



Town of Bethel  
*Zoning Board of Appeals*

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

**A Work Session was held on November 20, 2017 at 7:00 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake, New York. A regular meeting of the Zoning Board of Appeals was held on the same date at 7:30 PM. On the agenda at the time was the following:**

In attendance, Steve Morey, Chairman, Richard Conroy, Cirino Bruno, Dan Brey, Jesse Komatz, Jim Ahearn, Alternate, Bette Jean Gettel, Code Enforcement Officer, Dawn Ryder, Liaison, Jacqueline Ricciani, Attorney, and Jannetta MacArthur, Recording Secretary

Also in attendance, David Biren from the Planning Board.

Excused: Victor Kask, and Jim Crowley

Seating Jim Ahearn - Alternate

Pledge to the flag.

***Motion to approve the minutes from the July 17, 2017 meeting by Richard Conroy, second by Cirino Bruno.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

***1) Review of the new Zoning Board Applications for Area and Use Variances:***

Steve Morey: I hope everyone has had a chance to look at the draft copies.

Bette Jean Gettel: The applicant that is in front of you tonight gentleman has agreed to be the pilot for the new application. So he not only took the old application, he also submitted the new application. With that being said, we tried to keep these simple. Some of the villages and towns have gone to fourteen pages on their Zoning Board applications. I don't think you really want to do 14 pages. I kept it down to three or four. Basically the last page is going to be the owners proxy, which is on both of them, the same, it doesn't change. On the use variance, you asked for more detail. I think I have supplied that, so that your application will indicate it in the future. On the area variance we did the same thing. Again, asking those four or five questions, they have to answer them themselves; page three is nothing more than instructions, where it says you have to give ten copies of the application, survey or plot plan along with the SEQRA Assessment form if necessary, with all the fees. With your permission I would like to submit this to the Town Board so we can get these approved and begin using them in January.



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Steve Morey: One thing, I thought on both of the applications it should state that our regular meetings are usually the third Monday of each month with the exception of Monday holidays. If we could add that. Is everyone okay with that?

Bette Jean Gettel: Sure. I can put it on a separate page, stating it must be submitted by..... meeting date is.

Steve Morey: My only thought was that they are aware of when we have our regular scheduled meetings. I am sure through the process they are informed. The other thing is, yes we want to get it to the Town Board, but Jacy, are you completely familiar with this, do you have any other suggestions?

Jacqueline Ricciani: No, just what I had previously suggested.

Bette Jean Gettel: Any other questions?

Cirino Bruno: Didn't we ask for the applicant to submit the application under oath?

Bette Jean Gettel: No.

Cirino Bruno: We did ask for that.

Bette Jean Gettel: Why would you want to do that?

Cirino Bruno: So that it is done with sincerity, and with the understanding it is under oath, that it is factually true.

Richard Conroy: That is one of the things we requested. The only thing that is notarized is the proxy.

BJ Gettel: Correct. What verbiage do you want for that?

Cirino Bruno: Just that it is notarized that it is true, that the application that is submitted it is sworn to be true, it is notarized.

Jacqueline Ricciani: Gentleman, I have to say, I have seen a lot of applications from ZBA's and Planning Boards, and I have not seen any that are submitted under oath. Keep in mind a lot of times these are the engineers, or the attorneys or people that are relying on someone else for their information.

Richard Conroy: Filling out the application?



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Jacqueline Ricciani: Are we talking like about the names, I mean on these applications you have all of that other information for the criteria, and again if the engineer is doing it, they are relying on the property owner, and a lot of these, you know the criteria, and the factors you guys look at... I mean it is factual, but it is also opinion. Is it going to have an impact on the environment, is it going to have an impact on the character of the community. They are giving it based upon their opinion, based on what their view of what the community character is. You want someone to swear to the truth everything that they are putting, whether it is substantial, and that kind of stuff? Or to swear to the truth of the ownership?

Dan Brey: I think it has more to do with the ownership.

Richard Conroy: The ownership and what they are proposing.

Cirino Bruno: When they come and we give them our approval, it turns out there is no nexus to what they requested. They proceed to do something different.

Richard Conroy: My intention with the application is...I need the additional 10 ft I am going to build it to that, and then I built it twice the size.... Well, why didn't you tell us that in the beginning....oh they say I must of made a mistake.

Jacqueline Ricciani: Okay. I get where you're going. Let's take it one step forward, they say they need 10 ft, and they build 20 ft. When BJ does her inspection, and she says you built it wrong, you are going to have to fix it... my question is okay lets say what they end up doing is different from what they requested, what is your remedy? You are so far down the road, what do you do about it? They can easily say it was true at the time, and then I changed my mind I wasn't paying attention; I don't know how to use a ruler.... Rich, I have heard it all.

