down to the shoreline. It is .012 acres. Those are the two variances we require.



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Victor Kask: How close are the neighboring buildings to the road?

Grant Decker: I'd say she is at least 75' from this property line. On this one, there is a shed on the property, I'm not sure where the house is, and it has been a long time since I have done this survey, but I am pretty sure this lot next to her is vacant. It is pretty much the same size lot. I don't think there are any houses near the property line on either side of it.

Victor Kask: Is that rear yard offsite pretty typical down the road for the other homes?

Grant Decker: We are probably 50 to 60 ft back from the travel way of the road. Just that the road bounds are probably about 30 ft back from the travel way of the road. I'd say usually the houses are generally parallel to the road; this one is parallel to the sidelines. I don't think there are any other dwellings in the general area except the piece to the south, and it is on almost a little island by itself.

Richard Conroy: It looks like it is typical for White Lake Homes.

Steve Morey: The front yard setback is 11 ft?

Grant Decker: That is what we are proposing. The minimum requirement is 25 ft.

Steve Morey: And the rear yard was?

Grant Decker: The rear yard is approximately 37 ft at the smallest point, and the rear yard requirement is 25 ft. I think they are trying to stay away from the shore line, trying to stay closer towards the front which is closer towards the travel way because the travel ways are 30 ft from the bounds of the road. The subdivision lay out, the road really wasn't built in the middle of a 50 ft strip; it was built more to the north of the right of way. You have quite a bit of land in between the travel way and the property line. They are 25 ft back from the existing shoreline. The property line goes out to the water a little bit. That is where the 37 ft comes in. That is what they did, the engineer. I was asked to fill in at the last moment, but I had done the survey a year or so ago, so I am a little bit familiar with it. That must have been what he had done, he must have set the house up 25 ft from the shoreline and that is what he had left with the 11.5 ft to the front yard.

Steve Morey: Combined based on the property line you have is 48 ft total, between the front and the rear. Is that correct? 11 on the front, and 37 in the rear.

Grant Decker: Right

Steve Morey: Is there anyone from the audience that would like to speak as part of this public hearing



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for this application?

David Biren: I live in White Lake Homes, 430 West Shore Drive. I don't know who this person is. It is smaller than the average lot in the Homes. The average lot size is 110 – 115 by 60 or 65, which is 6,500 square feet, that is the average size, which is about 1/6<sup>th</sup> of an acre. 6,500 is the average size per lot in the White Lake Homes. This is less. The problem I think that you have is, is this front of the house sir.

Grant Decker: Yes

David Biren: This is much closer than any of the other homes in the Homes. This will be the closest. I think it is a little bit too close to any of the homes on the road. This 11.5-foot right here, it is really too close. The driveway is right here, a car pulls out, you have 11.5 ft here, you have trees right here, the driveway is here, some child drives by with their bike, they use skate boards whatever. There isn't much of a driveway.

Richard Conroy: That is a dead end.

David Biren: That's why the kids drive their bikes there.

Grant Decker: I think he is confusing the 11.5 ft. to the road. It's about 30 ft before they pull out.

David Biren: No, I'm not; it's not much for what you have here. You are cutting it back here a lot. If you set the house a little bit closer to the lake, then you are okay. Because it is a much smaller lot than the average lot size, is what I am getting at. That is because of the property where it is situated. It's not the owner's fault; it is because the lot size is where it is, because of where it is situated. I think the building needs to be moved back. It's great to have a nice piece of property on the lake, 46ft; it is more than anyone has in their back yard on the average. Do you know what I am saying? A building like that is great for your backyard. You have a nice play area, it is not functional when you live in this area, and you are not being fair to anyone else. If you go back 10ft, you have 36.3 ft, and then it is workable. It doesn't affect sewer lines or anything; it doesn't affect your water lines. That makes more sense.

Steve Morey: I understand

*Return receipts received*

Steve Morey: Reading letter into record – Helen Cohen

***Motion to receive and file by Jim Crowley, second by Richard Conroy***



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*All in favor-7*

*Opposed-0*

*Agreed and carried*

Steve Morey: Is there anything from the board while we are in public hearing?

Richard Conroy: Is there a problem with moving the home back 10ft?

Grant Decker: Then we would have to get a rear yard variance, because it has to be 25 ft from the shoreline. It is either a front yard set back or a rear yard set back. The engineer must have assumed it would be better to have the front yard set back.

Cirino Bruno: I thought you said it was 47 ft?

Grant Decker: To the property line. The property line goes out to the water a little bit, so the property lines....

Cirino Bruno: How much?

Grant Decker: 10 ft.

Jim Crowley: Doesn't matter. Water doesn't count.

Grant Decker: The travel way, if you just forgot where the property line was, where the limit of the road bounds was, the house would sit quite a ways away from the road back. There is probably at least 30 ft between the edge of the travel way, where the road is proposed, so it gives you a little bit of a distance to go out, out to the road. The problem is where the lot line is; where the existing lot line is on paper is 11.5 feet to where the house is going to be. It is a wide strip of road right here for the right of way, but the road itself is only 15 to 20 ft wide, but the right of way where we start the property line from is off a 50 ft strip. This lot is about the same size it is 60 by 103, and he was mentioning almost the same dimensions as far as the size of the lots.

Jim Crowley: I don't think you gain anything if you move the house back; you are still coming down the same driveway, the same road. I can sympathize with the kids playing on the road, but it is a road and it is meant for highway vehicles, not for kids to play in.

Steve Morey: Where the edge of pavement is for the road, it certainly is within the right of way, are you saying that the right of way for the road toward this person's property is in on the property? I am a little bit confused, is their property in that right of way, is that wrong?

Grant Decker: No, their property is not in the right of way at all. Their property starts at the right of way. You are starting 20 ft back from the edge of the road roughly, that is where we have to measure



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the front yard setback from where the property line is, and the property lines maybe 20 ft back from the road to begin with, and that is the property line that is, where the 11.5 ft would be. See this whole strip here, it is the right of way, and this little strip here is the roadway, so the property line is off of the road bounds, which is the edge of the right of way.

Jim Crowley: Are there any wetlands?

Grant Decker: I don't think so. Timmy was the engineer, I didn't do the site plan, and I thought after that letter he obviously would look into it, I would say there are no wetlands around the lake. I would say the lake itself is probably wetlands; it's not swamp or anything like that. Her house is built about the same elevation as this one is proposed. There isn't much of a change in elevation through there.

Steve Morey: Anything else?

**Motion to return to regular meeting by Jim Crowley, second by Cirino Bruno.**

**All in favor – 7**

**Opposed-0**

**Agreed and carried**

Grant Decker: Do you go through the other public hearings before you get back to me?

Steve Morey: We can continue on unless there is an objection from this board. The checkpoints that we always use to test for an area variance are:

Jacqueline Ricciani: If any anyone needs a copy, I have copies here. In your codebook it is Section 345-50 E 3.

1. *An undesirable change in the character of the neighborhood or a detriment to nearby properties will be produced by the granting of the variance?*

Jim Crowley: No, if you look at the map at White Lake Homes.

Cirino Bruno: You are not changing the character in a detrimental way.

Steve Morey: Is everyone agreed?

Yes

2. *The benefit to the applicant can be achieved in some other way? Yes*

Jim Crowley: You said there were some lots that were vacant, correct?



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Grant Decker: I don't know.

Richard Conroy: Two lots toward West Shore Road, two lots up, they are 50 ft wide on the shore line, 60 ft on the road, they are both vacant.

Jacqueline Ricciani: Are they adjacent?

Richard Conroy: Yes.

