



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 August 17, 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, and Victor Kask, Alternate, Bette Jean Gettel, Code Enforcement Officer, Jacqueline Ricciani, Attorney, and Jannetta MacArthur, Recording Secretary. Also in attendance, Dawn Ryder, Liaison, Lillian Hendrickson, Councilwoman, Daniel Gettel, Planning Board Chairman, David Biren, Planning Board member.

Absent: Jesse Komatz

Pledge to the flag

Seating Victor Kask – Alternate

*Motion to approve the July 20, 2015 minutes by Richard Conroy, second by Jim Crowley*

*All in favor – 6*

*Opposed-0*

*Agreed and carried*

- 1. Public Hearing for a Use Variance to operate a pre-existing use at 186 Lee Cole Road, known as Bethel Tax Map #:9-1-6, proposed by JJ Enterprise USA, Inc.*

Steve Morey: Have all of the mailings been returned?

BJ Gettel: Yes

Steve Morey: Do we have any correspondences from those mailings?

BJ Gettel: We do have people speaking at the public hearing. Does anyone from the board have anything?

*Motion to open public hearing by Jim Crowley, second by Richard Conroy*

*All in favor – 6*

*Opposed-0*

*Agreed and carried*

Steve Morey: If it pleases the board, Mr. Wasson would you give a brief presentation for the public?



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Randy Wasson: My name is Randy Wasson, engineer, representing JJ Enterprises. They are requesting a use variance, from the Zoning Board for their bungalow colony on Lee Cole Road, which is approximately a quarter of a mile southeast of the intersection of Old White Lake Turnpike. The reason for the use variance is because bungalow colonies are a preexisting nonconforming use in this zone. What the owner is proposing to do, I should just first say that there are ten bungalow units there now, there are three – two family units, and there is one building that presently contains four units. There is also a dilapidated casino structure. The proposal is to reduce the number of units in the four families down to two, replace those two units with two new unit's right here, and then just enlarge each of the duplex structures, six units; the total increase in square footage is approximately 4,700 square feet. The proposed additions and this is a new casino and this one comes down. There will still be ten units, they will be slightly larger. There will three bedroom units versus the one bedroom that is presently there right now. With the increased footprint, plus we need the variance, we are just under the allowable lot coverage, which is 25%, we are somewhere around 8%, even with the two additional buildings. I would entertain questions at this point.

Steve Morey: Anything from the board?

Victor Kask: You have the same number of families living there, but you have increased the number of bedrooms, dramatically, haven't you?

Randy Wasson: Yes. These are one-bedroom units now, these are two's. We are essentially doubling the bedrooms.

Victory Kask: And the septic system is being altered also?

Randy Wasson: Yes. We have plans for that, and have an actual SPDES permit for a new septic system.

Steve Morey: The two new units on the right hand side, you are replacing the two units in the upper left hand corner by those two units, is that correct?

Randy Wasson: No, there is four here now, and this would make up the two that come out of that building.

Steve Morey: The two on the lower right hand corner, are they single-family units, or two family units?

Randy Wasson: These here? (Showing on map) They are each singles.

Richard Conroy: Last time you said they were two family units.



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BJ Gettel: No, they have always been singles.

Randy Wasson: Yes that was the same last month.

Steve Morey: Okay, thank you.

Jacqueline Ricciani: The four family unit, is that a two story?

Randy Wasson: Yes

Jacqueline Ricciani: And it is going to continue to be a two story.

Randy Wasson: Yes

Jacqueline Ricciani: Do you know how many bedrooms are currently there now in that building?

Randy Wasson: I don't know the exact break down, Jacy, but I can tell you there are fourteen bedrooms all together now with the ten units, and it will go to thirty.

Steve Morey: Anything else? If not, I will open it up to public comments. Please step up to the microphone and identify yourselves for the record.