Richard Conroy: Okay.

Cirino Bruno: It is interesting that you are fighting it.

Jacqueline Ricciani: I'm not fighting it; I just want you to truly appreciate what it is you are asking of an applicant, or of the person who is filling it out. A lot of this is opinion or argument about whether it is going .....

Cirino Bruno: In my experience here, applicants basically come in unprepared is a generous way of saying it. Their representatives are unprepared, that is a generous way of saying, and they proceed to throw it up against the wall, and see what if anything will fly.



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Jacqueline Ricciani: So having them swear to the truth of it.....

Cirino Bruno: It might focus them a little bit, and might give some extra ammunition when you end up in court because you are looking to have them tear it down. If you are going to tell me we don't go to court....

Jacqueline Ricciani: I'm not saying that we don't go to court, but what I am saying is when someone swears to it on November 20<sup>th</sup>, and then something gets built in March or April, I'm not sure that a court is going to hold somebody to what they put in their application because what you know is that this is a process.

Cirino Bruno: Not in a process when I say I am going to go 10 ft over the line, and I go 50 ft over the line. That is not a process.

Jacqueline Ricciani: Okay, the ZBA, we had an applicant here, the last application here was a gentleman with a handicap he wanted to build a house. He wanted different variances, he wanted like six or seven different things. After coming and with your assistance and reviewing and taking a look at plan, he decided you know what, I don't need a 1 ft variance, I'll just move this wall. So what he originally asked for he ended up changing. I don't think it is necessarily a good idea to lock someone in, as it was through the process based on what happens, it may change. I don't really think that someone who swears they need 10 ft, and then down the road they do 20 ft, I don't think what they asked for is going to be very compelling evidence, as to what they did or didn't do. The reality is whether they swore to it or not, they have a resolution from this board that says 10 ft, they didn't build it, they are not in compliance. Whether they swore to it initially or not.

Dan Brey: Does it hurt to get the applicant that is filling out the application to get notarized? That is basically what we were asking for. To have the real person who knows that this is the application and this is what is on it.

Jacqueline Ricciani: That is why they do the owners proxy. Hold on... if you want the applicant to do it, but then when you have something like this, it is a corporation, it is not a person. So you are going to need the corporation to do a resolution to authorize an individual to sign. If you want a corporate resolution authorizing whoever this person is to make the application that is tough, and that is legitimate to ask for, to satisfy yourself that the people that are completing this application really have the authority to do so. You can do that by taking your owners proxy and maybe adding some language to it. For an individual, and then if you are a corporation, this is what you need to do.

Richard Conroy: The owner's proxy just authorizes someone to represent them.

Jacqueline Ricciani: It is also authorizing them to make the application, which it authorizes the person



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whoever to sign. I am looking at the second page of the application. Again, if the owner gives their engineer or attorney authority to be their proxy to act on their behalf, you see documents signed by engineers all the time. That's how they do it, with a proxy.

Steve Morey: I am thinking we approve these applications as they are, if a circumstance comes up that requires what Cirino is asking for, we make a modification on the application, if it deems necessary.

Jacqueline Ricciani: Every variance gets a written decision that gets signed, gets a resolution. The resolution sets out the history, this is what the applicant asked for....the board asks for more information, the applicant then modifies... the applicant is seeking something different. It does get laid out. Of course you also have your minutes, which are very detailed, that may show modification of the applicant's request. I am not sure having someone swear to the truth of the contents of the application that is now going to make it carved in stone or will make an impact six months down the road on what gets to be built. I can think about the gentleman who was here last year who wanted to put a shed on a vacant piece of land where his mothers house.....if he put it 6 ft over than he said, the fact that what actually physically existed, from the sworn application it is not going to be the determining factor of what happens down the road. A judge is going to look at what it is. Not what they asked for in the past.

Richard Conroy: The idea was...

Jacqueline Ricciani: That is something that has to come out in the process.

Cirino Bruno: The last time this applicant was in front of us, we gave them some instructions of what to come back with. Do we have minutes of that?

Steve Morey: Are we going to make a motion on the applications? I would like to finish this first before we move on to the next item. Any other input?

***Motion to approve the new applications for the use and area variance with the addition of adding the board meeting dates to be submitted to the Town Board by Jesse Komatz, second by Dan Brey.***

***Roll call vote:***

***Jesse Komatz – Yes***

***Cirino Bruno – Opposed***

***Jim Ahearn - Yes***

***Richard Conroy – No***

***Dan Brey- Yes***

***Steve Morey- Yes***



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*Motion passed -5*

*Opposed -1*

*Agreed and carried*

Steve Morey: I'll say it again, if we feel there is a need to modify what we have now, we will take those steps.