Jacqueline Ricciani: As I mentioned to you gentlemen in the past you need to make a record so you need to have discussion more than a yes or no for this criteria.

Cirino Bruno: Have they tried to purchase the lot next door? That would be a way of achieving it. It is possibly a yes.

Jesse Komatz: I would say yes.

Steve Morey: I would say yes as well. We don't have a definitive knowledge, but it appears they haven't made an attempt to purchase the adjacent property, one or both.

Richard Conroy: It would only make a difference on the side yards. They would have to redesign the whole house.

Jim Crowley: The side yard is always going to be a problem though.

Grant Decker: Correct. If the lot is the same size, you wouldn't meet the area requirement. It is the same size as this lot. You still need a half of an acre to build. We are only at .012 here, so if the next lot is small also, you are still going to have a problem with the area.

Steve Morey: Actually there are two lots.

Grant Decker: Maybe the guy that lives three lots up owns those two lots....

Richard Conroy: They are owned by different people.

**3. The created area variance is substantial:** Yes, it is more than 50%. Looking at a 13.5 ft variance and then a .38 variance on the side.

**4. The proposed variance will have an adverse effect or impact on the physical environmental**



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**conditions in the neighborhood or district:** No. Referred back to number 1. It is the character of the community.

**5. The difficulty was self-created, which shall be relevant but not necessarily preclude the granting of the variance?** This predates zoning.

Richard Conroy: I don't know when he purchased the property; I don't have the date when they bought the property.

Steve Morey: They have owned this piece of property for quite some time. Why haven't they gone forward and tried to pursue construction on this lot prior?

Grant Decker: I don't know. They probably didn't know where the lines were. There were some encroachments on the property, and people were parking in front of it. When I showed her where the property lines were, she was surprised where it sat, and the configuration of the property. I didn't think they had any intention prior until the survey was done, what it could be used for, what it couldn't be used for, and where it was.

Steve Morey: When I went to physically visit this lot, there was some playground type of equipment on it. I thought it might be on this piece, is that the property?

Grant Decker: I don't think so. There was a shed back there when I went to do the survey. The neighbor to the south who you received the letter from; she has some pretty spruce trees planted out in the front. This is right adjacent; it is off the right corner as you face the property. The neighbor has a shed by the shoreline; there is a path to the dock.

Steve Morey: Is there a date on your survey?

Grant Decker: August 9, 2013.

Jacqueline Ricciani: Did we get an answer to the last question?

Steve Morey: Not yet.

Jim Crowley: They owned this before zoning?

BJ Gettel: I believe it has been in the family. It has been passed down from generations.

Richard Conroy: It is the original subdivision.



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Jim Crowley: I don't believe it is self-created. It predates zoning. I think we created.

Richard Conroy: It's not like it was just bought last year, and they said I'm going to build on it. I agree with Jim.

*Board is in agreement.*

Richard Conroy: They have public water and sewer there. The way the road is now, I agree that the front yard, it is actually away from the road. I don't think there would be a problem putting a house there; it would fit in with the other homes from White Lake Homes.

Steve Morey: The driveway that is proposed for this house is 11 ft from the structure to the property line and then approximately how many feet to the road?

Grant Decker: About 20 ft from the road.

Steve Morey: So about a total 30ft.

Grant Decker: There was a gravel parking area in front of this property where you can pull a car in off the travel way and probably still wouldn't be to the property line yet, meaning there was an area here where you could park a car off the travel way and you still wouldn't be to the property line.

Richard Conroy: It is like a big shoulder on the road.

Jim Crowley: I would like to make a motion to approve the variances, the variance is substantial but it does fit the area of what is there and has been there and what the area was designed for, a lot of houses that is why they have public sewer, why they have water. Taking that into consideration.

***Motion to approve the variances by Jim Crowley, second by Richard Conroy***

***Roll call vote***

***Daniel Brey - Yes***

***Jesse Komatz - Yes***

***Richard Conroy - Yes***

***Cirino Bruno - Yes***

***Jim Crowley - Yes***

***Victor Kask - Yes***

***Steve Morey - Yes***



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***Motion passed***

***2) Public Hearing for an Area Variance from the setback and acreage to operate a Bed & Breakfast located at 263 Hurd Road, Bethel, known as Bethel Tax Map #: 21-1-1.12, proposed by Kenneth Bovo.***

Mr. Bovo: Good evening board. I am handing out the revision. We did delete one of the units; it now complies with a four-bedroom house. We are looking for a variance from 3 acres to 1.77 that exists. You will see a little triangle down by the notation, you can see parking there, we revised it. We have three bed and breakfast rooms and one for the employee running it. Total occupancy is 8.

Jacqueline Ricciani: How many occupants per room?

Mr. Bovo: Total of 8 occupants. Six transient units of 6 occupants. One employee residential room, with two occupants. We are going to go for the 8 occupants. The total bedrooms will be 4, 3 for bed and breakfast, one for the residential use. There will be 3 parking spaces, one for each transient unit, and one for the residential, for a total of parking of 4. The traffic impact will be 38.4 total trip ends per day. The required lot area is 120,000; we have 77.1 thousand square ft.

Steve Morey: Mr. Bovo, can you hold on for a second. At this point and time we need to go into a public hearing, we can make this a public hearing; you can continue your presentation.....

Jim Crowley: I do have a question. Where is the septic?

Mr. Bovo: It's down here; it has always been there and always used for a 4-bedroom residence. We are not inclined to provide anything at this time since it doesn't exceed the existing bedroom size.

Jim Crowley: You have that information on these building plans, BJ?

BJ Gettel: No, I do not. These are new plans, this is not what I had been submitted to the county, or 239 review or Ag data statement.

Jim Crowley: We have to start the process over again. You can't come to this board with new plans and keep changing the script because this is not what has been submitted to the county, they have not reviewed these plans, they haven't commented on them.

Ken Bovo: I was down sizing.



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Jim Crowley: We have to start the process over again.

Richard Conroy: I think you are right. We have been through this before.

Steve Morey: Technically, we did advertise a public hearing, I would like to open the public hearing, then close the public hearing for the reasons we are going into now, so we have that on record.

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

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Richard Conroy: Like Jim said, these plans are different; we just got these plans today. They haven't gone to the County. There is no point going on with this.

Jacqueline Ricciani: The plan that is here is not the plan that was noticed in the public notice for this hearing.

Ken Bovo: It is the same intent. It is for a B & B. That could be addressed regardless. These are minor revisions reducing one bedroom. .

Steve Morey: While we are in this public hearing Mr. Bovo, if you would please try to draw to our attention the changes that you made. .

Ken Bovo: The last meeting there was a concern that I was requesting four transient units, which would have made five bedrooms. There was a question that the septic would be designed to adequately hold that because it was a four bedroom. So what I did, instead of requesting four transient units, I am only requesting three transient units, so that I can comply with the septic that is in there, and always been there, it has always been a four bedroom residential.

Jim Crowley: Will you bring to this board what's there. Will you bring the specs the next meeting?

Ken Bovo: It's been built, it's been there, it has been there as a four bedroom since 1987. You have to design specs. I have to dig it up the yard, I can't give you the length of tubing, and I can't find the existing septic. I can go and get Sullivan Septic to pump it out. That is how it is done. They see the quantity, then they can determine the gallons, 1,600 would be enough for four bedrooms. That is the best I can do. It is in the ground, it has been there since the building was built.

Steve Morey: Have you made a change to the parking schematic?



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Ken Bovo: Yes, I took out one parking spot. Instead of five parking there are four. It is a reduction of my submission.

Steve Morey: What other changes have been made to the plan you are submitting?