John Sauchuck 164 Lee Cole Road, Swan Lake, NY: I have the property on this side of the colony here on Lee Cole Road. I would like to give you the background on this. It is a 3.5-acre parcel. In the previous thirty-five years it was owned by families from Brooklyn, there were seven rental units there. On the three little bungalows there were only a family in there, and on the other side they had two families, so actually there were five instead of seven. The purchase of this property in 2012, for \$38,000, as far as the use variance, there are no unnecessary hardships financially, this corporation, they have basically doubled it in size. They have ten units now as they state. The property was leased in 2013, by estimate probably for \$20,000; in 2014 they had over 50 boys that stayed in these three buildings. I called the board, I made numerous calls to the State police, looking for code violations, and they probably got \$50,000 for those 50 boys. I watched them get on the bus once a week, nothing was done, and they were there the whole summer. Plus they rented those other four units, so my guess is around \$60,000 was probably made last year. This year they are conforming to the ten family units, and there are presently ten families there. So \$38,000 buying the property, I don't really see where a hardship comes into play. They pay \$5,000 a year in taxes, last year making approximately \$60,000, year before \$20,000, and this year \$20,000 to me it is about \$100,000.00. I don't see where the hardship is financially. If you had a twenty-year loan, the \$38,000, you are probably looking at \$4,000 a year and that is just to pay your mortgage. The numbers don't add up to me. Is the hardship unique, the rear portion of the property, looking at the DEC site plans, as part of Lee Cole Road, a lot of wet swampy



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land in there. I know they aren't going to be permitted to connect to the Stevensville our local sewer, there are a lot of properties along that road that have been denied based on perc tests. This has been a residential neighborhood as long as I have lived there for the past thirty years, it is single-family units, and it is not zoned commercially. Last year it was illegally rented to boys. It seems the first specific use variance is to make this property into commercial venture, not keep it as a residential venture. Lastly the hardship if one exists, it is self created, I don't know how you purchase a parcel at \$38,000 spend a few bucks on maintenance, electrical work, and have all kinds of financial problems, maybe they have to many people there, maybe they should change the rent, and have less people. Thank you.

Steve Morey: Is there anyone else from the public?

*No other public comment*

Steve Morey: Thank you folks.

***Motion to close public hearing by Jim Crowley, second by Dan Brey***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Steve Morey: This does require a 239 review from the County?

BJ Gettel: According to the County it is only 28 days.

Steve Morey: Which means for us we can take no action until we get a response from the County?

Jacqueline Ricciani: And you are not required to make a decision for 62 days after the close of the public hearing, so you have some time.

Steve Morey: What is the pleasure of the board at this point?

Richard Conroy: If we don't have anything back from the County, I don't think we should act on it.

Steve Morey: Any questions with what information was presented? We should table until our next meeting, or certainly until the review comes back from the County.

BJ Gettel: Which will be two to three days from now.

Jim Crowley: Let's just go through, and see if it passes the test, see what we determine and if it passes the test, then we will table it to hear back from the County. We don't have to make a decision; it might not even make it that far.



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Steve Morey: Anyone else have an opinion?

Cirino Bruno: I second that motion if it is a motion.

Richard Conroy: You want to go through the four things?

Randy Wasson: Mr. Chairman, may I respond to some of the questions that were raised?