**2) *Application for a Use Variance for a non-conforming use located at 1761 State Route 17B, known as Bethel Tax Map #: 40-1-7, proposed by Keilly, LLC.***

Steve Morey: I think we have an owner's proxy as to who is making the presentation.

Cirino Bruno: Do we have the minutes?

Steve Morey: Let's let them make the presentation first.

Terry S. Forman: On behalf of Keilley LLC, with me is Randy Wasson, and Ben Halverston, a representative of the adjacent property. There was some discussion during the workshop session. We are applying for two variances. One is an area variance and a use variance. I will address the area variance first. As you can see, there is a reference in Randy's map. The plan is showing, here is a chain link fence, I can provide a photo, here is the property line, and here is the extension done by Mr. Weinstock. As the board may recall, there was an application for the area variance that was previously submitted by Mr. Weinstock, and Mr. Kurlander was also in front of the board, that application was being submitted by them, because they created this problem. Mr. Weinstock had permission to make use of these buildings, and what he did without anyone's permission or authority he enlarged the use. When enlarging the use he also went over the property line, by 6 ft here, and 6.5 ft on this end. This is on the other map; there was also a building that was removed. That building, the dimensions of which were 25 x 30, was removed in 2008.

Richard Conroy: I have a picture from 2012 that has the building there.

Cirino Bruno: Where was the building that was removed?

*Mr. Forman showing on map.*

Terry S. Forman: This is showing three buildings; there was another building there. There are currently three buildings on the premises.

Jacqueline Ricciani: That 25 x 30 building removed in 2007 or 2008 was removed before Mr. Weinstock even entered in the picture.



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Terry S. Forman: Correct. That is my understanding.

Jacqueline Ricciani: What was it that Mr. Weinstock was enlarging?

Terry S. Forman: What he ended up doing, he improved the building....

Jacqueline Ricciani: The one that was removed in 2008?

Terry Forman: Yes and no. What he did was, he increased the back portion here, by roughly 300 square feet, 10 x 30, is that right?

*Applicants discussing*

Terry Forman: Essentially what happened was, this building was enlarged by increasing this area. What we are suggesting is that when this was taken down, we added.... Mr. Weinstock added to the back of it....

Jacqueline Ricciani: Added to what?

Terry Forman: The back to 22, 23.

Jacqueline Ricciani: When did 22 and 23 get built?

Terry Forman: They have been there.....

Steve Morey: That doesn't seem possible because he is showing the building that was removed, apparently....

Cirino Bruno: Mr. Forman? The preexisting bungalow colony had 4 structures?

Terry Forman: That is my understanding.

Cirino Bruno: Do you know the size of those structures? The four structures. # 1, 2, 3 4

Terry Forman: Randy, can you....?

Randy Wasson: This structure, I'll just call them 1, 2, 3 & 4. #1 is about 30 x 30, #2 is about 30 x 30, #3 is 30 x 25, and #4 is slightly larger, 35 x 25.



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Richard Conroy: The building that was removed was all the way on the right side?

Jacqueline Ricciani: The buildings to the left and right, exists, right?

Terry Forman: Right.

Cirino Bruno: The last building on the right still exists? There were five buildings there originally?

Randy Wasson: Four. #1 was removed. #2 and #3 was one building, with two units.

Cirino Bruno: What size was removed?

Terry Forman: 25 x 30.

BJ Gettel: Gentleman, if I could interject here please. I have one certificate of occupancy, for units 22 & 23, issued June 26, 2007, for the addition for the duplex for units 22 & 23. Prior to the 2007 ...

Cirino Bruno: What is that BJ?

Bette Jean Gettel: The Certificate of Occupancy, they had built the addition for 22 & 23 in 2007.

Cirino Bruno: That addition is the addition that encroaches?

Bette Jean Gettel: No, prior too, that addition built... there has been two additions

Cirino Bruno: So there was no permission for that addition?

Bette Jean Gettel: The second addition was not permitted, the first addition was.

Jacqueline Ricciani: In 2007.

Steve Morey: Mr. Foreman, I thought you said that you wanted to approach this presentation first by explaining the area variance, and then going on to the use variance. You are getting way off track. Can we get to the area variance?

