



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 May 15, 2017. The meeting was held at the Duggan School, 3460 State Route 55, Kauneonga Lake, at 7:30 PM. On the agenda at this time are the following:

In attendance: Steve Morey, Chairman, Jim Crowley, Vice Chairman, Richard Conroy, Daniel Brey, Cirino Bruno, Jim Ahearn, Alternate, Jacqueline Ricianni, Attorney, Jannetta MacArthur, Recording Secretary, and Dawn Ryder, Councilwoman

Pledge to the flag

Excused – Bette Jean Gettel, Code Enforcement Officer

Jesse Komatz, and Victor Kask - Absent

Seat Jim Ahearn in place of Victor Kask

David Biren from the Planning Board is present, and Lillian Hendrickson, Councilwoman.

***Motion to approve the minutes from the April 17<sup>th</sup> meeting by Richard Conroy, second by Daniel Brey***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

***1) Public hearing for an Area Variance from the setbacks to build a single family dwelling is located on corner of West Shore Road and Cooper Drive, known as Bethel Tax Map #: 29-2-8, proposed by Lee Karasik.***

***Proof of mailings received.***

Steve Morey: Before we go into public hearing, do you have anything to add Mr. Karasik?

David Fanslau: I did send some correspondence to BJ. I have a letter from our architect that is in reference to the question that was asked at the last meeting. I brought hard copies. I brought copies of the survey by George Fulton. As our architect points out, we are asking for relief from the setbacks so that the design of the house will be fully compatible with ADA guidelines, to make it an accessible residence. Mr. Karasik suffers from cerebral palsy. He uses a walker now, there are times when he uses a wheelchair, so the radius of 5 ft is what is required by the by ADA guidelines. We are requesting six variances. The first two are preexisting lot conditions that were there prior to current zoning code. The third one is a set back from front yard, if you were facing West Shore Drive, 25 ft to 22.98 feet, the



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minimum side street set back from 12.5 to 11.44 feet. The minimum both side yards total from 25 ft to 21.44 feet, and the maximum building coverage from 25% to 28.5 %.

Cirino Bruno: The preexisting, can you go through those again?

David Fanslau: The one is the lot area, the zoning code requires the lot area to be 21,780 square feet, the lot that is existing, there was a residence prior to this process is 9,147.6 square feet. The minimum lot width would require 100 ft., and the existing condition is 57.9 feet.

Cirino Bruno: Thank you.

David Fanslau: You're welcome.

Steve Morey: If there are no specific questions from the board, I propose we go into public hearing.

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

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Steve Morey: Is there anyone in the audience that would like to speak at this public hearing?

*No one*

Steve Morey: We have verified the certified mailings have been received. Questions from the board

Richard Conroy: The perceived right of way.....

No written comments

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

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Richard Conroy: You are talking about this right a way? There is no right of way that I can find.

David Fanslau: Basically, George Fulton had in his research; he realized the Shiffler piece was bought by the owner at a County and Tax Auction. It essentially was a land locked piece. In George's research, he believes that Schiffler would have a right to Cooper Road. The right of way has not been negotiated with Mr. Karasik. So the architect allowed for a 12 ft right of way. So that is a typical width of a



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driveway that he allowed for at the end of the property. If Schiffler is looking for that right of way, they could negotiate that with Mr. Karasik, but for this process we wanted to allow for a 12ft right of way.

Richard Conroy: But there is no actual right of way.

David Fanslau: There is no recorded right of way.

Richard Conroy; I ask that because lot 7.2, which is the Pinto and Santos, adjoins 7.2,

David Fanslau: The lot in the back is not Mr. Karasik.

Richard Conroy: But it is his parents. The reason I ask about that is, is it possible to get property from them so there aren't so many variances.

David Fanslau: That wouldn't work with the design of the house; you would have to move the house entirely to that lot. It wouldn't be a lot improvement scenario, and the property is not available for sale or transfer at this time. We would say in respect to the member's question, the 12ft right of way can be reduced by a foot or two; it would eliminate the requested setbacks for the front yard from 25 to 22.9 feet. We would eliminate one variance along West Shore Drive. All the other variances are critical to the house being able to be constructed as per ADA guidelines. If you look at the site plan that was submitted at the last meeting, the dotted line, if the current code would be adhered to without relief, it is the largest the house could be, which would not allow for 5 ft turning radius' in the hall and bathrooms. That width basically goes, that lot is angled somewhat, so it would allow for 17 to 23 ft width at maximum and the proposed width house is 30 ft.

