

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 July 21, 2014. 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: Stephen Morey, Chairman, Jim Crowley Vice Chairman, Richard Conroy, Jesse Komatz, Robert Yakin, Daniel Brey, Cirino Bruno, Victor Kask, Alternate, Dawn Ryder, Councilwoman, BJ Gettel, Code Enforcement Officer, Jacqueline Ricciani, Attorney, and Jannetta MacArthur, Recording Secretary

7 members present and alternate present

Pledge to the flag

Also in attendance: Daniel Gettel, Planning Board Chairman

*Motion to approve minutes from the March 24, 2014 by Richard Conroy, second by Jim Crowley*

*All approved – 7*

*Opposed-0*

*Agreed and carried*

- 1) *An administrative appeal of Section 345-36, B - Enlargement or Extension and Section 120-10, C to add a camping trailer on a pre-existing non-conforming lot for the entire summer season located at 191 West Shore Road, known as Bethel Tax Map#: 22-1-37 & 38, proposed by Neoth Deshe. (Kohn)***

Steve Morey: You are Mr. Deshe?

Mr. Saslow: No, I am Mr. Saslow. I am representing.

Steve Morey: If you could try to give us some idea of what you are proposing.

Mr. Saslow: My proposal is that we have a bungalow, and we have our family that comes up 2 months of the summer season. We would like to join the nice people in Bethel, the clean fresh air. The children have a chance to run around and enjoy themselves out of the city which is so congested. We need a little more space so our children can have space to sleep at night. We would like to put a camper, a trailer next to our bungalow because we don't have enough space in our bungalow, for our children right now. Some of our children are down in the city now, because we don't have enough space for them. We would like to put the camper next to our bungalow this way the teenagers could be up here and be next to us, so everyone would have a place to sleep at night. Two years ago I got this building permit from the building department to upgrade the electric, so I could plug in the plug, and they gave me this permit and I thought I was okay, I didn't realize that I had to get a variance from the Board, and BJ has been so helpful, and I want to do what is right, and we put it in, BJ said take it off. It was off in 24 hours because we want to do the right thing. Now we are asking for a variance to put in a trailer to have a place for our children to sleep.

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Richard: Did you apply for a variance?

BJ Gettel: I had denied him the application to have the camper on the property; I took it as an administrative appeal. If you gentlemen determine that I wasn't correct in doing what I was supposed to do, then it goes to a variance.

Steve Morey: Which would have to be filed and be presented again at a subsequent meeting?

BJ Gettel: You could take it up all in one meeting.

Steve Morey: Do you have any more information you want to give us, or ....?

Mr. Saslow: This is the Zoning Board of Appeals; this is the permit I was issued two years ago where I thought I was fine.

Jim Crowley: What kind of camper?

Mr. Saslow: It is a camper that has room for two to sleep in the back room; it has a bunk bed for two to sleep. Inside it has a sitting area for the children to do some extra work, reading. In the front it has a refrigerator and counter. It is an up to par camper so the children have their space which they need.

Richard Conroy: How big is it?

Mr. Saslow: I don't have a length

Richard Conroy: Is it a travel trailer?

Mr. Saslow: It is a trailer that you don't drive it.

Richard Conroy: Is it 20 ft, 30 ft long?

Mr. Saslow: It is two ft longer than my bungalow. I don't know the exact dimensions.

Jesse Komatz: What's your best guess?

Mr. Saslow: About 20 ft. We want to bring it up 2 months for the summer.

Jesse Komatz: The wheels are still on it, what you do is just block it up?

Bob Yakin: At the end of the season, the trailer leaves your property?

Dan Brey: What do you do about the sewer?

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Mr. Saslow: The pipes are under the bungalow we have like a splitter pipe, we attach it properly, and they are attached well so they don't pop open. The same with the water, we went to Home Depot.

Richard Conroy: You have it hooked up like a regular building?

Mr. Saslow: It is hooked up like a regular building for those 2 months. Then when we are done, then we close it down and take it out.