Steve Morey: Yes

Randy Wasson: Some of the things, Mr. Sauchuck has obviously lived in the area, I don't know how long, but he has known the property before I have. I have only known it through my client for the last three or four years, so I can't tell you how many rental units were there before or after. I can only tell you what is there now. I know he did spend quite a bit of money on some of these units. His first year there, BJ can tell you better than I can what work was done. He has been squaring up some of the units, improving some of the water and sewer connections as well as the electrical, also adding some decks, and that sort of thing. He spent \$50,000 to \$60,000 on the swimming pool, based on Department Of Health requirements. I don't know what the purchase price was, and I don't know what the rentals are myself, I think it might be a little presumption to project that. These are one-bedroom units, these are bungalows, and they do need a little bit more space. It is hard to get the families in here to make a return on this, so they are willing to invest more money to bring it up to standards, make it nicer. At the same time they are increasing the number of people obviously, but not the number of units, not the traffic, and so forth. I would just say too, I traveled this road tonight, I did some counting, and this is about a quarter of a mile from the intersection of Old White Lake Turnpike. Between Old White Lake Turnpike and this line here, you have two bungalow colonies, and on the opposite side you have a summer camp. Mr. Sauchuck owns this piece of property, this is a vacant piece of property, heavily wooded, and I would guess 250 or 350 feet of woods to the first house. I am not sure if that is Mr. Sauchuck's house or not, but it's a beautiful house by the way. So, I am not sure what the impact would be, I didn't think it would be much if any just by enlarging the footprints of the existing homes. As far as talking about the wet soils and so forth, we submitted at the last meeting the Army Corp of Engineer's maps, and this is not part of the wetlands. The wetlands are behind this property for the most part; they are not on this property. It is almost by the sewer treatment plant. That is all I wanted to say.

Steve Morey: Thank you. Shall we go through the criteria of the use variance?

Richard Conroy: Yes.

Steve Morey: *1. They cannot realize a reasonable return, provided such lack of return is substantial as demonstrated by competent financial evidence.*



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Is there any financial evidence?

Cirino Bruno: None has been presented.

Randy Wasson: Mr. Chairman, we can provide that.

Steve Morey: What is the pleasure of the board?

Jim Crowley: You are supposed to have this stuff. You know you are coming here for a use variance, you know what the criteria is; you know what the tests are. This isn't anybody's first barbecue. You need to have this stuff. You need to prove it to us. I feel you don't have it.

Steve Morey: Bare in mind, we can't make a final decision on this at this meeting.

Cirino Bruno: Why, if they don't meet our test. The County has the right to say it doesn't meet their test, if it doesn't meet our test.

Jim Crowley: We don't have to take their advice.

Cirino Bruno: If they say no, we have to take their advice. If they say yes, that doesn't mean we have to take their advice.

Jim Crowley: If they make a recommendation that doesn't mean we have to take that recommendation.

Jacqueline Ricciani: They make a recommendation, if this board acts contrary to their recommendation; it has to be by a super majority vote.

Jim Crowley: We might not even get to that.

Jacqueline Ricciani: I suppose whatever your decision is, if it is unanimous, then if the County recommends one thing, and this board's vote is in accordance with that, then you are fine. If the County recommends something else, and this board is contrary to that, if it is unanimous, or a super majority, then that would be okay. But in addition to giving the recommendation, the County now has changed their format of what their 239's look like, so in addition to giving their recommendation, they also give other kind of technical comments, other things they want you to consider. If you want to run through the criteria, and see where you stand, hold it open until the next meeting.

Jim Crowley: You may not have to.

Jacqueline Ricciani: If it is unanimous or super majority. Whatever the County says, depending on



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how the vote comes out you would have to satisfy the 239 end requirements.

Steve Morey: Yes, I understand. So, criteria number one, our response is no, we have no information.

*Board is in agreement*

Steve Morey: 2. *The hardship is unique- it does not apply to a substantial portion of the district or neighborhood.*

Richard Conroy: Since we don't have number one, we can't do number two. We don't know what the hardship is. They say they can't make any money.

Steve Morey: That was brought up.

Victory Kask: It is a nonconforming use

Jacqueline Ricciani: If I could just refer the board to Section 345-50 in your code. It gives more of an explanation, with respect to the unique hardship, page # 345:92.7, paragraph #3, it talks about unique hardship.

Steve Morey: Reading paragraph – “Unique hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this chapter, the Zoning Board of Appeals finds that the entire parcel of which the development project is a part possesses unique characteristics that distinguish it from other properties in the area.”

Steve Morey: I am inclined to respond to our checklist as no, but looking for input.

Cirino Bruno: I would also say no.

Jim Crowley: Me too.