Cirino Bruno: What if there were two bedrooms upstairs?

David Fanslau: That is not possible with Mr. Karasik's scenario. He needs a complete accessible house, he cannot climb stairs.

Cirino Bruno: How many bedrooms can he occupy at one time?

David Fanslau: Mr. Karasik occupies one, but he plans to have a family at some time and he would like to be with his family.

Steve Morey: You lost me on the 12ft right of way. Where on this survey plan does that exist?

David Fanslau: The survey does not show a right of way, because the right of way has not been recorded. So what Mr. Fulton's research showed was that the shift of the lot, which was purchased by



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them from the County of Sullivan at a tax auction, most likely should not have been sold by the County, because it was a landlocked parcel.

Richard Conroy: That's not true.

David Fanslau: That was what Mr. Fulton's showed.

Richard Conroy: That's not true. Any type of landlocked parcel that is sold is announced at the auction.

Jim Crowley: Mr. Karasik has no obligation to give Schiffler a right of way. Schiffler can get a right of way from these others. Let's just loose that. There is nothing recorded. There is no deeded right of way, George can't find anything. Then we can gain footage.

David Fanslau: We would then rescind our request for variance #3 on our letter.

Jim Crowley: You have many requests, so let's try to eliminate some.

David Fanslau: We could withdraw #3. The other five are necessary.

Jacqueline Ricciani: So #3 is the front yard.

David Fanslau: Yes. So that is eliminated

Steve Morey: There was a question at our last meeting whether the lot line was taken from the center of the road, or the presumed right of way of the road.

Jacqueline Ricciani: The lot line happens to be from the center of the road.

Steve Morey: So these are all correct.

Jacqueline Ricciani: For the front. They are all taken from the lot line.

Steve Morey: A question came up at the last meeting, whether the actual lot line was the center of the road, or the roadway bounds, that was the purpose of getting this survey map.

Dan Brey: If you moved the house back, can you get away with that variance?

David Fanslau: That is #3; we can get rid of that.



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Jacqueline Ricciani: You can't steal 3 ft from inside the house?

David Fanslau: The architect did look at this, his professional opinion, it would be difficult, as you squeeze the house, it doesn't allow for the 5 ft radius....

Jacqueline Ricciani: 18 inches on either side, really?

Jim Crowley: When it is ADA compliance, you can't play with sizes.

Jacqueline Ricciani: It is a very open floor plan that is why I ask.

Richard Conroy: We asked for that, it is in the letter from architect.

David Fanslau: I have additional copies if you would like to pass it around.

Cirino Bruno: Is that the April 19<sup>th</sup> letter?

David Fanslau: Yes it is.

Cirino Bruno: I would like the architect to look at shrinking the living room, retaining the 5 ft turning ratio in the hallway.

David Fanslau: Shrinking the house that way would not meet the requested variances.

Cirino Bruno: I believe that is incorrect Mr. David Fanslau.

Jacqueline Ricciani: For the street side, you are looking for 1.06 feet. It is a 2000 square foot house, I'm thinking stealing a foot here or there isn't a big deal. The side yards you need 4 ft. That might be a little bit tougher.

David Fanslau: Right now it is 18ft wide, then you have a foyer here, which is 10ft.

Jacqueline Ricciani: The reason you need the side yard....

David Fanslau: That is a fireplace.

Dan Brey: If you take the fireplace out.

Jacqueline Ricciani: Or move everything in a foot, 1.06 feet. Street side side yard. #4. It will also



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reduce the amount you are going to need for the side yards.

David Fanslau: The street side, # 4, the side yard from 12.5 to 11.4 ft. 1.06 ft.

Jacqueline Ricciani: So you are going to modify the plans and adjust to comply?

David Fanslau: Yes we could do that. Take that foot off.

Richard Conroy: That would save you another variance.

Jacqueline Ricciani: For both side yards you would need 2.5 instead of 3.56.

David Fanslau: #5. Whichever way the architect is going to shrink it.

Steve Morey: We had the correspondence from Mr. Cirillo to receive and file.

***Motion to receive and file letter from Mr. Cirillo, Architect dated April 19<sup>th</sup> by Jim Crowley, second by Cirino Bruno.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Jacqueline Ricciani: Now the applicant is going to make a couple of modifications and shrink the house, that is also going to have an impact on the lot coverage, which is another variance. The lot coverage is now going to decrease. Now they are only looking for 3.5%.