Terry Forman: We are seeking a variance from the setback requirements, this portion here encroaches over the property line, there is a representative and this is Sunflower land, there is a representative from New Sunflower here tonight. He will consent to an easement being granted that will allow this portion to remain on the land of New Sunflower, as the building exists. He is here, he can tell you.



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Jacqueline Ricciani: Do we have this gentleman's name?

Harold Friedman – I am a board member from New Sunflower.

Richard Conroy: Do you have something in writing?

Harold Friedman: I don't have it with me, but I can fax it. I can get you something.

Terry Forman: He has authority to come here and make representation from the board.

Steve Morey: Explain again the area variance.

Terry Forman: The area variance is for this portion below the red line, for approximately 6 x 30 to permit a variance for a 25 ft setback, and we will take care of the encroachment on the land by New Sunflower by providing an easement to the approval of your ZBA attorney that will be filed as a condition of variance in the clerk's office.

Richard Conroy: So that means, this building an easement, just that piece that is over the line.

Terry Forman: It is going to be just for this little section. We are not doing a lot line change.

Richard Conroy: Why wouldn't you do a lot improvement?

Terry Forman: Then we are going to be creating an issue with the setbacks on the other side of these buildings, and also create an issue with the route of travel on the internal driveway.

Jacqueline Ricciani: I can appreciate that Mr. Friedman is here representing New Sunflower. You may want to request a corporate resolution from New Sunflower that they will in fact if this application is granted easement for the purpose that was just described, so at least you will have something in writing from that property owner.

Terry Forman: I will provide that.

Steve Morey: My question is, and I hate to get off on combining the use and area variance, but If your area variance was granted with the easement request, and your use variance is not granted, isn't the first action for not?

Terry Forman: Essentially.



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Richard Conroy: Wouldn't you do the use variance first?

Terry Forman: This was an easier discussion. If this is granted, it resolves the area variance as far as the use variance, then we are getting into the actual square footage that we had previously, that was added to this after the 2006-2007 CO that was issued being substantially less than what was taken away.

Cirino Bruno: As I look at the larger map, this expansion onto Sunflower's property, it's not in the interior driveway. Is it?

Randy Wasson: No, it's not.

Cirino Bruno: And the buildings, I understand are 6.5 ft away from the property line. I don't see any impediment with deeding that piece over.

Randy Wasson: I think the issue is, if you deed a piece over, if you are trying to make it conform, to meet the rear yard setback of the house that is in violation right now, the property line would have to be substantially into the roadway that serves the rear property.

Steve Morey: But it is a private road, and you are only talking about an easement

Jacqueline Ricciani: No, You are talking about a lot line change.

Randy Wasson: You are going to take part of the roadway that serves the back property, and give it to, convey it to the front property, I'm not sure we are gaining anything is what I am saying.

Cirino Bruno: That was my initial question. It doesn't seem to be part of your interior roadway. The encroachment.

Randy Wasson: The encroachment is not on the roadway now, unless I misunderstood what you said, to make the lot conform, to do a lot line change, to give the front piece, Sunflower has enough property so the addition is not across the property line, and it meets the rear setback requirement for that site, it would require that the line be moved into the center of the roadway for the rear property. .

Cirino Bruno: Understood. My second question is what's left? These enlarged buildings; can you give me the total square footage? You gave me the square footage from what was there prior to demolition.

Randy Wasson: Building #1 presently exists, 30 x 32, you wanted the original dimensions?

Cirino Bruno: The original dimensions you gave me. The original dimensions were 30 x 32, I want to



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know the dimensions, and you gave me basically 30 x 30, 30 x 30, what was building number #2, originally?

Randy Wasson: 32 x 35.

Cirino Bruno: Building #3?

Randy Wasson: 25 x 30

Cirino Bruno: And building #4.

Randy Wasson: 25 x 35.

Jacqueline Ricciani: And #4 is still existing?

Cirino Bruno: And the square footage of what is there now? Of the total buildings, less expansion, whatever is there now?

Randy Wasson: The combination of 22 and 23 is 42x 52, as it exists now.

Cirino Bruno: And the other building? Are there any other structures?

Randy Wasson: Not right in this area where we are talking about. There were 4 units and 4 buildings; there are now 4 units in 3 buildings.

Richard Conroy: What bearing is this going to have on this since it is gone since 2007.

Dan Brey: So the one that is gone is 30 x 25?

Randy Wasson: Correct.

Steve Morey: Their logic is they replaced more than what was there.

Randy Wasson: I get 314 square feet added total.

Cirino Bruno: Randy listen to me, you are telling me right now, you have 2,184 square feet, 42 x 52, if I understand you correctly, you told me you had four buildings at one time, which the four buildings totaled 3,635 square feet, so you have reduced your footprint by 2100 square feet.