Ken Bovo: Nothing. I took out one bedroom unit, one transient unit. So that affects the total occupancy. Instead of ten, there are eight, instead of five parking, there is four parking. It is a reduction from my last submission. To avoid putting in a new system.

Steve Morey: Is this your final plan?

Ken Bovo: This is the only plan I want accepted at this time.

*Certified mailings received*

Jim Crowley: BJ, I have a question for you, when this leaves the Zoning Board, does it go to the Planning Board?

BJ Gettel: Yes it does.

Steve Morey: There are complications. We had submitted your original proposal to the county for review and they did give a review and some recommendations based on the plan that you submitted at our prior meeting. This is a change.

Ken Bovo: It is the same plan; I wanted to see if I satisfied those concerns with the revision. It is the same plan.

Jim Crowley: It is not the same plan; it is a completely different plan.

Ken Bovo: It is not a completely different plan. It is an existing building, it's there. I didn't move the building, I didn't put on an addition, I am taking a parking spot out, and that is not a complete change. The intent is what I am doing. The intent is important.

Jacqueline Ricciani: I would also point out that even with the change the applicant has made; you need to consider whether that would have any impact on the variances he is requesting.

Ken Bovo: The variance hasn't changed. The submission for the variance is exactly the same.

Richard Conroy: The parking is to be determined by the Planning Board?



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Ken Bovo: Reading letter from County with recommendations.

Steve Morey: What is the pleasure of the board?

Jim Crowley: I believe we should start over. We have letters back with concerns. Things have changed now.

Ken Bovo: What exactly has changed in the variance that I am looking for? I'm not requesting a different setback, or a lot area. The intent is a variance for a B & B. I downsized from five to four rooms. If that is the big change and you are going to put me and my clients through two months of this, then we are going to be very upset.

Steve Morey: Mr. Bovo, I am trying to determine as my attorney suggested, do your changes actually change the variance requests?

Ken Bovo: Could you answer the question for him?

Jacqueline Ricciani: I don't believe he asked me a question. If he does, I will be happy to answer. I would like to also remind this board, as everyone is well aware, just because this is the plan that is in front of you now, and I assume this is the plan that is going to go to the Planning Board, it doesn't mean the Planning Board is going to grant him the transient rooms, and one residential room, parking in that location, signage, and landscaping. The Planning Board may look at this totally different, and have a different idea about how the layout will be, what the number of rooms that will be permitted. This board is here because of the location of the structure, and the oddly shaped lot you are dealing with, and the small size of the lot.

Steve Morey: We are still in the public hearing.

BJ Gettel: No one has signed up to speak at this public hearing.

Dawn Ryder: Because I am the liaison for this board, I have looked at the plans for this project. I have looked at the past plans for this project as well which concerns me because on some of the drawings, the sidelines setbacks are different on different year drawings. The 2004 is different is different from the 2008. I know it is an odd shaped piece of property. I know that the fencing along the edge of this property is 10 ft in, so when you look at this property, it really doesn't have that 10ft, as the fence indicates. I just question the different drawings, what is real, and what isn't.

Steve Morey: Dawn, you said you looked at the plans, not this one?

Dawn Ryder: I looked at the 2004, the 2008, and the ones that was presented last month.



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Jacqueline Ricciani: I have plans that were submitted it looks like August 10, 2004, which shows 25 ft side yards.

Cirino Bruno: Mr. Bovo are you withdrawing the previous plans, or do you have other plans and applications?

Ken Bovo: Those are not what we are discussing right now.

Cirino Bruno: That is not what I asked you. Are you withdrawing them, or are you leaving them on file.

Ken Bovo: Those were for the same intended use, and since that submission we did have a surveyor go and survey it, and here is the survey map which shows the 11.4.

Jesse Komatz: This one says 25 ft.

Ken Bovo: The survey map shows 11.4.

Jesse Komatz: The lines are there, and the house is still there, how did that change?

Ken Bovo: Because the survey map that we took, because of that discrepancy in 2005, showed 11.4. That is why we submitted the 11.4.

Jacqueline Ricciani: This one for 2005 showing 22.

Jim Crowley: BJ, are those other maps closed, those projects?

BJ Gettel: In 2004 he came in front of the Planning Board for a Bed and Breakfast. He was granted an approval. In 2005 he came in front of the Planning Board for a special use permit for an Art Gallery and Boutique. It was granted an approval in 2008. Now he is in front of you for a Bed and Breakfast.

Victor Kask: After 24 months if they are not realized....

BJ Gettel: Correct. Each map you will see as they are getting passed down...

Jim Crowley: I don't see any stamp on these surveys.

Jesse Komatz: Who was the surveyor?



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Ken Bovo: It's on the second page.

Jim Crowley: I don't see a stamp. This is not a survey. This is what an architect or engineer drew.

Ken Bovo: The second page is the licensed surveyors map. The contours, the location.

Jim Crowley: Where is the stamp and signature on this map? Usually when you get a survey it is stamped and signed. I don't see anything stamped and signed. I just see who did it. I just see PC Land surveyor, Somers, New York. I want the stamped survey so we know what we are looking at, so we can figure out your variance. Usually they are recorded in the book. Usually they are not recorded with XX and page XX. If I wanted to find your piece of property, where would I go? Where is the number?

Ken Bovo: Do you want the deed number?

Jim Crowley: I want the stamped survey. I want the guy who surveyed it. I want an actual stamped survey so we know what we are looking at, so we can figure out your variance. If you won't provide us with the information how can we give you a variance?

Ken Bovo: I didn't do the survey.

Jim Crowley: I didn't either. It's not my responsibility to do your survey. You need to bring us the information. If you don't bring us the information how can we approve this? You need to go and do your homework.

Ken Bovo: I thought I had the appropriate information.

Jim Crowley: You don't. We need a real survey.

Steve Morey: Jacy, I would like to ask your opinion about this proposal.

Ken Bovo: You will hear from attorney.

Steve Morey: If it does in effect change the request.

Jacqueline Ricciani: I think it is up to this board to determine whether the downsizing has an impact on the side yard and area variance. He is not moving the building, whether it is five units or four units, he is still looking for the area variance, 11.4 ft on the side, and looking for the area variance with respect to the acreage. Like I said before where the driveway ends up being, where the parking area ends up being that is Planning Board. If you wanted to proceed on this you could, which might be difficult without the applicant. Additionally you do have 62 days from the close of the public hearing to render your



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decision, if you want to close the public hearing, put it on the agenda for next month and consider it then, you can do that as well.

Cirino Bruno: As a matter of the public hearing, I note that the applicant while in public hearing has left the building. We were in the middle of conducting a public hearing, and we have no applicant. I don't know whether to construe that the applicant is withdrawing the request at this point and time.

Steve Morey: I would like to continue this meeting, regardless. Is there anyone in the public that would like to make a comment while we are in the public hearing for this application?

*No one*

***Motion to go back into regular meeting by Jim Crowley, second by Cirino Bruno***

***All in favor-7***

***Opposed-0***

***Agreed and carried***

Steve Morey: If the board would like to deliberate. We have 62 days. If we would like to take this up as part of our agenda at the next meeting.

Jim Crowley: I can't deliberate, Steve. I personally can't, because, I don't know the survey. It's not stamped, it's not sealed. We have four different ones from prior ones, I can't make a determination. I asked the gentleman to bring a survey, he walked out the door.

Steve Morey: I understand that. My only thought is...

Jim Crowley: I can't make a decision on it if I don't have the tools to make a decision.

Steve Morey: What I am trying to get at is if we place this application on our agenda for next month, between now and next month we can relay to the Building Department what we would request of this gentlemen to come back on our agenda for next month, or whatever the board....