David Fanslau: If you were inclined to approve the variances, we would have the architect redo the math, and have that submitted to the board. If you were kind enough to approve the 28.5 and then we would attest on the record, if the architect redoes the calculations based on the owner withdrawing the concessions and submit the new..... You could make that as a condition

Jacqueline Ricciani: If the board were inclined they could grant a variance of no greater than.... Something to that affect.

Steve Morey: There is a short environmental assessment form received by the applicant.

Jacqueline Ricciani: It's not required, but you can do it if you want. It is a type two action.

***Motion to dispense of the 239 form by Cirino Bruno, second by Jim Crowley***



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***All in favor-6***

***Opposed-0***

***Agreed and carried***

Steve Morey: I think that pretty much covers it. We didn't have any other agency reviews, County, etc. Anything else from the board members?

None.

Steve Morey: Let's go through our checklist. We can do the tests for an Area Variance.

When considering an Area Variance, Boards should understand that they are primarily engaged in a balancing act, weighing public and private benefits. In making determinations whether area variances ought to be granted, ZBA's are now instructed by the statute to take into consideration the benefit of the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or the community by such grant. Note the complete omission of the term "practical difficulties".

The first variance requested, the variance .29 because actual is .21.

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. *No, because it is preexisting. All the lots in that area are pretty much the same size.*
2. The benefit to the applicant can be achieved in some other way. *No, there were no other properties available. He has already shrunk the house down some.*
3. The required area variance is substantial. *No. On #1, the difference in area, it looks like a big number, but it's been there already. Given the preexisting condition, it isn't substantial. It isn't any different than the other properties there.*

Jacqueline Ricciani: It is a 42% variance.

Richard Conroy: It isn't any different than the rest of the property.

Steve Morey: Is the board comfortable with no, it's not substantial?

Consensus – Yes

Jacqueline Ricciani: But even if you say no, it is something to take into account. You can find something is substantial and still grant it.



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4. The proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. *No, there was a house there before.*
5. The difficulty was self created, which shall be relevant but not necessarily preclude the granting of the variance. *Yes, it is self-created. He is building a house on a substandard lot. If it wasn't self-created, the applicant wouldn't be here.*

Steve Morey: Let me read this. The difficulty was self-created, which shall be relevant but not necessarily preclude the granting of the variance. So the answer is yes, it is self-created.

Jacqueline Ricciani: You can do variance by variance, and then motion to approve or deny, or you can kind of wait until the end and do them all as a package.

Jim Crowley: This is kind of an all or nothing, right.

Steve Morey: The second requested variance is a lot width 42.02 ft, required is 100, actual is 57.98.

Jim Crowley: Every one of these will have the same answers.

Steve Morey: We have eliminated the third, side street set back, set back of 1.06 feet, required is 12.5, actual is 11.44. That was withdrawn. Side yard total has been changed to 2.5 feet, required is 25, actual is 22.5. Are we saying the same answers for all of the criteria?

Jim Crowley: Yes

Jacqueline Ricciani: Hold on. The other ones are a piece of land that had dimensions that this applicant is pretty much stuck with. Now the setbacks that deals with.... you have to take into account the structure that is going to be.... Whether or not to allowing them to build this structure whether it is going to be an improvement to the neighborhood, a detriment to the neighborhood, and the impact of having this house with these dimensions.

Cirino Bruno: This is variance #5 we are talking about now?

Richard Conroy: We have dealt with #1 and #2. Three and four are gone. There is just #5. Two and a half feet is not substantial.

Steve Morey: Is everyone following along?

Jacqueline Ricciani: What you were saying before was that it is not going to be an undesirable change



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and that he can't get to the benefit because it is a preexisting lot and there are no other lots available and no adverse impact because there was a house there before, and there is going to be a house there again. With respect to can the benefit be achieved by some other method, what you are continuing to say is there is no other neighboring property that he can buy to add, okay?

Richard Conroy: This is not substantial.

Jacqueline Ricciani: And no adverse affect or impacts because there was a house there before and there will be a house there again.

Cirino Bruno: Yes.

Steve Morey: #5, we have all no's with the exception of it was self created for all of them.

Jacqueline Ricciani: And the same explanation for prior requests.

Steve Morey: #6, lot coverage 3.57% which is going to be reduced. We don't know that actual number yet. What is required is 25%, and actual is 28.5%, which is also going to be slightly reduced. Undesirable change, character to neighborhood or detriment to nearby properties.

Richard Conroy: It is the same as the others.