Richard Conroy: But the regulations say you can't do that.

Mr. Saslow: That was my mistake. I didn't realize that. That's why when I got the building permit....

Richard Conroy: What does the building permit say?

Mr. Saslow: It says on the permit, electric work new service 100 amps, trailer receptacle, it goes through the whole thing. I didn't realize, it is my error.

Steve Morey: I think you are confusing permits.

Mr. Saslow: Now I understand, it is my error.

Steve Morey: Okay. You say your bungalow, is this bungalow one that you own?

Mr. Saslow: It is a bungalow that I seasonally rent. We are in the same bungalow for 15 or 20 years. I forget exactly.

Steve Morey: Okay, so this is part of a group of bungalows on this parcel of property.

Cirino Bruno: How large is the property?

Mr. Saslow: How large is the whole property of the colony? You have the map from the engineer.

Cirino Bruno: Do you know how many bungalows are on the property?

Mr. Saslow: Around 50.

BJ Gettel: The numbers of buildings versus the number of units are two different figures. There are a whole row of duplexes and multi's; there are a bunch of duplexes in the rear of the property. It is closer to 70.

Steve Morey: This trailer on this parcel of property is denied because?

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BJ Gettel: I cannot permit for more than 14 days on a property in a calendar year for camping.

Steve Morey: Okay. It has nothing to do with the property being a nonconforming use in this district

BJ Gettel: That too. It is a combination of the two. The 120-10-C that has to do with the 14 days, 345-36-B, has to do with if you permit this then you are enlarging a non conforming use.

Richard Conroy: If it is not permitted, and BJ said you can't have it there, I don't see what the problem is. If you want to apply for a variance, then you need to do that.

Jacqueline Ricciani: We have two different things. He applied for a camping permit, which BJ explained only allows for 14 days. This gentleman would like that trailer to be there for more than 14 days. So, BJ said I'm sorry I cannot give you a permit. That is her administrative action. He is not happy with that, he wants to appeal that that is the application that you have in front of you; it is for an administrative appeal. He is bringing an application to appeal BJ's decision. Under 345-56 in your code that describes what the procedure is for an Administrative appeal. This describes the documentation and information, written statements and other things that need to be provided to this board, and then ultimately you would have a hearing, and then determine whether to overrule BJ's decision or agree with her decision. On the other hand if this gentleman is looking for a variance, I suppose he would want to get a use variance, it doesn't seem to be an area variance, we have that self created hardship element of the use variances which generally is difficult to overcome. I'm not sure which way...the applicant has two options; it is up to the applicant to tell you what he is looking for.

Mr. Saslow: I'm just looking for a place for my children. I am trying my best, whatever I have to do, that is what I will do.

Richard Conroy: According to this, BJ did the right thing.

Jacqueline Ricciani: And he is entitled to appeal it. After a hearing, you may all decide that she is correct. You may want to wait and see what he has to say before expressing your thoughts. He is entitled to a hearing.

Steve Morey: When our attorney says a hearing that is a public hearing?

Jacqueline Ricciani: Not necessarily. Just a hearing.

Steve Morey: Okay. I thought it had to be advertised.

Jacqueline Ricciani: The code says he is entitled to a hearing, it does not say he is entitled to a public hearing. I suppose you can direct him to him to publish it.

Steve Morey: I want to explain to the gentleman the time element that is going to be involved here.

Jacqueline Ricciani: Again, if this gentleman wants to appeal BJ's decision, I would refer you to 345-56, there is a certain procedure, and there is certain information that the applicant needs to present. Which I don't think he has done. If that is the avenue that you are going down, that is fine, but perhaps you should refer the applicant to that section of the code and there are five items that need to be provided to this board, so you can schedule your hearing, and make a determination. On the other hand if he wants a variance, there is a separate section in the code that deals with variances and what he would need to supply to the board in that case. We have a site plan which you may or may not deem to be adequate.

Jim Crowley: That's not a site plan. That's a topography map. You need a real survey site plan. That shows something, not just the elevations.