Jacqueline Ricciani: Do you want to hold the public hearing open, I know you closed, but maybe we could go back in perhaps, hold the public hearing open until the next meeting? Make a request to the applicant to provide this additional information?

Cirino Bruno: Wouldn't you want the public to have the new plan?

Jacqueline Ricciani: It's just a survey. He has a survey, my understanding is that it would have to be appropriately stamped by the surveyor, and so you have some confidence in the documentation that is being presented to you.



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Cirino Bruno: Do we have confidence that what was noticed to the general public by him would suffice?

BJ Gettel: They would have to be renotified. I would have to do a new 239, new Ag data statement.

Cirino Bruno: And submit the new plan to the County.

BJ Gettel: Correct.

Steve Morey: The way I see it, then the board can deny this application based on what was submitted to us, an alternate plan, then what was submitted originally. Do you have an opinion Jacy?

Jesse Komatz: Judging on what he has given us, surveys that are not stamped by a surveyor; I would be inclined to make a decision on this right now. It is what he brought us. I personally would not grant a variance on the information he has given us.

Richard Conroy: I agree.

Cirino Bruno: I would make a motion to deny and for him to start over.

Jacqueline Ricciani: You have to go through the criteria, after you review the criteria, and your determination is to deny it, that is fine, but you still have to run through it.

Cirino Bruno: Even though he doesn't meet the threshold of giving us the proper documentation?

Jacqueline Ricciani: And that would factor into your inability to find anything favorable to the applicant.

Cirino Bruno: Let's see how it goes.

Jacqueline Ricciani: Can you give me one moment please.

Jim Crowley: I have a question, Mr. Chairman. How can we even get to this when we don't have a proper application? We don't even have a proper application before us, how can we even get to this five part criteria. We don't have to proceed any further. How can you do that? We don't have an application.

Jacqueline Ricciani: Generally speaking the public hearing is not really supposed be scheduled until you have a complete application. It seems that what is missing is a stamped survey.



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Cirino Bruno: We already determined Jacy that the public hearing needs to be renoticed because of the fact that we never had a proper application before us and he never provided proper public notice.

Jacqueline Ricciani: What do you think is not proper about the notice?

Cirino Bruno: I defer to the Building Department.

BJ Gettel: He has altered the plan. We don't have an accurate plan. He has submitted three plans here. The B & B, The boutique, and now a new set of plans tonight for the B & B. According to zoning code, he did not submit 14 days prior to the meeting.

Jim Crowley: Which he didn't do.

Cirino Bruno: To add insult to injury, he stormed out of here.

Jacqueline Ricciani: Put aside a moment the demeanor of the applicant, I am not sure what was presented tonight was substantially different from what his original request was. He is still looking for an area variance because he needs 3 acres, and he only has 1 something, and he is still looking for a side yard setback.

Cirino Bruno: Jacy, I agree with what you are saying, but I need to be educated on this point. For some reason we felt it important or mandatory that we advise the County, and submit to the County. The County not only accepted it, but also in the moment of compliance decided to respond.

Jacqueline Ricciani: They have to.

Cirino Bruno: With suggestions.

Jacqueline Ricciani: They have a new format.

Cirino Bruno: Based on what they received. We determined this evening we have to give a new public notice in order to have a proper public hearing on this new plan, we have to go back to the County, we need him to come up with a new survey.....

BJ Gettel: We don't know what the actual side yard set back is, because there are 3 different numbers, he went from 25 to 22, now down to 11. Which one of the three is accurate and correct? He is submitting the same plan over and over and over and over again with the same survey over and over and over again. It is not stamped, which plan is correct? Which side yard setback is accurate? Granted the house is preexisting, however....



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Victor Kask: For a survey to vary by 15 ft, it is substantial.

BJ Gettel: Correct.

Victor Kask: It could be some sort of fraud too. We don't know.

BJ Gettel: It could be the 25 ft, but we aren't going to know, because we don't have an accurate survey.

Cirino Bruno: I'm not so sure that at the end of the day he is going to be able to produce an engineer who is going to say that the sewage is enough for eight adults living in the house on a regular basis.

Jim Crowley: We will let the Planning Board deal with that.

Steve Morey: Yes, the issue that we have....

Jacqueline Ricciani: The Planning Board will consider the septic capacity and the parking.

Steve Morey: We are dealing with the variances, the size of the lot and for the side yard setback.

Richard Conroy: How are we going to make a determination on the setback if we don't know what they are?

Jim Crowley: We can't. We need a stamped survey.

Jacqueline Ricciani: It seems to me, the comments that this board heard in public comment from Ms. Ryder, which is the purpose of public comment to bring information before the board, you have determined there are inaccuracies potentially, and you may want to ask the applicant to submit, as Mr. Crowley did, a stamped and signed survey so this board can make a determination. I don't think it is prudent to flat out to reject it at this time, without giving the applicant the opportunity to submit the requested documentation. Once he does that, it will have to go back to public hearing, because potentially we are going to have something different.

Steve Morey: That is the only discrepancy we have at this point and time, the side yard setback. Only the acreage is still the same, unless a signed survey comes back with a different size lot. It is still going to require an acreage or lot size variance, as well as I presume a side yard setback. Other than that, is there anything else we would like to have from this applicant?

Jim Crowley: I would just like to have a survey so we can figure out the numbers on the setback.



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Steve Morey: I ask you BJ, would you contact the applicant that he should come back to the next meeting? We have 62 days.

Jacqueline Ricciani: Chances are there is going to be a new public hearing, based on what the new information is that you haven't seen before.

Jim Crowley: Correct.

BJ Gettel: I will contact him to let him know as per the board's request that a survey map is requested.

Jim Crowley: He wants a variance. A survey goes hand in hand with this. If you can't bring a survey in don't come in and ask for a variance. That's open and shut.

Steve Morey: I don't think it requires a motion, but I would like to have this application on the agenda for our next meeting.

***3) Interpretation for an Accessory Structure and possible variance for a Canteen/Picnic Pavilion to be located on Silver Lake Road, known as Bethel Tax Map #: 11-1-16.2, proposed by Camp Chipinaw. (Kay)***

Paula Kay: Hi, I am Paula Kay, and I am joined here with Wes Illing. We are here; we are joined with our client. We are here for an interpretation from this Board tonight, whether or not the building that is shown on this plan is an accessory structure. I believe you all received copies of the map. We are looking at this proposed canteen building, which is adjacent to.....we are looking right here at the proposed canteen pavilion. Will has done a screen shot of it on the right showing the proposed canteen pavilion, with the kitchen dining room. There is currently a small shed in between the two structures that will be removed. We are here at the request from the Planning Board and the Code Enforcement Officer for this board to interpret whether or not this building, the canteen/pavilion is accessory. Accessory to the kitchen/dining hall, an accessory to the camp as a whole. The definition in your code of an accessory use or structure is a use or structure subordinate to the principle use of a building on the same lot which this certainly is, and serving a purpose customarily incidental to the use of the principle building. Under your definition of a summer camp, it includes facilities such as cabins, dorms, cafeterias, gyms, community center and administrative building. Again this is a canteen pavilion, we consider it an accessory because, you have to have a dining hall, you have to have a kitchen, and this canteen is for campers for off hours. They will be served snacks, and no full meals basically, and all of the food will be coming from the adjacent kitchen and dining room. I don't know if there is anything more to add.

Richard Conroy: What is this other canteen?



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Michael Baer: That was the old canteen. That is going to be turned into a game room.

Jim Crowley: Mr. Chairman, I have a question for BJ, and a question for the Planning Board Chairman, Why are they here?