Steve Morey: I think it is consistent with the neighborhood. The benefit can be achieved by some method feasible to the applicant. I would like to say we have already gone through the architect statement and size of the house. Even if there was a thought that it could be achieved by some other way, I don't know that it is feasible for this application.

Richard Conroy: I think that ADA letter is part of the record, right?

Steve Morey: Yes, we did that. Whether the variance is substantial, it's like a 3.5% ...

Richard Conroy: That is a small percent.

Steve Morey: No. Adverse affect impact on physical or environmental conditions, we are back to the same thing, and self-created is yes. Okay. The other criteria that needs to be considered, I believe we can have a motion to deny or grant this application.



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***Motion to grant the application with the changes discussed by Richard Conroy, second by Cirino Bruno and that all fees be paid***

***Roll call vote:***

***Dan Brey – Yes***

***Jim Crowley – Yes***

***Richard Conroy – Yes***

***Jim Ahearn - Yes***

***Cirino Bruno – Yes***

***Steve Morey – Yes***

***Motion passed***

***2) Application for an Area Variance from the setbacks for a summer camp to be located at 347 Old White Lake Turnpike, known as Bethel Tax Map#: 13.-1-12.1, proposed by David Weiss.***

Randy Wasson: This project is the former Hotel Otryone on Old White Lake Turnpike. It has 21.5 acres of land. All of the buildings are on the east side of the road. This was been in front of the board on January 2016 requesting multiple area variances. The front, rear, side yard setback, there is also one area variance requested for height of the main building. All of these buildings exist on the site now. The reason we are before the board is because as a former hotel, which is a special permitted use in the zone, the owner applicant would like to convert this to a summer children's camp. Because a summer camp has very large setback requirements, 200 ft in the front yard, and 200 ft in the rear yard, and 150 ft on each of the side yards, it basically renders every building noncompliant. We are here because we are changing the use; we are not building any new buildings, we are not changing anything on the site. So we have, they are listed on the drawing, multiple requests for setbacks, and one height variance for the preexisting building. That building is 39 ft high in the front, and 32 ft high in the back, the average being 37. Zoning allows 35.

Cirino Bruno: What is zoning for acreage for camps?

Randy Wasson: The acreage requirement is 25 acres.

Maria Zeno Attorney: We are not requesting a variance for that, because we are in contract to purchase several more acres, which will make it compliant.

Cirino Bruno: You are in contract to purchase 19 more acres?



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Maria Zeno: No, we have 21, and we need 25 for a summer camp.

Jim Crowley: You're not requesting a variance for that?

Maria Zeno: No, once we get to the Planning Board, we will have ownership of the property; we will have more than enough.

Steve Morey: You need to request that now, unless you already have the property.

Maria Zeno: We are in contract, and we are ready to go to closing.

Jim Crowley: But it isn't finalized. You brought this to us prematurely.

Steve Morey: My suggestion would be to request that variance, when we go into the public hearing, you can always withdraw it once you have acquired that piece of property. But this property needs to be acquired and deeded to the same owner, the same title. Do you understand what I am saying? You are not requesting it now, but you are asking us to deliberate on something that doesn't exist.

Maria Zeno: I understand that.

Jim Crowley: What property are you looking to purchase?

Jacqueline Ricciani: Can you show us?

Randy Wasson: On the vicinity map, it shows a piece, plus or minus 5 acres. Whatever they need they will have. We have 21.49, we need 4.5. One question that came up in discussion prior to this meeting was that the road, it is owned by the applicant. If it is not part of the total we would like 5.5 acres. The property is a single tax parcel. The applicant owns the road. The property is a single tax parcel, it is hooked across the road, and it is an official town right of way. There is no town ownership of that road.

Jim Crowley: It's a town road.

Randy Wasson: The town does not own the road; they have the right of way.

Jim Crowley: I would not consider that part of your acreage.

Randy Wasson: Is it a 50 ft wide road, or is it just the width of the pavement, plus the shoulders, plus the ditch, what do you own? You really don't own it. You have a prescribed right of way, you maintain it, and everything you maintain is town, town use, town maintenance, but it is technically



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owned by the applicant.

Jim Crowley: The utility poles down that road, they have easements correct?

Randy Wasson: They have easements.

Jacqueline Ricciani: I think what the applicant is trying to say is because the parcel you see is one tax lot number. They own everything within the four boundaries of that, and the question may be, do you pay taxes on that.