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Jacqueline Ricciani: They have increased....

Cirino Bruno: You had 3,635, you now have 2,184.

Jacqueline Ricciani: You are not including the 2 buildings they have still. 2 & 3.

Dan Brey: 1775 has to be added.

Jacqueline Ricciani: Building #1 and Building #4 have not changed. Two have been replaced by what's there now.

Cirino Bruno: So he answered a different question than the one I asked. That's okay. Thank you.

Steve Morey: I think what you are driving at Cirino is that overall there is an increase.

Cirino Bruno: There is an increase. What I was driving at that there was a decrease. The increase is 1,324 square feet.

Randy Wasson: I have 314. You have to subtract out your original #2 that is within that 22, 23.

Cirino Bruno: I was trying to get to that; people are giving me different numbers. I asked the question what is the total square footage you now have in the bungalow colony you repeated three times that it was 42 x 52, not telling me that there was other stuff there, so I am sorry I am very confused.

Randy Wasson: Do you want me to go over again?

Cirino Bruno: Are we in agreement that it is 374?

Randy Wasson: 314.

Jesse Komatz: Did the board ask you to enter this building detailed encroachment plan? We could have just avoided all of that. The dimensions of the buildings? The only numbers you have on here is what is over the line, nothing else. So we have to rely on what you tell us. We asked for detail.

Terry Forman: It is a calculation based on an accurate survey with the scale. It's there.

Cirino Bruno: I would like to see the minutes.

Dan Brey: It was one of the questions the last time.



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Jesse Komatz: He could do the calculations; we don't have to sit here and waste our time.

Terry Forman: Unfortunately we weren't here at the last meeting.

Jesse Komatz: That is one of our peeves, people come all the time and we don't have all of the information. They put a plan in front of us and we have to go by what you say it is.

Terry Forman: Understood.

Jesse Komatz: I just had to get that out.

Steve Morey: What is the dimension of the piece that is over the property line?

Randy Wasson: It encroaches 6.8 ft here and 6.52 ft, slightly over 6 ft by 52 ft long.

Cirino Bruno: So that is not 180 that is 300.

Steve Morey: Okay.

Richard Conroy: We are talking about an area variance now.

Steve Morey: Right now we are just talking about the area variance, and you are proposing to supply us with documentation that will tell us that an easement will be granted to cover that approximately 6.5 feet. So you are still looking for an area variance for a rear yard setback of 25ft.

Terry Forman: Correct.

Steve Morey: Does everyone understand that? Is there anymore you would like to explain about the area variance?

Terry Forman: Not on the area variance, no.

Steve Morey: Okay. Let's move onto the use variance?

Terry Forman: When addressing the use variance we started getting into the detail of the numbers of what was there and what was added. The problems that the applicant has here, who is the property owner if this issue was cast upon them by Mr. Weinstock, who made these repairs and modifications to the building without anyone's permission or authority. With regard to that, it's ... there is no other use for this building in this development other than using it as a bungalow. As a result there is no



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reasonable return on the use of that building.

Richard Conroy: Do you have financials to support that?

Terry Forman: The financials to support that is if we remove the building there is no other use.

Richard Conroy: You are supposed to present to us dollars and cents, what the hardship is.

Terry Forman: The hardship in dollars and cents is the value of the building, and the value of the building being removed.

Richard Conroy: I don't know what that is.

Terry Forman: The building has value standing there; if you remove it there is no value. The replacement cost – if we had to remove the building and replace what was there to cure the violation, you would have to remove the entire building, at approximately \$100 per square foot, approximately 110 to 120,000 square foot, so we are talking approximately \$110,000 to \$120,000. Then demolish, and rebuilding.

Richard Conroy: To put the building back to where it was.

Jacqueline Ricciani: You are talking about demolishing and rebuilding.

Terry Forman: Right. What I am advised is you just can't just take off this section here without this part of the building collapsing.

Cirino Bruno: How did you expand this, did you start from scratch?

Terry Forman: My understanding is the roofline has changed. There has to be something existing in order to expand.

Cirino Bruno: My question was...was the original building or buildings that were there demolished? And the new building built from scratch? Or were the buildings that were there expanded? So what has been expanded can be unexpanded.

Terry Forman: It's not cost effective; it could collapse, if the building is demolished the way you would like to see it demolished.

Cirino Bruno: I didn't say demolished, I said re altered.



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Terry Forman: Re altered is substantially changing the structure.

Cirino Bruno: Which was changed originally to create the expansion that you have there now. I'm questioning the \$120,000 number.