Jacqueline Ricciani: Can I jump in maybe. This proposed canteen building is already under construction. It is about 50% completed. One thing you will see that it is 13 ft from the property line. It has a 13ft setback. If it is an assessor structure you only need a 10 ft setback. If you are a principle structure on a summer camp, you need a much greater setback. The Code Enforcement Officer has taken the position that this is not an assessor structure, so therefore it cannot be within 10 ft.

BJ Gettel: Because it has a full foundation onto it, now the question becomes....

Jim Crowley: Did the Planning Board approve this building and site where it is now?

Jacqueline Ricciani: No.

Paula Kay: In a slightly different location.

Jim Crowley: Why are we here?

Jacqueline Ricciani: Because it is built.

Paula Kay: The Code Enforcement and the Planning Board asked us to come here to get the interpretation from this board.

Daniel Gettel: We didn't direct them to come to the Planning Board. It was presented to the Planning Board as a replacement of a building that was 200 ft down the road; I don't know the exact number. We said if you are building something in the same exact footprint, you can build a replacement structure. While they were at the Zoning Board they were building another one anyway, and you told them not to build. That is my interpretation.

Jim Crowley: So you just build it wherever you want it?

Daniel Gettel: They were building it while they were at the Zoning Board, and didn't feel the need to mention it.

Michael Baer: That's not true. I came to the Planning Board on June 10<sup>th</sup>. At that time I presented, Code Enforcement had asked us to put together 3 buildings into 1 plan. It was 2 pavilions, and an



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extension to an existing dining room. I don't know exactly how all three of those buildings initially got put into one permit, but for some reason that is what was asked of us, so that is what I did. I want to take a step back a little bit. I have been the owner and director of Chipinaw and Silver Lake, Camp Chipinaw for 17 years, and Silver Lake just over 10 years. Until a year ago, I had never heard of a Planning Board, and never heard of a Zoning Board. I have done a tremendous amount of construction over those years. I have always been able to submit permits, submit the application whatever the process was to Tim Dexter originally. At some point along the way I find out that Tim Dexter is no longer the Building Inspector, and then there was somebody by the name of BJ who I had known a little bit from previous years who was suddenly taking over the position of Tim Dexter. So I didn't know about Planning Board, didn't know about Zoning Board until a year ago. I was asked to put together into one application. Came to the Planning Board, and we spent quite a bit of time discussing the dining room. At that point that was my most important project that I needed to build. I have been working on it for about 3 or 4 years now, it's been in planning. Came to the Planning Board said looks great, you need to go to the Zoning Board and get a variance. It is too close to the road; the extension of the building was going to come too close to the road. No problem, I figured I would do that. At that point, I then said I think it would be a good opportunity to go onto the other buildings that were part of that. There were two pavilions. I just want to show to you on this map, originally there were two pavilions. One there and one there. At that time it was called pavilion #1 and #2. That is all we called it at the time. When I came to the Planning Board, they said if you are replacing a building, you can replace that building. However, there are issues, there are side yard setback issues because the old theatre which is right here, is right on the property line of Chipinaw. This is a Silver Lake property; this is the property line for Camp Chipinaw.

Jim Crowley: Sir, we gave you that variance, correct?

Michael Baer: Just a moment. So this is where the old theatre was. These are the two pavilions. There was an issue with the Planning Board; in terms of yes I could replace it but that they said there were side yard issues. I never even heard of a side yard issue until that time. What ended up happening is we ended up; unfortunately, I'm not going to point fingers as how this construction started, at that meeting we were told that we could come in and get the permit and begin construction.

Richard Conroy: Who told you that, the Planning Board?

Michael Baer: Right here. Yes.

BJ Gettel: They were told that. The contractor however, never came in.

Michael Baer: I thought the contractor came in, got the permit, it was the end of the summer, I left for my winter home, and I thought it was all taken care of it. Then what ended up happening is, they started to build it in the other location. There was definitely confusion because of the sideyard setback issue.



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Richard Conroy: So the contractor never got the permit?

BJ Gettel: Correct.

Michael Baer: He did not pick up the permit from what I understand. It was put up in the other location.

Jim Crowley: He never heard of a permit?

BJ Gettel: To know this contractor, it is not an uncommon thing with him, unfortunately.

Michael Baer: Unfortunately what happened was, it was put up in the wrong location. Here is what also happened; I also came to the Zoning Board in October, when I had the chance to meet some of you, indirectly at least, and at that time I was looking for a variance to replace the theatre. What we decided at that time, we said....

Richard Conroy: There were two, one for the dining hall.... Which was denied.

Michael Baer: Correct. We went for the dining room; the dining room is a totally different subject. I have already decided I am moving the dining room to a totally new location, and I will be back at another time for the dining room. In the meantime, we were talking about the second pavilion. The second pavilion was the theatre pavilion, and instead of putting it here, we told you guys since there were issues with sideyard setback and the road issue, we would move it down here. And you granted that for us. We didn't know that this building was in the wrong location, that that was the issue until about a month ago. What happened was, in case you guys hadn't heard, the building was under construction, at some point about three months into construction, there was a stop order placed on the building. At that time, I was never told I had the right to secure the building and make it safe, and at that time and over the winter the snow load came, the building was not properly sealed, and we had all of the trusses on the building come crashing down.

Jacqueline Ricciani: I think members of the building department might not agree with you on that at this point.

Michael Baer: As owner of the property, I was not informed, that I can tell you.

Jim Crowley: As owner of the property you never knew about this?

Steve Morey: Did you notify Camp Chipinaw by certified mail?



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BJ Gettel: No, they are posted on the building.

Paula Kay: He was in Florida.

BJ Gettel: He knew he had a stop order. We spoke back and forth.

Richard Conroy: So you did know about it.

Paula Kay: After the issue.

Richard Conroy: You had a contractor building this substantial structure without a permit, and you had no idea what was going on?

Michael Baer: I thought we were building it in the right location, I thought that was what the Planning Board wanted.

Jacqueline Ricciani: One complicating factor that I am sure we will get into pretty soon is this has a basement as well, which I believe the previous pavilion did not.

Michael Baer: Correct. So there is a building just like this that is identical to this building, just down the road also right on the road, I brought pictures so you can get idea of what we are talking about here.

Richard Conroy: This is on the other side of the road.

Michael Baer: That's on the other side of the road, probably about 10 ft off the road.

Paula Kay: Michael, can you show that on the plan?

Michael Baer: No, not on this one, it is on the Chipinaw property. It is just down the road, basically if this was on the property line, down the road right here.

Richard Conroy: How long has that been there? Did you need a permit for that?

Michael Baer: 6 years.

BJ Gettel: More than that. I would say close to 10.

Michael Baer: I got a permit yes, but I did not go to any Planning Boards or Zoning Boards. I thought we were building it in the right location. I thought that location was where we were supposed to build it, when I came to you in October, we were getting a variance we weren't going to put it in the same



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footprint, we were going to move it down the hill. I was getting a variance for a totally different building.

Richard Conroy: That was what was approved.

Michael Baer: I thought we were approved, I thought we had the permit, we were building the building.

Cirino Bruno: With a basement?

Michael Baer: With a basement, and the reason why that is because this is the current building. This is what the building down the road looks like, without a basement, it is on piers. What happened is, because it is built on piers, with all of the frost we get here, my tile floor has been cracking. We decided that with all of the new buildings that we build have to be on good solid foundations whenever we possibly can, and it is as simple as that. That is what we tried to do, try to create a good foundation for this pavilion, and I figured it would be extra storage, because you always need extra storage. This is the current pavilion that is under construction, you see here where the trusses are going up.

Richard Conroy: All this construction is going on and you had no idea it was in the wrong place. Your surveyor, your builder, nobody knew.