Richard Conroy: No, you don't. That's not the case. That is a town road. I don't see how you can include that in your acreage.

Steve Morey: This map says this parcel is 21.4 acres.

Randy Wasson: That includes the road.

Steve Morey: I'm not disagreeing with you, but a few people are. What is the tax record on the Internet?

Maria Zeno: Everything you see here is what the tax map shows. With the road passing through it.

Steve Morey: Is it based on 21.4 acres? I want the tax record.

Jim Crowley: Steve, it is the same thing as figuring out water in White Lake. You can own out onto the water. It's not going to be used, as far as acreage. Just because you own land under the lake, you can't figure a town road as building acreage or setbacks. You couldn't do it in White Lake Homes because of the water out there, because people own out in, in the calculations. This is the same kind of thing. You can't use the town road in your calculations. Even if you own to the center of the road, or both sides.

Richard Conroy: This parcel is based on 21 acres.

Steve Morey: Okay that answers my question.

Randy Wasson: We're not trying to argue that point, just asking.

Steve Morey: It isn't an issue if that other piece of property is acquired. My recollection, when you were here in 2016, I presume that all of these requested variances are the same; with the exception of lot coverage, and you are not requesting that now....



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Jacqueline Ricciani: The pool is new. The Town just revised a code, to adjust all amenities for the use. Since someone did bring up the question...

Randy Wasson: For purposes of the setbacks, the front yard setbacks, what is shown on the map is a 25 ft. right of way line from the road, we are assuming whether they own it or not, we are assuming 25 ft off set as being the boundary from the center of the road. Just to be clear, we are making the assumption, we are not sure, but based on our discussion, that the front lot line is the road, is the bounds, the road right of way.

Jacqueline Ricciani: There was a preapplication meeting and Randy did bring up, because this is one parcel, all the way to the left could be viewed as the lot line, because the road is not the lot line, the lot line is all the way on the left side, that is the lot line, so when you look at the definition sections in your zoning code....

Jim Crowley: He needs to pick one, we don't pick one. What are we calling the front, side, etc?

Jacqueline Ricciani: When there are questions of interpretation that is your purview.

Jim Crowley: You look at this, what are you picking as the front, the side, and all these dots here, these are all decks around buildings?

Randy Wasson: Our variance requests are based on, worst case for us, road bounds is the front yard. Okay, so we came off the center of the road, 25 ft, which is customary based on an assumed 50 ft total width road right of way. Then we took all our front yard set back variances request from that road bounds. So from our perspective that is worst case. So disregarding whether the front yard line is all the way to the left. So those are the numbers we used.

Jim Crowley: So we are taking that road...

Randy Wasson: This thin line is a presumed road bounds, which is 25 ft from the center of the road. You can see on the map, all of our dimensions from front yard start at that line and go to the building. We are assuming worst case.

Steve Morey: If the lot line were considered all the way to the left, when you say all the way to the left by the river there.

Maria Zeno: When you look at the description of the property on the deed, this would be considered where we would do the lot line and that would eliminate the need ....



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Steve Morey: For all the front yard setbacks.

Cirino Bruno: How could you possibly do that?

Jim Crowley: You would still have to set out a right of way

Cirino Bruno: You could have a building right alongside the road. You would be 300, 400 ft from your lot line. You would be right up against the road in theory.

Jim Crowley: No, you would have to stay out of the right of way.

Cirino Bruno: And that is the condition I am interested in listening to. I am not interested coming off 50 ft from the river. That leaves me in the middle of nowhere. He is picking 25ft east of the center of the road as his lot line.

Steve Morey: I thought you mentioned code; there is some gray area.

Jacqueline Ricciani: There is some room for interpretation.

Maria Zeno: What we did was we prepared the map based on you interpreting it this way, plus the interpretation can be this way if you look at the description of the property.

Steve Morey: We all have to look at it from the same point of view.

Jim Crowley: You could go that way. If you own the center of the road, say you own the road, but as far as surveying purposes, the pins are in the center of the road. It is contiguous together, so you could say or not, this could be the front, or his could be a front. There is not a place that says where your front yard, your rear yard, your side yard starts. He could say the riverside is his front yard and then he could eliminate some variances.

Jacqueline Ricciani: There is a definition of front yard. It doesn't say where you start it, but you do have a definition of front yard in the zoning code.

Jim Crowley: These two pieces are contiguous with each other.

Jacqueline Ricciani: It's one piece.



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Steve Morey: Is this unique?