Jacqueline Ricciani: One thing that I would suggest that you consider is as we all know, bungalow colonies are preexisting nonconforming throughout the town. So any bungalow colony that wants to expand is going to be in exactly the same position, which makes this not any different than anybody else. There is no uniqueness about this, because all bungalow colonies are going to be in the same position.

Cirino Bruno: Exactly. And our code does not permit expansion.

Richard Conroy: So basically if there is nothing special about this project, it's no.





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Cirino Bruno: Correct.

Steve Morey: I am looking at it differently, maybe I am wrong. The hardship is unique; it does not apply to a substantial portion of the district or neighborhood. Our code does not permit bungalow colonies, nor expansion of preexisting non-conforming uses. Would that make it unique?

*Consensus of board – No*

Steve Morey: 3. *The requested use variance, if granted, will not alter the essential character of the neighborhood.*

Jim Crowley: You are definitely increasing the density.

Randy Wasson: We are increasing population.

Jim Crowley: Right. That is density. It is increasing it 100%. You have increased twice the number of people. You are increasing the population, density.

Cirino Bruno: Excuse me; haven't we already determined that you have increased the square footage by 49%?

Randy Wasson: Increasing by 4,700 square feet.

Cirino Bruno: Which was 47% increase?

Randy Wasson: Yes, 50% increase.

Jim Crowley: You are going from 14 bedrooms to 30 bedrooms that means density will increase. More people will be occupying.

Steve Morey: Lot coverage will increase.

Richard Conroy: Bungalow colonies are not allowed.

Randy Wasson: That is why we are here.

Cirino Bruno: We have been entertaining this to long.

Jim Crowley: As you know, use variances are very difficult, very had to obtain, even in the best of circumstances, they are almost impossible.





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Richard Conroy: You have 5,000 square feet of coverage now, and you are increasing by 4,700? That is almost double.

Steve Morey: There is a paragraph, which is in the Codebook, 345-92.7 paragraph #4: Speaking about potential character of the neighborhood. Reading section.

“In making its determination of whether the proposed development project will alter the essential character of the neighborhood, the Zoning Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation:

[i]

The rural residential, agricultural and historic character of the Town;

[ii]

Its irreplaceable recreation and tourism sites;

[iii]

The extent of hazard to life, limb or property that may result from the proposed development project;

[iv]

Health impacts;

[v]

The social and economic impacts of traffic congestion, noise, dust, odors,

The impact on property values; and

b.

Whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Town.”

In order to find that the proposed development project does not alter the essential character of the neighborhood, the Zoning Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the development project will not do any of the following:

[i]

Pose a threat to the public safety, including public health, water quality or air quality;

[ii]



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Cause an extraordinary public expense; or

iiii

Create a nuisance.

Richard Conroy: I am little concerned with the sewer.

Jim Crowley: If you are going to have twice as many people there, you are going to have twice the sewer, twice the water useage.

Steve Morey: Granted, but I believe it is more of an issue for the Planning Board, should it go to the Planning Board, and they do have an engineer's plan for a septic system.

Jim Crowley: I'm just going by what you read.

Cirino Bruno: This is an exasperation of a prohibited use. This is a grand fathered situation, which is looking to double its size in population and square footage; it is going in the wrong direction is materially adversely altering the situation. It doesn't pass any of these four tests, in my opinion, no matter how long we belabor this. In hindsight, maybe we should have told this applicant this earlier.

Victor Kask: I agree.

Steve Morey: Let's respond to our criteria. The requested use variance, if granted, will not alter the essential character of the neighborhood.

Richard Conroy: Based on what you read, I think it will.

*Consensus of the board – Yes*

Steve Morey: 4. The hardship has not been self-created.

Jim Crowley: It has.

BJ Gettel: Just so we have it from the board. The answer to number 1 is no, the answer to number 2 is no, the answer to number 3 was yes, and the answer to number 4 was yes.

Steve Morey: With number 3, I would say our answer is "will alter" rather than say yes or no.

Jacqueline Ricciani: With respect for number 4, for the self created nature of this hardship. We need a little bit of discussion.



