



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 a monthly meeting on November 16, 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 are the following:

In attendance Steve Morey, Chairman, Jim Crowley, Vice Chairman, Richard Conroy, Cirino Bruno, Daniel Brey, Victor Kask, Bette Jean Gettel, Code Enforcement Officer, Jacqueline Ricciani, Attorney, and Jannetta MacArthur, Recording Secretary. Also in attendance, Dawn Ryder, Liaison, Daniel Gettel, Planning Board Chairman, and David Biren, Planning Board member.

6 members are present

Jesse Komatz - absent

Pledge to the flag

Motion to approve the minutes from the October 19, 2015 meeting by Richard Conroy, second by Cirino Bruno

All in favor – 6

Opposed-0

Agreed and carried

Steve Morey: Our agenda is set for a public hearing as the first agenda item, and our second item is an interview for an applicant for the alternate position. Because the applicant for the public hearing is not here, I would rather, with the pleasure of the board take item #2 of the agenda first. This should require a motion to go into executive session to interview the applicant.

2) Administrative: Interview for Zoning Board of Appeals, Alternate.

Motion to go into executive session and invite Dawn Ryder by Cirino Bruno, second by Jim Crowley

All in favor – 6

Opposed-0

Agreed and carried

7:35 pm

Motion to return to regular meeting by Jim Crowley, second by Richard Crowley

All in favor -6

Opposed-0

Agreed and carried

7:45 pm

Steve Morey: The board has not made a decision. We will move to the first agenda item.



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1) *Public Hearing for an Area Variance to build a garage on a vacant lot to be located on Major Marie Rossi Dr, known as Bethel Tax Map #: 15-1-19.13, proposed by Steven Hafner.*

Steve Morey: The applicant is not in attendance, it is a public hearing, and I don't know what options we have.

Bette Jean Gettel: You have to go into the public hearing. The applicant is not here, if you wish to keep the public hearing.....

Jacqueline Ricciani: We don't know if the notices were sent to the adjoiningers.

Jim Crowley: Wouldn't you assume no since the man is not here?

Cirino Bruno: Wouldn't he have filed the notices with you already?

Bette Jean Gettel: No, they normally bring to me the night of. I will notify the applicant that the next date will be December.

Steve Morey: I would like to open the public hearing and address some of the issues we are talking about in the public hearing, and then it is up to the board if they want to hold the public hearing over until next month.

Motion to open public hearing by Richard Conroy, second by Daniel Brey

All in favor – 6

Opposed-0

Agreed and carried

Steve Morey: That being said, this is an application for an area variance to build a garage on a vacant lot, to be located on Major Marie Rossi Drive, known as Bethel Tax Map No. 15-1-19.13, proposed by Steven Hafner. Steven Hafner was here last month, submitted information, which I have, if some members would like to review that. Anybody? The applicant is not in attendance tonight. We have no return receipts, is that correct?

Bette Jean Gettel: That is correct.

Steve Morey: The other issue came up; there is a Seqra form that needs to be completed. Did the



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applicant complete Part 1 of Seqra, is that done?

Bette Jean Gettel: Yes that is complete.

Steve Morey: Do we still need to do that?

Bette Jean Gettel: There is Part 2 you need to do.

Jim Crowley: Is that part of the public hearing?

Cirino Bruno: When is the last time you spoke to him, BJ?

Bette Jean Gettel: Three weeks ago, when I emailed him the list of people to notify.

Cirino Bruno: How do you know he did Seqra; he mailed it back to you?

Bette Jean Gettel: Yes. I thought we had to do a County 239; the County wrote back and said we do not need to have a County 239. I know that in order for me to submit to the County, I needed the Seqra form.

Steve Morey: Has the Building Department received any correspondence regarding this public hearing from the public?

Bette Jean Gettel: No

Steve Morey: Is there anyone here tonight from the public that wants to make a statement regarding this public hearing?