Jacqueline Ricciani: I haven't run into it yet. What is interesting about this, these two sections are being developed as one project.

Richard Conroy: It is one property. It is not two properties.

Maria Zeno: It is being considered for the lot coverage.

Richard Conroy: That is where the septic system is, on the other side of the road.

Jacqueline Ricciani; I think they were going to develop it for some recreational activities, that is what I was told.

Cirino Bruno: When you are standing on the road, you are looking at the electric wires, eye level. I am questioning whether it should built.

Jim Crowley: Do you have a topography map?

Richard Conroy: Where would BJ measure from?

Steve Morey: The requested variances, I see #1 is deleted, #2 M is deleted, and on the bottom the swimming pool, are these changes from the last....

Randy Wasson: # 1 was the acreage variance, which we thought we didn't need for this; they will have the additional property. #2M was building thirteen front yard setbacks. The game plan is to eliminate that building, as part of the planning process, so that will go away. A bus drop off turnaround is what we show there.

Steve Morey: And added a swimming pool, and that is existing?

Maria Zeno: All the uses in the code will require variances.

Jim Crowley: What is the deal with the paved driveway, which is on someone else's property?

Randy Wasson: At this time it is existing. It was picked up by the surveyor and placed on the map.

Jim Crowley: Who are these people? Do they know that building 15; building 14, this road is on a different piece of property?



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Randy Wasson: I can't speak for them, I don't know if they know or not.

Maria Zeno: The property has been used as a hotel for quite a number of years so it is quite possible that has been here for a substantial period of time.

Richard Conroy: I think the last time you were here; they let them use the property.

Jim Crowley: We would need a letter to proceed. That road is being used to access buildings on their property, but a good portion of that road is on someone else's property. Unless they have a letter that says okay...

Jacqueline Ricciani: That is something the Planning Board would look at.

Jim Crowley: I don't know, if that is correct to begin with, I would not feel comfortable figuring out setbacks....I think that is an issue that really has to be resolved somehow. Whether the Planning Board wants to resolve it, and then have it come back to the Zoning Board. That's fine, I don't care who it resolves it, but it should get resolved to proceed on with all of these variances. My opinion.

Jacqueline Ricciani: Because you think that that road somehow has an impact?

Jim Crowley: That road has an impact as far as fire, as far as emergency vehicles. That would be like approving something with a septic system sitting on someone else's property. Which has been in front of this board in the past.

Cirino Bruno: If I was your client I would want to know.

Maria Zeno: We can do a little bit of research on it.

Jim Crowley: I think you folks need to do some homework before we do anything.

Cirino Bruno: That isn't the issue. The issue is who owns that road, who has rights to it, if anybody.

Maria Zeno: That's what I have to look into.

Jim Crowley: Randy you want to go with this as far as this being your front yard setback criteria off the road? Or do you want to do more research. That would eliminate some of these front yard setbacks. That is seven setbacks. You present this to us. We can't be the buyer and seller on this negotiation here. You have to present us with, this is what I feel, if the board feels different, that is fine. What is this deal with this road? Is this what you are going with, or do you want to change it, and bring us back



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something else. The less variances, the better off you are.

Randy Wasson: I would love to eliminate the additional variances. We assumed worse case here, but your code is not very clear. I can't make the decision; it is not for me to say. There is no formal right of way, the town definitely owns the road, but it is not a deeded right of way. I can say...

Maria Zeno: This was raised at the work session, but it wasn't addressed.

Cirino Bruno: Did you get an answer?

Maria Zeno: No

Jacqueline Ricciani: If the applicant is going to ask you for interpretation, if they decide that is what they want to go with. There was a preapp meeting. We are going to have to make that decision.

Steve Morey: Which should be part of the application, for determination of where do you measure the setback on this parcel?

Richard Conroy: There should be an answer for that, where would BJ measure for that.

Jacqueline Ricciani: If that is what the applicant decides they want to go with, or they could....

Cirino Bruno: Jacy, if the Building Department tells them that is an acceptable determination...

Jacqueline Ricciani: The Building Department doesn't interpret.

Cirino Bruno: Who are they looking for, for the interpretation?

Jacqueline Ricciani: You guys.

Cirino Bruno: They asked us, and we didn't respond?

Jacqueline Ricciani: No. There was a pre app meeting, and one of the things that came up was, do we measure the front yard setbacks from the lot line, or from the street?

Richard Conroy: There should be an answer for that. If this was a vacant lot, the way it is, and they wanted to build a building here, where would BJ measure ....