Michael Baer: We thought that is where the Planning Board wanted us to build it.

Jim Crowley: I am amazed.

Jacqueline Ricciani: But you never got a permit.

Jesse Komatz: Shouldn't you be going to your builder, the issue should be with the builder. It is his business. It is his job to put the building where you want it, so he puts it somewhere else.

Michael Baer: That is where we told him; we thought that is where the Planning Board wanted us to build it. That is why we came to you in October for a totally separate pavilion.

Richard Conroy: You came to the Zoning Board for a variance, and the building was going to be moved.

Michael Baer: For the theatre pavilion.

Richard Conroy: We denied the variance for the dining hall; I don't know where you get thinking that you could put up that building where ....



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BJ Gettel: It was supposed to be a replacement building.

Michael Baer: It was a replacement building that the Planning Board gave us approval for.

Jacqueline Ricciani: But that is not where the prior building was.

Michael Baer: No.

Jacqueline Ricciani: You replaced the building in a different location.

Michael Baer: A 100 yards down, but that wasn't the intention. The intention was to do it where you guys wanted it because of the side yard setback issue.

Jacqueline Ricciani: It wasn't where we wanted it; it was where it had previously existed. A replacement building is in the same footprint.

Michael Baer: I understand that.

Jacqueline Ricciani: However, you seem to be acknowledging that it was not replaced in the prior location, it was put in a new location, and you had no idea it was being put in a new location.

Michael Baer: I did know that.

Jacqueline Ricciani: You thought it was okay to put a replacement building in a different location.

Michael Baer: I thought the issue was that because of the side yard setback you didn't want it in the original location. So yes, there was confusion.

Jim Crowley: Mr. Chairman, I don't even know how we can....

Daniel Brey: Is the old building still there?

Michael Baer: No.

Daniel Brey: So that was taken down.

Paula Kay: So to try and circle back to where we started. Yes there was confusion, and we acknowledge that. We are here tonight to try and fix the circumstance. We have a portion of this building that has been built. The first question we are asking tonight is will you consider this an assessor structure to the dining/hall kitchen, and/or the camp as a whole. If you do consider that, then



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the understanding from code enforcement is then we can move on and go back to the Planning Board to get this building put on the plans in the actual location, where construction has begun so that Planning Board has an accurate plan of what is actually on this property.

Richard Conroy: You put it up, and now you want an okay that it is there.

Paula Kay: Yes, in essence, yes.

Jim Crowley: Mr. Chairman, I have a hard time with this, how can you rule whether it is an accessory or a primary when in my mind it's technically not even a structure because it's not supposed to be in that place. It's not supposed to be there. I can't say it is a primary, I can't say it is a secondary. It wasn't to be built at that location. In my mind it's not a building. Even though it stands there physically, it's not what has been approved. I couldn't give a ruling here or there. I don't know.

Steve Morey: My question to the building department is, why wouldn't we consider it an accessory structure simply because it has a full foundation?

BJ Gettel: Yes.

Jacqueline Ricciani: I think also in addition to that is you need to look at the use. Our code unfortunately doesn't give a definition of what a principle use is. I think that is kind of an every day thing. We know what the principle structure is, when you have a residence, you have a residence and then you put in a tool shed in the back, a shed for your lawn mover, that is your accessory structure for the principle use, and that is pretty well understood. In this case however, what the applicant is seeking is a determination from this board as to whether this canteen is a principle building or is it an accessory building. I will tell you that camps are kind of unique. I have been doing some research on this issue for a while, and I haven't really come up to any kind of guidance yet for this board. The definition that Ms. Kay read to you talked about summer camps which include dining halls, bunk houses, administrative buildings, which this board could say, okay those are the principle buildings, and anything that services that is an accessory. Or you can say by the very nature of this building, I think we will need more information from the applicant on how he intends to use it; you could say it is not an accessory. This is a principle structure just like the bunkhouse; this is a principle part of the camp. If it is an accessory, there is a setback, and then they go to Planning Board. If it is not an accessory, if it is a principle structure then either they are going to need to probably look for a variance, because it is too close, or explore other options. I can appreciate that it is difficult with the history, but my understanding that the building department has determined that this is not within the setback it is not appropriate there, to come to this board for interpretation or an appeal, it is actually an appeal of what the Code Enforcement Officer said, the applicant disagreed, they say it is an accessory building, we are within the setbacks, we can continue, it is up to this board to decide if it is an accessory or a principle building. One other thing that I do want to point out is the procedure to be followed does believe it or not, require a



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public hearing. 345-57 in the case of an appeal or interpretation, which is what this is, the Zoning Board has to set a reasonable time to have a public hearing, and the heading of that subsection is public hearing, so the way I read this is that you need to schedule a public hearing on this issue.

Richard Conroy: If we are going to schedule a public hearing to determine whether this is an accessory structure or not, we need to have some plans of what it is going to be.

Michael Baer: They have all been submitted.

BJ Gettel: I have those.

Richard Conroy: We don't.

Will Illing: You mean the building construction plans?

Richard Conroy: Absolutely

Jesse Komatz: What does the town do when someone builds something where they are not supposed to? Is this normal, oh we made a mistake, so give us a variance?

BJ Gettel: It is not normal, it is unusual.

Jesse Komatz: What is to stop the next guy from not doing the same thing?

Michael Baer: It was not intentional. I can tell you also that...

Jim Crowley: I am amazed that something like this could even happen. You seem like a very hands on kind of guy.

Michael Baer: Absolutely. The fact that they were all grouped under one. I even gave an escrow check for all three buildings under one permit. It wasn't intentional.

Jacqueline Ricciani: The applicant is talking about a permit for the three buildings, what he is talking about was the special use permit he was seeking from the Planning Board, not a building permit, just so you are clear.

Paula Kay: If this board determines that the interpretation itself requires a public hearing, that we also would request a public hearing for a variance application for the front and rear setbacks so that we don't lose additional time. We have submitted an application for a front yard set back. And what I would like to do is move both of them at the same time, listen to the public on both issues next month rather



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than waiting until June if this board determines that it is not an assessor, but it is principle, if it needs to move forward for variance application I would just request respectively that you schedule both at the same time.

Jacqueline Ricciani: This is the first I think this board is hearing about it.

Paula Kay: Actually it is on your agenda.

Jacqueline Ricciani: It is? What is required and what is requested?

Paula Kay: The required is 200, and the requested 13.

Michael Baer: I know you guys aren't happy with any of this. Can I just point out one other thing?

Jacqueline Ricciani: Just one more thing and you would be relying on the same site plan that is up there right now for the setback variance?

Will Illing: Yes.

Steve Morey: If the determination is that is an assessor structure, you don't need the front yard side yard variance.

Richard Conroy: If we say this is an assessor building, it can be built where it is?

BJ Gettel: Yes.

Jim Crowley: Hang on; let's see what the code says.

Michael Baer: Can I just point out one other thing? At this point, if you look on Will's most current... the worse case scenario, if you say Michael, you screwed up, you spent \$100,000 you got to just throw it away, if you say that, that would solve the problem. But understand I have already been given, from what I understand now, I can rebuild down the road 300 ft. The Planning Board did give me permission to build there, in the same footprint that is what we just determined.

Jacqueline Ricciani: A replacement.

Steve Morey: You are just saying .....

Jacqueline Ricciani: The old theatre was going to be removed, and it was going to be here. Where is the other one?



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Michael Baer: This is where the old theatre was. I was given permission by the Planning Board to build in the exact footprint as you just said.

Jacqueline Ricciani: No, there was pavilion #1 and #2. One pavilion got moved; the other pavilion was going to be rebuilt.