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Cirino Bruno: Why do you need discussion Jacy, when you have a bungalow colony that was grand fathered in, and there is an application now for a variance that is requesting 100% increase in population and square footage when you have a code that says there shall be no expansion, unless you have got some extraordinary extenuating circumstances.

Jacqueline Ricciani: In order for the board not to make an arbitrary and capricious decision, you need to give some rationale.

Cirino Bruno: I respectfully disagree, but you do what you want.

Jim Crowley: You just gave it.

Cirino Bruno: It's not arbitrary, it's not capricious. It doesn't comply with any of these criteria.

Jacqueline Ricciani: And if I could just have a little explanation as to why this board this board believes that it is not self created? That would be helpful to me at least in drafting....

Cirino Bruno: Why would we believe it is not self-created? It is self-created.

Jacqueline Ricciani: Correct.

Cirino Bruno: More than that I may have to take a lesson in creative writing in speaking.

Jim Crowley: It is self-created because ...

Richard Conroy: They bought this property in 2012.

Jim Crowley: The zoning says you can't expand bungalow colonies.

Steve Morey: Now we are getting somewhere.

Jim Crowley: That is the first and utmost one. And then the variance is to expand, and it is to expanding 50 % + in square footage in buildings and 100% in occupancy.

Victor Kask: They knew what they were buying when they bought it. We are not here to make it easy to make money for other people, we are here....

Richard Conroy: In 2012, bungalow colonies were not permitted.



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Steve Morey: Under our code definition under self created hardship, I won't read them all, but c of paragraph 5 states. When the applicant purchased the property he or she should have known the property was subject to the zoning restrictions from which relief is sought. I should read the others because.....

Jim Crowley: That covers self-created right there.

Richard Conroy: They purchased in 2012, they should have known then they weren't allowed, and now they want to expand it, they bought it anyway.

Steve Morey: I guess the response to what you brought up Jacy is they should have known the restrictions that the code doesn't permit an expansion of a nonconforming use.

Jacqueline Ricciani: That just happened last year.

Cirino Bruno: No. The non-expansion was there last year. That was a different issue Jacy.

Jacqueline Ricciani: I stand corrected, you are right

***Motion to deny application based on above criteria by Richard Conroy, second by Jim Crowley***

***Roll Call***

***Daniel Brey – Yes to deny***

***Richard Conroy – Yes to deny***

***Victor Kask – Yes to deny***

***Cirino Bruno – Yes to deny***

***Jim Crowley – Yes to deny***

***Steve Morey- Yes to deny***

***Motion passed to deny-6***

Steve Morey: I don't want to make you wait, but your applicant also is the third item on our agenda for an area variance.

Randy Wasson: I don't think we need it.

Steve Morey: Do you want to withdraw that application?

Randy Wasson: Yes, we can withdraw that.



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**2. *Application for a Use Variance for a Conservation Subdivision to be located on Route 55 next to Daytop, known as Bethel Tax Map # 13-1-9.2 & 10, proposed by Forest River Estates, LLC (Wasson)***

Steve Morey: I would like to recuse myself from the proceeding with this application and turn the meeting to our Vice Chairman, Jim Crowley.

Jim Crowley: Okay, Randy, we are ready when you are.

Randy Wasson: Okay, just a quick refresher. This property consists of two parcels, total is approximately 45 acres. It is in the RS zoning district. We propose a conservation subdivision, a total of 58 single-family homes, the project will be served by its own well water, and own sewage treatment plant system. We did a yield plan, which this is a conventional subdivision plan, meeting the zoning. These are half-acre lots. Showing on map, the water supply is shown here, possible sewer treatment plant here, this is Rt 55, this is Gary Meyers, and this is Daytop. I believe this meets the requirements; there were some questions last month about whether there would be a private or public sewer. I did some more research I think we would meet the requirements for that, based upon definition upon other sections in the code, we would meet that and then we would have to..... one of the first things we would have to do, if we have the variance from this board, is to go with the cluster layout, because in this zone it doesn't allow conservation subdivisions. .