Jacqueline Ricciani: It would depend on what they were building. I don't know, I'm not going to speak



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for what BJ is going to do. I'm just telling you, there is room for interpretation. If you guys want to take a look at it, that is fine, if you don't want to take a look at it, let the applicant... whatever you guys want to do.

Cirino Bruno: I make a motion to consult with the code and consult with BJ and we make a determination as to whether or not it is acceptable to draw that line somewhere else, because if it is then BJ can give them her approval, and they don't have to come to us for a variance.

Jim Crowley: They still do. Cirino, we can't tell them what to do.

Cirino Bruno: The applicant is giving us their worst-case condition. If two and two happens to be four, and it ends up six or seven needs for variances, I would be willing to accommodate them rather than them having to do all of this work, and us going to look at it and say preposterous. Which is in our providence to do. Let's decide what we want to do, and then they can reapply appropriately. That is my motion if anyone wants to second it. I leave you in the hole you are in.

Steve Morey: In these variance requests, are there any new buildings proposed, or all of these existing?

Randy Wasson: They are no new buildings; we are just taking down building #13.

Steve Morey: The swimming pool was there?

Maria Zeno: There is a swimming pool, there was a new law passed, that we need to seek a variance for that.

Steve Morey: I can't understand how a town road can run through one parcel of property under the same tax number, same name, and same ownership.

Richard Conroy: There are many. You can combine both tax lots, because it is the same parcel, with a road running through it. They are all over the County.

Jacqueline Ricciani: Do you want to hear the definitions or no?

Steve Morey: Definitions of?

Jim Crowley: It's really not up to us; it is what the applicant wants to do.

Cirino Bruno: That's not what Jacy is asking. Jacy is asking....



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Jacqueline Ricciani: Rather than dancing around this issue, do you want me to tell you what it is. We are talking about front yard setbacks. So where do you measure it.

The definition of a front yard is open space extending the full width of the lot between the principle building and the front lot line. Unoccupied and unobstructed from the ground upward.

Front lot line is where the difficulty comes in, is defined as the line separating the lot from a street. So you have the front yard measured from the lot line, but then the lot line is based upon where the street is. That isn't necessarily an ambiguity, but it is just a.....

Cirino Bruno: His lot line begins 25 ft east of the center of the road as he has proposed there.

Jacqueline Ricciani: Then what is that line at the other end?

Cirino Bruno: It's a property line.

Jacqueline Ricciani: That's the lot line.

Cirino Bruno: It is not the lot line as defined by what you just read. You just read, you read two things. The second thing you read says that his lot line is 25ft east of the center of that road. You just read that.

Jacqueline Ricciani: Right. The definition of a front lot line is the line separating the lot from the street. If that is the front lot line, than what all is that land on the left?

Cirino Bruno: A non-issue. He happens to have a property where a road runs in the middle. It could have run closer to a river; it could have run closer to his buildings. It runs where it runs. The codes definition as modified with the definition of the lot line puts it 25 ft east of the center of that road. We can't make believe the road doesn't exist, it does. We have to take the calculation from the center of that road.

Jim Crowley: That does say it pretty clearly.

Randy Wasson: From the street line, but what we said ....

Cirino Bruno: I am agreeing with you.

Richard Conroy: It sounds what you have there is correct.

Randy Wasson: What we have presumes a road bounds.



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Steve Morey: That is how you are requesting it, what you have there.

Randy Wasson: That is why we requested it that way.

Richard Conroy: Is this property pending sale?

Randy Wasson: He owns it.

Richard Conroy: It was pending sale before, correct?

Maria Zeno: Yes. When he was here in 2016.

Cirino Bruno: Are you in contract?

Maria Zeno: Yes, we are in contract.

Cirino Bruno: Your closing date?

Maria Zeno: I don't have a closing date.

Cirino Bruno: Are there any contingencies?

Maria Zeno: Not that I am aware of.

Richard Conroy: We can't take for granted that you own the property.

Cirino Bruno: You are going to have to come back to us when you own the property.

Richard Conroy: Or ask for a variance on the lot size.

Steve Morey: To not hold up your process you can ask for that variance.

Maria Zeno: We can ask for it, and then withdraw it.

Jacqueline Ricciani: You want to amend your application?

Maria Zeno: Yes. We should do that.

Jim Crowley: What about the road?



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Cirino Bruno: What road?

Jim Crowley: The road that is on the other people’s property.

Cirino Bruno: I would like to get some information on who owns it.