Michael Baer: Correct.

Jacqueline Ricciani: If this is the one getting moved, where was the one to be rebuilt?

Michael Baer: Apparently from what I understand now, this is the one that was getting moved.

Jacqueline Ricciani: No, this was getting moved, another one somewhere else was being replaced.

Jim Crowley: This is like a shell game going on. Reading the code. 345-20. "It says no accessory structure shall be located closer to a principle structure no more than 10 ft except for telecommunications facilities which shall be regulated in accordance....."

Jacqueline Ricciani: There is another section that talks about the setback.

Jim Crowley: Where?

Jacqueline Ricciani: It is definitely in there.

Jim Crowley: Mr. Chairman I don't know if this warrants even going to public hearing.

Jacqueline Ricciani: You have to hold a public hearing. The application is before you; the code said that when you are considering an application for an interpretation you need to schedule a public hearing that is what the code says.

Steve Morey: If you don't mind, I want to read the definition of accessory use. "A use or structure subordinate to the principle use of a building on the same lot serving the purposing customary of incidental to the use of the principle building." What is the principle building, or are you telling me there are several principle buildings?

Paula Kay: We would look at it two ways. Yes, there are several principle buildings on the campus, and some of those are the ones I read before. Dorms, cafeteria, gym, community center, administrative buildings.



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Steve Morey: Let me stop you for a minute. This canteen pavilion, are you considering this to be an assessor to the kitchen building?

Paula Kay: Yes, the kitchen/ dining hall.

Jim Crowley: This building shouldn't even be there. This isn't our problem. This building shouldn't even sit where it sits; it wasn't approved to sit where it sits. Why are we proceeding forward, I don't get it? Tear it down, and put it where it is supposed to be. It wasn't planned by Planning unless I'm wrong.

Daniel Gettel: It was proposed to us, as a pavilion building which to me doesn't say full 8ft basement, and the enormous porches that they added to it...

Michael Baer: Everything that was on the plan was there except the basement.

Jacqueline Ricciani: To the Planning Board it was described essentially as a pole barn.

Jim Crowley: What is this? It is not the same structure.

Will Illing: It is a pole building.

Jim Crowley: It's not constructed as a dairy barn.

Cirino Bruno: Can you restate what you said. You were explaining what was presented to you at the Planning Board.

Jacqueline Ricciani: My understanding is, there were two pavilions, which was essentially a pole barn, which are a bunch of poles and a roof, which existed. The theatre building, which is on the plans in front of you, in the center of the piece of paper, where it says old theatre pavilion that was the one that this board granted a variance to, which was going to be built further down by the lake. The side yard was a little tight, so you granted a variance for the side, you moved it down. There was another pavilion elsewhere on the property that was going to be taken down and rebuilt where it was, in the same location. Somehow that building that was supposed to get rebuilt in its original location somehow got built where this one is now. Am I correct? It was not before you.

Michael Baer: Yes, you are correct.

Jacqueline Ricciani: It was not the theatre pavilion you ruled on last year, what we are dealing with today is a building that never came before this board, never came before the Planning Board; it was something that was handled administratively in the Building Department as just rebuilt. Basically,



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structures get old over time, and they need to be rebuilt. That is what this was.

Michael Baer: I also found out that it was the one that was the replacement.

Jacqueline Ricciani: No, there were two pavilions. You called them pavilion #1 and pavilion #2. The theatre building was which one?

Michael Baer: I don't remember. When I first came.....

Jacqueline Ricciani: I was told this was an open area for years and years.

Michael Baer: And that's where we wanted to build the second pavilion.

Jacqueline Ricciani: But that's not an existing pavilion.

Michael Baer: When I first came to the Planning Board, pavilion #1, and pavilion #2.

Jacqueline Ricciani: You said replacement.

Jesse Komatz: When you look at this picture here, there is no building there, where the building is.

Jacqueline Ricciani: So there was nothing that existed there to be replaced.

Michael Baer: Correct.

Jacqueline Ricciani: At the very beginning you called them pavilion #1, and pavilion #2. One of them was the theatre building, which was being moved. .

Michael Baer: That is where the confusion is, right there.

Jacqueline Ricciani: That is what you came to this board for last year was a variance.

Michael Baer: Yes, because I thought I was approved to build in the other location for pavilion #1. That is why I started building it.

Jesse Komatz: I don't know why you are here. Your beef should be with your contractor and have him move your building because he did it wrong.

Michael Baer: I take responsibility for that; I thought that is where it as supposed to be built.



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Jesse Komatz: Now you want the Town of Bethel to take it on the chin because you didn't follow....

Michael Baer: I agree with that, but in reality one way or another the way I look at it is I'm building a pavilion in one of these two locations. If I build it here I am replacing where the old building came down.

Steve Morey: In the same footprint, so it has to be the same size at the same location.

Richard Conroy: You wanted a variance for this building, we said no, we said put it down here.

Michael Baer: I didn't know about that. I had no idea.

Steve Morey: You had two locations.

Will Illing: The dining room came off.

Richard Conroy: You took this building away, and we said you could put it back.

Will Illing: I never even knew there was a building there when we came to these meetings. I was just trying to get an approval ....

Paula Kay: We are asking for two public hearings at your next meeting. One for the assessor's use, yes or no. Whether it is considered an assessor's to the principle structure, and then a variance from 200 ft to 13 ft for a front yard variance for this building where it has begun to be constructed. That is the request.

Richard Conroy: Why would we approve a variance for something that was denied before?

Paula Kay: You didn't.

Steve Morey: When we denied the hall, the new dining hall was going to be a new structure built around the existing structure, and they needed a front yard setback for that, which is what we denied.

Jacqueline Ricciani: But you granted a side yard setback for a pavilion that was going to be further down the property.

Steve Morey: When that first meeting came, there were two sites for that pavilion, and that was the second site, an alternate site, and we granted that and turned down the dining hall. Now you are telling me this building that is under construction is in a completely different location than the one we turned down.



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Michael Baer: No, it had nothing to do with the dining room that you turned down, and had nothing to do with the variance that you gave me. It is a third building.

Steve Morey: At a different location.

Michael Baer: Different location.

Steve Morey: There was a neighbor that came in...

Cirino Bruno: You are going to build a new kitchen on your other property, and you are looking to put an assessor's canteen on this property?

Michael Baer: It is a separate camp. That is why the whole thing is very confusing. It is two separate camps. I happen to own and direct both of them.

Cirino Bruno: You are going to kill this kitchen?

Michael Baer: No.

Paula Kay: I understand what you are getting at. Originally the goal was to have one kitchen dining hall for both camps to combine them, but because we couldn't put it where Michael had originally intended, I think his goal now is one dining hall for Chipinaw, and one for Silver Lake, that is what they are working on, so this assessor's will still be close.

Steve Morey: Now, going back to the meetings, you have me straightened out on locations, but there was a neighbor who made a comment in the public hearing, made several statements and the topic came up there was some confusion because there was construction going on, on site at that very time. The confusion was that this neighbor thought that was the building that you were asking for. The building that has since collapsed, the construction that the neighbor was referring to, is this the construction that the neighbor was referring to?

Michael Baer: I believe it was.

Steve Morey: I don't see where we have a choice other than entertaining a public hearing for this application.

Will Illing: We need a public hearing to decide whether it is an assessor's structure or not.

Paula Kay: And for a variance....



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Steve Morey: I'm getting to that, one at a time. Our part would be to schedule the public hearing. On your part I would say is to make the application the area variance in anticipation that the assessor's interpretation is denied.

Paula Kay: I believe Will had submitted that.