No one

Steve Morey: Any thing from the board members?

Cirino Bruno: I make a motion that the application be withdrawn.

Motion to close public hearing by Jim Crowley, second by Richard Conroy

All in favor – 6

Opposed-0

Agreed and carried

Jim Crowley: I think we should make a motion deny the applicant, and if he wishes he can start over. There is nothing here to go with, or go by, we don't know anything. I think we would have to deny him,



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and he would have to start again. My opinion.

Richard Conroy: It can't be too important if he didn't show up unless there are extenuating circumstances.

Steve Morey: Are we sure that he was aware that he needed to be here at the public hearing?

Jim Crowley: Even if there were extenuating circumstances other than being in Paris right now, he could have made a phone call, I can't be here, can we reschedule the public hearing to December. I always try to be lenient and try to help them, but I can't help someone that isn't going to help himself, so I think he has to start over, and we deny his application.

Steve Morey: That wasn't my thought, but if that is what the board membership would like to do. I was informed prior to the meeting that we will have an agenda for next month, so my thought was possibly give the man the benefit of the doubt and extend to next month. If he doesn't show next month, we can still do what we are proposing to do tonight.

Jacqueline Ricciani: You can't extend the public hearing, because you don't know if the notices were sent out. The applicant has to provide proof of mailing, and that is not done, so I don't think you can hold the public hearing open, because if they didn't get their notices, then you can't have the public hearing.

Jim Crowley: That's why he needs to start over, we don't have any information. We can't proceed.

Steve Morey: We are not required to take action on his application for 62 days.

Jacqueline Ricciani: After the close of the public hearing. That portion of the meeting you dedicated to the public hearing would necessarily count as one, because we don't know if the notices went out.

Steve Morey: What are you proposing?

Jacqueline Ricciani: I think there has been an application to deny; rather there has been a motion to deny the application. That is available. You can hold the application over for the next meeting, and see if the applicant comes. Remember, when he was here in October, by motion and vote, you determined that a public hearing would be here today, which can't go forward, because we don't know that the proper notices have been given to the neighbors. So I think you can both deny it, and then if the applicant wants to pursue this, he can start again, or you can hold it open for him to appear next month. If he does want to pursue this, then you will have to have another vote, and I guess public hearing in January.



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Victor Kask: I am a little confused. What is the specific dimensional requirement he is asking for a variance on?

Jim Crowley: Basically, he can't build a secondary structure without having a primary structure.

Jacqueline Ricciani: Correct.

Steve Morey: That is our issue.

Victor Kask: State Building Code considers a garage a utility building.

Cirino Bruno: It is ancillary to it.

Victor Kask: Aren't we replacing a primary structure with a secondary?

Jim Crowley: You can't have a secondary if you don't have a primary. What you don't want him to do is take the secondary structure and live in it.

Victor Kask: So wouldn't that be a use variance instead of an area variance?

Steve Morey: We discussed that last month too.

Victor Kask: I never really understood that.

Cirino Bruno: I don't either, but that is the way it is.

Victor Kask: There has to be a dimensional issue. And this is not, this is a use issue.

Jim Crowley: I think we need to pursue that if the guy comes back.

Motion to deny the application by Jim Crowley, second by Cirino Bruno due to applicant not being present, and not having documentation of return receipts.

Roll call vote:

Richard Conroy – Yes

Cirino Bruno – Yes

Dan Brey – Yes

Victor Kask - Yes

Jim Crowley – Yes

Steve Morey – Yes



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Motion to deny application

Steve Morey: If you want to continue the discussion...

Victor Kask: In State code, there is a utility structure, there are residential structures, there are storage structures, and there are assembly structures. Accessory structures are usually, are almost always either storage or utility structures. If that zone is zoned for basically residential or agricultural, and that is the primary use, then we are allowing an occupancy that is not a primary use to be the main principle building.