Jim Crowley: I see who owns it. It is right on the map.

Cirino Bruno: That may be ownership that may be an easement, it may be an easement by prescription, and I don’t know what that is. That is what we want to find out.

Maria Zeno: When we have a public hearing we will notify that neighbor. We can certainly do that research.

Steve Morey: Is that the only issue prohibiting a public hearing?

Jim Crowley: In my opinion.

Richard Conroy: I would like to see some agreement with the other people that allow that road to run on the other people’s property.

Cirino Bruno: I would like a modification of the request to incorporate that it will be conditioned upon the purchase of that other piece of property.

Richard Conroy: They are going to request that area variance, so if they don’t have the property through our process, then we have to grant or deny that variance.

Randy Wasson: Even if you were to grant the variance, and we don’t acquire it, the Planning Board couldn’t act, because we wouldn’t meet the requirement.

Maria Zeno: They would send us right back here.

Steve Morey: We need a motion to table any action on the application.

***Motion to table due to the conditions we discussed by Cirino Bruno, second by Jim Crowley***

***All in favor –6***

***Opposed-0***

***Agreed and carried***

Randy Wasson: Can you summarize that so that we are clear?



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Steve Morey: One is that paved driveway, the ownership of the property. The ownership of the property you are going to acquire.

Randy Wasson: And we would have to amend our application for the additional variance.

Steve Morey: I am not comfortable that they are just getting a letter just stating that they are going to acquire the property.

Cirino Bruno: The validity of the variance would depend on the rise and fall on whether or not they eventually acquire the property.

Richard Conroy: I would rather have them request the variance.

Steve Morey: Request the variance. You are talking about 3.5 acres.

Cirino Bruno: You are talking about 5 + acres.

Steve Morey: Required.

Cirino Bruno: They need 25 acres, they have 19.

Maria Zeno: No, we have 21. We have 21.49 is counting the road. There is actually 21 without the road. So we would need 4 acres, to have 25 acres. As per the tax map. By acquiring this piece we would have 25 acres. We would have a little bit extra.

Steve Morey: If you don't own that parcel of property, we grant the variance based on some contingency, and then you go to the Planning Board, and you still don't own the property, what is the Planning Board going to do?

Maria Zeno: We can amend the application to include an area variance. I am fine with that. We are in contract.

Richard Conroy: So you save a step by applying for the variance.

Cirino Bruno: If I am going to give you a variance; I am going to need you to have the 25 acres. You say I am planning to, I hope to, my friend told me I can, unless you can prove to me that you own the property I need you to basically understand that if we give you the variance it is only valid if you in fact do buy the property. I don't know why my fellow board members are so confused on this point.



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Maria Zeno: Now you are confusing me. If you are giving us a variance...

Cirino Bruno: I'm not giving you a variance from 25 acres; I am holding you to 25 acres. I am giving you a variance for your front, side....

Maria Zeno: You are saying the other variances are conditioned upon purchasing this property. Okay, now I get it. Instead we can amend our application to include an area variance so that we don't have to make that a condition. We are in contract, I am not concerned.

Jim Crowley: You are looking at 27 variances here, without having enough land. Between the road and what you said Cirino, you want them to come back here when they have the 25 acres.

Randy Wasson: We intend to acquire the property. That is why we didn't put the area variance down. If we don't request the area variance, and you make all the side, front, rear lot line variances contingent on us acquiring that, it assures that we get the 25 acres, or your variances are null and void. If you give us the variance to go from 25 to 21, we don't have to acquire the property.

Cirino Bruno: If you want to be safe that is the way to do it, but I am not representing you.

Randy Wasson: That is what I would prefer, we want to get the property, we don't want to ask for that variance, and we don't want to wait until we actually have it in our pocket. We can't go to the Planning board until we have that land.

Cirino Bruno: I'm not interested in the Planning Board; I'm the Zoning Board.

Randy Wasson: I know, but we can't approach them without it. We have to have 25 when we go there. It is just the variances we are requesting now; with the condition we acquire the property.

Jim Crowley: If you don't get it, you don't get the variance.

Steve Morey: The only issue is this paved driveway. The board does not want to grant a public hearing until there is some resolution to this paved driveway.

Cirino Bruno: That is why we are coming back next month, before we give them a public hearing.

Steve Morey: And when they come back, Cirino I would like to have the opportunity to speak. We are asking them to come back because they are going to request us to go to a public hearing. What issues do we have before we would take the step to go to a public hearing?