Richard Conroy: You have two choices. You can ask for a hearing or ask for a variance. You have to decide.

Jim Crowley: Steve, you should make the man aware of the time period. Summer is almost over.

BJ Gettel: He understands that it will not happen for this season, I have explained that to him. However in anticipation for next summer he understands....

Mr. Saslow: I think I need to speak to a lawyer, I don't understand the difference between asking for a variance and an appeal. Our children should be able to join us in the summer. I need a little help. I am just trying to do the right thing. We love coming to Bethel. If the Zoning Board would guide me....

Steve Morey: Let me be clear, if we reverse the building department's decision, as the Zoning Board of Appeals, does this give him the go ahead to do this, or does he still need a special use permit?

Jacqueline Ricciani: Okay. BJ has, as I understand it. He has applied for a camping permit to camp for the summer. The code says he can only do it for 14 days. If this board finds that she could give him a camping permit for more than 14 days, then if a determination is made by the building department that this camper constitutes an enlargement or an expansion of a preexisting nonconforming use, BJ could issue a ticket because this is now in violation of the zoning code at which point the applicant would then reasonably find themselves in front of the Planning Board seeking the special use permit which is what is currently required under the code to expand a preexisting nonconforming. Now whether that would then trigger an interpretation of whether this does in fact constitute an enlargement or expansion then it could be referred back here. That is very similar to what you went through recently with another application. In this case I would say it seems he is clearly trying to expand the dwelling aspect of the bungalow colony, to accommodate 4 individuals.

Jesse Komtaz: Wouldn't you be better off trying to expand the bungalow?

Mr. Saslow: We come from the city, we were very damaged by Hurricane Sandy, and it cost a lot of money to rebuild. We can't afford this. This was an easier way to do it. Temporarily.

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Jacqueline Ricciani: Even to put an addition on a bungalow, he could apply for a building permit, it would be denied, that would be the administrative action, he could come here, seeking to appeal her decision to deny the building permit. There are a number different ways this gentleman could get before this board or another board. What you have in front of you is an application for an administrative appeal. If that is going to be pursued, then I would suggest that the applicant be referred to section 345-56 of the town code provided with a complete application to this board, and then you can act on it.

Robert Yakin: How many children would be occupying the trailer?

Mr. Saslow: It would be for 4 children.

Bob Yakin: Are they here now?

Mr. Saslow: No. In total we have 12 children. They call us up, we want to come. I say you can't come. We are not trying to disturb anyone, our neighbors.

Steve Morey: It has been stated, you have a choice whether you want to pursue the appeal of the administrative decision, or go for a variance.

Jacqueline Ricciani: I suppose if he wanted to go for a variance, off the top of my head I would say it would be a use variance to use this trailer as sleeping accommodations at the bungalow colony, which would then implicate an expansion potentially of the nonconforming.....

Steve Morey: Which would bring it back to this board

Jacqueline Ricciani: You wouldn't necessarily bring back to the board, there are certain criteria that this board needs to consider when determining whether to grant the use variance, and in the course of your review of those different criterion determining whether the variance should be granted or not, the location, the current use is something you would take into account, so if you find that adding this dwelling is expanding a preexisting nonconforming, and that is something that is not permitted in the town, then you would take that into account when going through the different criteria, whether it is substantial, the impact it would have in the neighborhood, and so on.

Richard Conroy: If you look at the camping regulation, that's two weeks.

Jacqueline Ricciani: That's why he is here, that is one reason why he is here I suppose.

Mr. Saslow: I am looking at 20 days tops for this season.

Cirino Bruno: Then when you look at the expansion, you are talking about a trailer. It is not a permanent a structure

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Jacqueline Ricciani: It is providing overnight accommodations; the board can find this to be a dwelling.

Cirino Bruno: I don't think so.

Jacqueline Ricciani: Okay, that is up to you guys.

Jim Crowley: I could give you the easiest solution, rent another bungalow.

Mr. Saslow: There is nothing really available where we are. Either we come or we don't come.