Bette Jean Gettel: According to your zoning code, they cannot build the accessory structure without having a principle permitted use. Principle permitted use is defined as being a dwelling unit. Whether it is a single-family unit or duplex, whatever the zone permits.

Jacqueline Ricciani: Just because there is one structure on the lot, doesn't mean it is the principle permitted use. The shed he seeks to construct is an accessory. Because it is the only building doesn't make it now the permitted use. The principle permitted use.

Victor Kask: It is still a utility building. Still, what is the dimensional zoning issue?

Jacqueline Ricciani: It is not a dimensional issue as in the setback.

Victor Kask: I looked into the sections you referred me to, and in the definitions, an area variance refers only to dimensional changes.

Jacqueline Ricciani: But this would not be a use variance, because in fact the use of this structure is an accessory, it is permitted. It is permitted all over the town. You are not looking for a use variance where he wants to use the land in a way that would not normally be permitted there. It would really be in my opinion an area variance.

Cirino Bruno: He wants to use the secondary structure, which requires a primary structure to be used as a secondary structure, in respect to the fact there isn't a primary structure. Which is why he is asking for some of our opinions for a use variance.

Jacqueline Ricciani: Well, I think it is a...

Cirino Bruno: It really doesn't matter here.

Jacqueline Ricciani: If he comes back. He can have an accessory; he just needs to have it with a



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principle. A use is when you are not allowed to do it in that district at all. Here you can do it, but he just needs to have....

Victor Kask: He is just substituting one use for another use.

Cirino Bruno: Thank you.

Jacqueline Ricciani: No, the use is still there. He is still using it as an assessor.

Victor Kask: Let's say he was building a residence, that lot is big enough, there is no....

Jacqueline Ricciani: But he is not building a residence, he is building an assessor. And in order for it to be an assessor, you need a principle.

Victor Kask: Building a utility structure, which has use occupancy, not a residential occupancy.

Jacqueline Ricciani: It's not going to become the principle structure.

Victor Kask: It doesn't matter. I don't think it matters. I don't understand it that way, it is some sort of disconnect.

Jacqueline Ricciani: So you think if he builds the shed that is going to become the principle structure on the lot? It is always going to be an assessor.

Victor Kask: But it is a use issue.

Cirino Bruno: He is not allowed to use that building unless he has a primary structure. He does not have it, so he wants a variance to use it without having a primary structure. That is exactly what he is coming here for.

Jacqueline Ricciani: Correct.

Cirino Bruno: That is why he wants a variation from the code to be able to use it. He does not intend to have a primary structure. Again, this may be a moot point.

Bette Jean Gettel: Back to item #2, did the board make any determination.

Steve Morey: We have not. I thought you mentioned there was another potential third candidate?

Bette Jean Gettel: That person did not come in this evening.



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Cirino Bruno: Did he contact you?

Bette Jean Gettel: He did; however that was last week. I asked him to attend, he did not. I will find out better tomorrow. You will have a proceeding next month. To give you a little heads up, it is an area variance to a summer camp in the RD District. It requires 25 acres, the parcel has 21 acres. I would recommend you take a ride up Old White Lake Turnpike. It is Hotel Otrayne. That is the property in question. If you need me to go with you, call me and I will go with you.

Steve Morey: It is past the Transfer Station.

Dawn Ryder: The Town Board’s next meeting is the second Wednesday in December.

Cirino Bruno: Is there a seminar going on for casinos, for Zoning and Planning Boards. I believe it is taking place on Thursday?

Dawn Ryder: I believe it is done by Sullivan Renaissance. I will check it out, and send to BJ. It is December 9th 6 pm – 8 pm at the CVI Building, Ferndale. The webinar is being projected there. It is being done by another company, but Sullivan Renaissance is sponsoring it.

Motion to adjourn by Jim Crowley, second by Richard Conroy

All in favor – 6

Opposed-0

Agreed and carried

8:05 pm

Respectively submitted,

***Jannelta MacBethur
Recording Secretary***