Terry Forman: That is true. We believe that we will not be able to take it apart and put it back the way it was. It would cost approximately half the cost to put it back the way it was.

Dan Brey: Before this problem, was the setback correct to begin with?

Jacqueline Ricciani: At the time this was approved as a bungalow colony, we are going to have to assume that it met all of the requirements. But it was a bungalow colony so we knew that the buildings were going to be clustered closer together. .

Dan Brey: To the line?

Terry Forman: No. The line is here, the original line was right here. That is the line we had the CO for in 2006, 2007. There were no issues when that was done.

Jesse Komatz: I have a solution. Why doesn't New Sunflower give him the property with the proper setbacks, and then he gives them an easement of the road. I would rather see an easement on a road than on a house. There is plenty of room here for the setbacks...

Jacqueline Ricciani: But that won't help with the use variance.

Jesse Komatz: Right but that will take care of the area variance.

Terry Forman: You are essentially creating a lot line change.

Jesse Komatz: You will have a dwelling on a piece of property that is whole, not on an easement.

Terry Forman: Another member of the board was concerned that if you granted the area variance, there was concern that these could be expanded out. (Showing on map)

Jesse Komatz: Just give him the distance around that building.

Steve Morey: Gentleman, behind you, are you from Sunflower? You are an owner to this piece of property, because you are shaking your head.



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Ben Halverston: I am not on the board. I am a member, but I do not serve on the board.

Terry Forman: So suggestion was, without changing the property line, because the easement that would be the simplest solution. Then there would be no concern about any other setback issues for the other buildings there.

Ben Halverston: Can you say again what you were saying?

Jesse Komatz: Have new Sunflower change their property line around that house to give you proper setbacks, and then you give New Sunflower an easement for that road. You said you didn't want to have an easement on the road; you didn't want to change anything. But I would rather have an easement on a driveway than on a house. You guys made a mistake, you have to fix it.

Terry Forman: The mistake was cast upon us. That is why we are here.

Jesse Komatz: Then you have to find a solution.

Terry Forman: This would be the solution that we are putting forth, was the easement, if the board prefers the easement the other way that is something we will have to go back and have to have a conversation. It causes an internal problem for this condominium, and for all the declarations. It is much simpler and cleaner to provide the easement for that one area.

Ben Halverston: I want to make a point to the board. We don't want to have this problem again, at all costs. As long as the building is there, it should stay. If the building goes down, the easement is over. I don't want to see another such a problem coming before the board. If we could change the property that is going to make me a problem, another smart alec may come up at a different time, no it is not happening. As long as the building is there, it happened, that's it. It's never coming back to this board, this situation. I don't want to come back with this problem.

Terry Forman: Which is the reason why the easement would extinguish itself once the building was no longer there.

Jesse Komatz: The question was, is there a way that you could get around this. I just presented you a solution to the problem. It's self-created now.

Terry Forman: No, it's not self-created. Someone else created it. In what we are discussing now is what easement is better than the other easement. I appreciate the fact that you want to change the lot line that may save that issue...



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Steve Morey: The change in the lot line completely eliminates the area variance.

Terry Forman: But it creates more of an issue for all of the previous site plans and work that was done on this development, and all of the declarations.

Cirino Bruno: That seems a small price to pay rather than tear the building down.

Jesse Komatz: To have an easement in a driveway?

Terry Forman: That may be something that they may very well be amenable to. We are here to try to correct the issue of the violations, and we want to accomplish that. I appreciate your thought. It just seems we could accomplish the same thing with the easement for just the encroachment without changing all the lot lines and changing all the maps.

Steve Morey: You have to look at it from our perspective. You are asking for an area variance, we are proposing to you to completely eliminate the area variance

Terry Forman: Except the only technical problem with that is, you are asking this owner of this property, that's not the applicant to give up property and make a lot line change. It just happens that these two owners are neighbors, these two owners are friendly, and these two owners are amenable to this. It is titled to New Sunflower, and titled to Keilly, are not the same entity.

Richard Conroy: They have the same office, they have the same address.

Terry Forman: It is still two legal entities. Again there is an entire site plan declaration, what the board is asking this owner here, which has nothing to do with this application to agree to a lot line change.

Richard Conroy: They are agreeing to an easement.

Terry Forman: They are agreeing to the easement because that is the simplest and most cost effective measure to help the neighbor resolve the problem.

Cirino Bruno: Terry I'm further confused, when you opened up..... we understood who Mr. Weinstock is; Mr. Weinstock claims he owns this building. Where did I get this from?