BJ Gettel: Yes, he has submitted that.

Jacqueline Ricciani: Based on all of this discussion, and as Ms. Kay correctly points out it is on the agenda. I think there has been enough discussion here that this board has an understanding of what the variances would be that they would be requesting for a principle building. It would have to be 200 ft back from the lot line, they are requesting 13 ft. So a variance of 187 ft.

Richard Conroy: If we decided that this was an assessor's structure, then you couldn't go 200 ft back.

Jacqueline Ricciani: It's good as an assessor's.

Richard Conroy: If we said it was a principle structure, then you would have to build in another place.

Paula Kay: Then we would be requesting a variance from 200 ft to 13ft.

Richard Conroy: Where would the building be?

Steve Morey: In the same spot. They want a 187 ft setback.

Richard Conroy: So the setback would have to be 200 ft from the road. If the variance is denied, will it have to come down?

Jacqueline Ricciani: Then it is an illegal structure, and there are remedies that are available, both in local town court and in Supreme Court, and that would be something the town would have to consider as an option at the time. I would suggest they be noticed separately, and two different agenda items, and considered separately at two public hearings.

Michael Baer: If we are going for the interpretation, the fact that the building was put in the wrong place is that by this board, do they have the right to use that against us?

***Motion to schedule two public hearings, two separate agenda items, scheduled May 18, 2015 by Cirnio Bruno, second by Richard Conroy***

***All in favor – 6***

***Opposed – 1***

***Agreed and carried***



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Will Illing: We need to have interpretation. We need to know what assessor use is, and what a principle use is so we can go further.

Jim Crowley: Me as a member of the board wouldn't even want to give you a public hearing. I know we have to, that building is not where it is supposed to be. That building to me is not even a building, because it isn't even on the site where it is supposed to be. For you to ask me for an interpretation of an assessor or a principle, I can't give you one. I could give you one on assessor or principle on the site that was approved to build on; I could probably give you an interpretation on a building that you built on a site where the building is not supposed to be. I don't know the feelings of the other board members, but I can't because it wasn't approved. It is not an approved place to put it. That is my issue. I'm sorry it was built in the wrong place, but at the end of day that is not my problem.

Michael Baer: I understand that, but do you understand....

Jim Crowley: Do you understand what I am saying?

Michael Baer: I do.

Jim Crowley: I can give you an interpretation of what is approved, but I personally can't give you an interpretation one way or another.

Michael Baer: I believe you can give us an interpretation in terms of what buildings could be considered...I believe you can consider whether the fact whether the building is there or not. It is sort of after the fact; you have determined as a board whether or not it is an assessor building, whether it is there or not.

Jim Crowley: I personally can't do that because it isn't in the right place.

9:35 pm

***Motion to take a break by Cirino Bruno, second by Jim Crowley***

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

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

***All in favor – 7***

***Opposed-0***

***Agreed and carried***



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*Return to session 9:45 pm*

**4) *Application for a Use Variance for a Conservation Subdivision to be located on County Route 55 next to Daytop, known as Bethel Tax Map #: 13-1-9.2 & 10, proposed by UTS of Swan Lake, Inc. (Wasson)***

Steve Morey: I am recusing myself; I belong to a hunting club that leases this property to hunt on. I don't want it to be interpreted that I am in favor one way or another based on that circumstance. I am going to turn this meeting to our Vice Chairman.

Richard Conroy: Before you get started, when was the ownership of this property changed? I have that it belongs to Moshe Landau. Who is Forest River Estates? Who is Mr. Ramos?

Randy Wasson: Mr. Ramos is here.

Mr. Ramos: I bought it at the tax auction 3 months ago.

Richard Conroy: What auction? I have that house belonging to Moshe Landau purchased July 31, 2013 from the County. I don't see your name.

Mr. Ramos: We purchased it 3 years ago. We bought it in a corporation name.

Richard Conroy: I don't see that. When did you file the deed?

Jacqueline Ricciani: The name of the applicant on the EAF is Forest River Estates LLC, in care of Moshe Landau.

Randy Wasson: That is correct. It is my understanding they are partners. Mr. Ramos and Mr. Landau. When the corporate name changed, I can't answer that. I was hired by Forest River Estates, LLC.

Jacqueline Ricciani: Forest River LLC, that exists as a corporate entity?

Jim Crowley: Who owns it Rich?

Richard Conroy: Moshe Landau and UTS.

Jim Crowley: How can the board proceed forward without the proper application and owner?

Richard Conroy: Unless they filed a deed in the last 6 months ago or so.



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Randy Wasson: I don't know if a new deed has been issued.

Jacqueline Ricciani: I'm sure the applicant will provide whatever documentation of ownership you ask for.

Richard Conroy: We have an application from Forest River Estates, and we don't know if they own it.

Randy Wasson: The principle owners are the same. I am working for Mr. Landau and Mr. Ramos.

Cirino Bruno: You're working for them, but you don't know if they own it or not.

Jim Crowley: I would like to see who actually is the owner and that the owners on this application, and if they don't jive, we should not proceed forward.

Cirino Bruno: It is the burden of the owner to prove that he is the owner.

Randy Wasson: All I am saying is that the principles are the same.

Cirino Bruno: You believe the principles are the same.

Randy Wasson: We'll wait.

Jim Crowley: We are going to have the information correct and proceed with everything correct I am not doing one of these back peddling jobs.

Mr. Ramos: Showing receipt of filing. Recording date 1-9-15, 20-15-172, instrument number. Parcel # 13-1-9.2. .

Richard Conroy: Mr. Ramos, you are not on the deed, just Moshe Landau is, not you. It is only in his name.

Jacqueline Ricciani: I think we should let Randy do his presentation.

Jim Crowley: You know what Jacy; this is what I think the board is having an issue with. This stuff has to be presented to us correctly for us to even warrant hearing it. If you don't present us with an accurate application, we as a board do not have to listen to it. You can go home and do your homework and come back next month. That is my feeling. The rest of the board please speak.

Board in agreement.



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Mr. Ramos: I understand. I apologize. I can show you by the phone.

Jim Crowley: The proposal is not Moshe, it is Forest River Estates. Are you Forest River Estates?

Jacqueline Ricciani: Do you have an operating agreement? The date of the corporation is 11/24/14. That is when it was formed. It doesn't say who the partners are. The deed is probably going to say Forest River Estates.

Richard Conroy: I would want some sort of resolution from the corporation saying that you authorized to act on behalf of the corporation; otherwise I don't know who you are. If we are going to look at both of these parcels, we need Moshe Landau to sign the application.

***Motion this goes back because it isn't correct, the board needs to know who the owners of the LLC are, need to have authorizations, an operating agreement, and authorizations from the owners of the properties to act on their behalf and future meetings by Cirino Bruno, second by Richard Conroy.***

***Roll Call Vote***

***Daniel Brey – Yes***

***Jesse Komatz – Yes***

***Richard Conroy – Yes***

***Cirino Bruno – Yes***

***Victor Kask – Yes***

***Jim Crowley - Yes***

***All in favor – 6***

***Motion passed***

Jacqueline Ricciani: The second page, the owner's proxy needs to be completed.

Richard Conroy: The whole application needs to be resubmitted.

Steve Morey: Anything else from the board?

Nothing.

Steve Morey: Dawn, do you have anything you would like to add?

Dawn Ryder: Thank you for your long hard work. Thank you for listening, and doing great work.



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*Motion to adjourn by Cirino, second by Richard Conroy*

*All in favor – 7*

*Opposed-0*

*Agreed and carried*

*10:10 pm*

Respectively submitted,

*Jannetta MacArthur*

Recording Secretary