Cirino Bruno: The question is for next year, because the way you are going now, unfortunately as unprepared as you are, you are not going to get a determination in respect to which route you can go.

Mr. Saslow: If BJ would just give me permission just to allow my children to come up, and then we will work on it

BJ Gettel: I cannot, just for 14 days. That's it.

Richard Conroy: You are the one that is going to decide what you want to do.

Mr. Saslow: Just for 14 days. At least my children could come up for a little bit.

Steve Morey: That is a decision you would have to make. 14 days is better than no days.

Mr. Saslow: It is an expense bringing it in. I should get a lawyer.

Robert Yakin: The best route may be to take the 14 days. We wouldn't be able to make a decision until September anyway. That sounds like it would be the best for this year. Then you would have time to properly come to our board so that we can get some information and make a permanent decision on it.

Mr. Saslow: What is the board leaning towards?

Richard Conroy: We don't have any information. You didn't bring us anything.

Steve Morey: As our attorney said, if you want to pursue the appeal of this decision, you need to review that section of our code, so you are prepared with the information that is necessary, and follow those procedures.

BJ Gettel: Even if you bring the trailer in for 14 days, you are adding to a nonconforming use, I will still bring you in front of the Planning Board for a Special Use permit, because it is still a preexisting nonconforming use. Even if you were to bring the camper for 14 days, I still would have to bring you in front of the Planning Board to get a special use permit, because you are adding a unit to a nonconforming use. You are still talking 60 to 90 days.

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Jacqueline Ricciani: The boards only meet once a month.

Mr. Saslow: This is it. I will get the paperwork that I need. I will be in tomorrow.

BJ Gettel: I will not be in the office the next three days. Friday is the earliest I will be in the office.

Richard Conroy: You are looking at next year; you are not looking at this year at all.

Jacqueline Ricciani: If you decide that you do want to pursue anything, you need to get your materials to BJ no later than 14 days before the meeting. Just be advised if you are going to come before this board or the Planning Board, you need to get the materials to BJ 14 days prior to the meeting.

BJ Gettel: Friday I will be in the office.

Steve Morey: We are scheduled to meet the 3<sup>rd</sup> Monday of each month, provided we do have an agenda. So keep that in mind, so 14 days prior to that, by August 4<sup>th</sup> you would have to have the papers filed in order to come before this board. I just want to make you aware of that.

Dawn, do you have any input for us tonight?

Dawn Ryder: Thursday is the Town Board meeting. You should all be aware that there are going to be changes to camping, camping trailers, and land use.

Dan Brey: What kind of changes?

Dawn Ryder: I'm not allowed to say, but there are chapter changes. I can tell you which chapters are going to be changed. Please come Thursday night, there will be a discussion about it. Changes to the camping, changes to the zoning, chapter 90, mass gathering,

Daniel Gettel: Dawn, I have to assume after Thursday, it would probably be on the website.

Dawn Ryder: Yes

Daniel Gettel: It will probably be on the website after Thursday. The town has to propose it, and then it will be on the website.

Jacqueline Ricciani: Then it will go to the Planning Board, for their input, then the Town Board. It will be a process.

Dawn Ryder: The meeting is Thursday instead of Wednesday. This is the one we approved for the summer people.

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Daniel Gettel: If you look at the present camping code it says you should apply to the Zoning Board for a special use permit. You guys can't even give special use permits.

BJ Gettel: Dawn, at one point webinars. I have a couple of guys who need webinars. If you guys want to take webinars at night, please get in touch with Dawn. You have her email, or get with her right after the meeting.

Daniel Gettel: We are considering changing the Planning Board meeting to the first Monday of the month. The building is available. I think that would put us more in sync with your meetings.

Steve Morey: Anything else from the board?

None

*Motion to adjourn by Jim Crowley, second by Richard Conroy*

*All approved – 7*

*Opposed-0*

*Agreed and carried*

8:05 pm

Respectively submitted,

*Jannetta MacArthur*  
Recording Secretary