Terry Forman: I'm not sure where you got that from.

Cirino Bruno: Isn't there a petition that is being taken in court?



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Terry Forman: No, there are no legal proceedings pending on that. I think what Ms. Ricciani explained to the board earlier during the work session, that Mr. Weinstock claims an ownership interest in the building, but not the land.

Cirino Bruno: That's what I just said.

Terry Forman: The building, but not the land.

Cirino Bruno: The building, not the land.

Terry Forman: Correct. There could be a lease, Cirino; there could be other forms....

Cirino Bruno: It seems like you got tremendous recourse against this behavior by Weinstock.

Dan Brey: Wasn't Mr. Weinstock the one that was here the last time?

Terry Forman: Yes, he was here. Mr. Weinstock doesn't own the building, he doesn't own the land, and he has a right to use the building. Just as a tenant ...

Cirino Bruno: Now he is a tenant.

Terry Forman: I think the reality of that issue, that's not... That is something again, as Jacy advises something that will ultimately get resolved, that is not necessarily germane.

Cirino Bruno: He may have to be the applicant....if it falls a certain way.

Terry Forman: No. As of today, as we are standing here, and the pending violations in Town of Bethel Court, the violations and the property owner are Keilly. We are the proper applicant. Again, going back, I don't think the suggestion to change the lot line is really feasible, because it is two separate owners. Even though they are somewhat related.

Cirino Bruno: It shows a tremendous amount of good faith. It helps us a lot when we have to reach the question of what was there an alternative that the applicant could have....

Terry Forman: Well the applicant is Keilly, not New Sunflower. So they can certainly explore a lot line change with New Sunflower, and what came back from New Sunflower, lets not get involved with changing all the site plans, lets not get involved with changing all the property descriptions that are on record, and lets just provide a simple easement. Just as Cirino, your neighbor overbuilt his deck on your line by 10 ft. The simple solution is if you like your neighbor is to give him an easement. You're



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not necessarily going to do a lot line change.

Jesse Komatz: A deck is easier to take down, than a house.

Terry Forman: Correct, The applicant is Kielly, not New Sunflower.

Steve Morey: That is your proposal for correction. I think it was mentioned before we need something in writing stating that.

Terry Forman: I will get a resolution from New Sunflower, and I will submit to the board through Ms. Gettel's office.

Steve Morey: We are still on the use variance.

Terry Forman: Right. To pick up where we left off with regards the use variance, what we are asking for....

Steve Morey: Let me just interrupt you, You did throw around some numbers there, again, for your financial evidence, I would like some numbers presented in writing, to this board you have some qualified contractor gave you an estimate for whatever dollars and cents it would be to do a proposed revision to the building. Sorry to interrupt you...

Terry Forman: No, thank you that is quite all right. I will submit that with the corporate resolution from New Sunflower for the new easement. Picking up where we left off, this is a bungalow colony; there is no adverse impact on the rest of the community. This addition fits in otherwise with the character of the neighborhood. The addition isn't being objected by the neighbor at New Sunflower. To some degree the improvement actually increases the aesthetics of the community with the new roof and siding that was done. There is no environmental impact other than for the setback. Again, our position is the difficulty was not created by the landowner, but by Mr. Weinstock.

Steve Morey: Any comments or questions from the board?

*None*

Steve Morey: I personally have to object to that last statement. The person that created the problem is not the owner, and then therefore the corporation should have had some control over what's done. Who is responsible to permit this to happen? This didn't happen overnight. Someone had to know what was going on.



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Ben Halverston: I do not live here in the winter. When I came up and saw this, the first thing I did was called BJ. I went to BJ, I said there was a problem, and we took action right away. She came up to the property, she put a stop work order on the property, it was done pretty quickly. We took action right away when we came. I don't want to go further into the problems we had. As soon as we saw it, we took action.

Jesse Komatz: Shouldn't your action be with Mr. Weinstock since they built over the line?

Terry Forman: That may be an issue outside of the application for the variance. In looking in an attempt to clear the standing violations and bring the structure to conformity, is the reason why we are here. Whether we can have some other remedy, should the variances not be granted. It is a different issue and a different question. We are here trying to save the structure, and I think what Mr. Halverston has represented when he discovered the problem, he didn't stick his head in the sand, he went to the Building Department, and said there is an issue, and they put on a non-work order. That is my understanding from what I heard. So I think there is a measure of goodwill there from the landowner and this is part of the reason we are saying it wasn't self-created. We didn't do the building ourselves.

Steve Morey: Was there a stop work order after it was already occupied?

Bette Jean Gettel: When he came to my office, it was done. It isn't a location you can see clearly from 17B. It is in the back, in there a ways.

Cirino Bruno: And there used to be trees.

Richard Conroy: You couldn't see this unless you drove in the back.

Bette Jean Gettel: Correct.

Steve Morey: Does anyone have any other questions or information? Jacy, do you have anything?

Jacqueline Ricciani: Just like any other application, if you think it is complete, and they provided you with the information that you need for the different criteria that you are going to need to consider, you can schedule for a public hearing. If you want additional information, then you need to ask for that. I think there will need to be a 239 on this.

BJ Gettel: Do you want me to break it out? One for the Use Variance, and the other the Area Variance and have it listed as two items? I listed it tonight on the agenda as one.

Jacqueline Ricciani: You should have them listed as two items. You can still consider them at the same



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time.

Steve Morey: How would you list them on the agenda?

Bette Jean Gettel: Use Variance first, and then Area Variance.

Steve Morey: I agree. Does everyone understand? Is there any other information we feel you need?

Richard Conroy: Before we vote on a public hearing, I want to see the financials; I want to see the corporate resolutions for the easement, and the documentation on the representatives (corporate resolutions). I want that before we entertain a public hearing.

Terry Forman: I will get those three items to the board.

Jesse Komatz: Also the dimensions of the buildings.

Randy Wasson: We can get that from the surveyor. It was actually surveyed.

Cirino Bruno: In essence Mr. Wasson, if I understand at the end of the day, this encroachment is about 300 something feet. The difference of what existed, and what now exists is the same 300...

Terry Forman: What date do you need it for the next meeting?

BJ Gettel: All submissions have to be made by December 4<sup>th</sup>. The next meeting is the 18<sup>th</sup>. We will be in the little room.

Dawn Ryder: We have a special meeting. (Town Board)

Cirino Bruno: Do you think you will be able to do this, or do you think you want to go to January?

Terry Forman: I would like to get that accomplished by December 4<sup>th</sup>. There should be no issues to get the easement drafted, and the corporate resolutions. Randy, I don't what your time frame would be for adding the dimensions to the map.

Richard Conroy: And the financials.

Terry Forman: Yes, and the financials. I understand. I don't think we will have a problem. If not do you have a date for January?



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Bette Jean Gettel: January 22<sup>nd</sup>.

Cirino Bruno: Mr. Foreman, I think you are going to have a problem getting a quorum of the board on December 18<sup>th</sup>.

Terry Forman: The submission for the January meeting would be two weeks before?

Bette Jean Gettel: January 8<sup>th</sup>.

Terry Forman: Anything further?

Jacqueline Ricciani: As long as we are talking about scheduling of meetings, are we going to be having work sessions going to be a regular part before each meeting?

Steve Morey: I believe we made a motion a few months ago, that we would be having the work session before each meeting. There was one other statement made, that for whatever reason, Cirino thought there may not be a quorum for the December meeting. We could take the opportunity now to recommend reappointment for Victor, and Chairman, and Vice Chairman.

***Motion to reappoint everyone as is by Richard Conroy, second by Cirino Bruno.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Dawn Ryder: I wanted to bring to this board's attention that the Town Board will have a public hearing at the meeting on December 18<sup>th</sup> a special meeting for a change to Chapter 48, the Planning Board and Chapter 345 of the Zoning Board. Basically it came to our attention that we would need a mediator and spend additional monies if at any point and time we decided to remove a volunteer board member. I have the local law here. I made a point of informing you, because I know you guys aren't officially informed like the Planning Board. I noticed that you aren't informed. I want you to look it over, it is on the website. There are other important things going on in the Town too. On December 23<sup>rd</sup> and 24<sup>th</sup> the town departments are closed. On December 2<sup>nd</sup> we are going to have the tree lighting, the December Express, the children's party at the firehouse is on December 9<sup>th</sup>, at the Kauneonga Lake Fire Department. The Bethel Business Association mixer is at the Airport on the 11<sup>th</sup>. The lobby has been remodeled, the café hosts it, it is a mixer, we are starting the BBA website, we are starting training, and we are going to bring Bethel on the map. I want all the secret hidden places in Bethel.

Bette Jean Gettel: If you want to go to the site to look at these buildings, you have permission to take a look. I will take you in there.



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

***All in favor –6***

***Opposed-0***

***Agreed and carried***

***9 pm.***

Respectively submitted,

*Jannetta MacArthur*

Recording Secretary.

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

***All in favor – 7***

***Opposed-0***

***Agreed and carried***

Respectively submitted,

*Jannetta MacArthur*

Recording Secretary.