Jim Crowley: Are you saying it is public or private?

Randy Wasson: It will be a public utility, it won't be municipal. It would be a transportation corporation.

Richard Conroy: But that is not what the definition says in the code.

Randy Wasson: It does say that.

Jim Crowley: I read that too. Because it is still a governmental governing body ....the Board of Health, it still comes under that, the water, the sewer, the DEC.

Richard Conroy: But they aren't going to operate it?

Jim Crowley: This is something that is really unique, because actually I feel this whole process is putting the cart before the horse. You still have to get town board approval on this, I would think the way it should work, it is backwards, and you should seek town approval to see if they approve the sewer before we go through all this.



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Randy Wasson: I think the problem with that is we have to be farther down the road as far as a design standpoint. .

Jim Crowley: Maybe the town board won't want to entertain another sewer. We have a town board member right here, what are the town boards feeling on these sewers?

Dawn Ryder: I can only speak for myself, I am not in favor of a private sewer, I would want it built and would want the town to run it and operate it.

Jim Crowley: You would want the town to run it at taxpayer's expense?

Dawn Ryder: No it would have to be built.....

Jim Crowley: and charged back to them? So they would have their own sewer district for this?

Dawn Ryder: That would be the only way I would approve it.

Jim Crowley: Lillian, you are another board member.

Lillian Hendrickson: I think it should be brought before the whole town board to figure out to have it done properly. I really don't like having my own sewer over here, and this one is having their own sewer over there, it's just not right. Even Bethel Woods had to tie into our sewer, and also Mysteryland paid the sewer department for their gray water.

Randy Wasson: Your town board allows it.

Cirino Bruno: We are talking about sewer, and I am looking at an application for a use variance. As a cursory review of the four standards, I don't see how they pass any of the standards. I think we are jumping ahead worrying about sewers.

Jim Crowley: Which one of these do you want to do; eventually we are going to have to pick a plan. That is the plan you want. And you know conservation subdivisions are not permitted in that district, correct?

Randy Wasson: If I am doing this one, I don't need to before the board. I would like to do 58 units. A conservation subdivision. We are doing this for a couple of reasons. 1. This is the model of most of the developments, you saw the one in the paper a couple of months ago, in the Town of Thompson, it is basically this, almost the same amount of units, there were 65 units. The town code, the comprehensive plan pushes conservation subdivisions. It doesn't distinguish zonings. I read a couple of passages a few



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months ago, and they push this sort of thing, they want to see protection of natural resources. There is less clearing, you get that. What we are saying to you, we know this doesn't meet the code otherwise we wouldn't be here, but we feel that these 58 units is superior to this, and then it might be something that would be desirable from the town standpoint because of the footprint.

Cirino Bruno: Mr. Wasson, for your benefit, and for the benefit of my board. There was a major rezoning and revision to the zoning code done recently, in the last 3, 4 5 years. In that comprehensive plan, this area, while there is a push for comprehensive easements, this area was left off the chart. If we were to give you this conservation easement here, the next person that comes along says I want a conservation easement project there, and before you know it what was thought out, I would imagine after a great deal of thought, in an area that was left with no ability to have conservation easements, courtesy of giving you for your project a conservation easement we have decided to superimpose on the decision made by the board in revising the zoning code, and create this, an area for cluster housing. I am personally telling you I am not comfortable doing that.

Randy Wasson: I can appreciate that. I'm saying to you that this parcel, this area might be a little unique in the sense it does have so much frontage on the river, it is back from any public roads, all these roads would be private, as would the sewer and the water, if we pass muster with the town board, it would be unobtrusive, it would be tax paying, and it would be out of the way, and protected. You have asked on a couple of occasions, and I can't define it exactly, it would be something like that, a conservation easement for protection of the river corridor.

Jim Crowley: There is a whole criterion on making it a conservation easement. There is a whole guideline.

Victor Kask: Did you alter the contour lines on the map? Is it truthful that you can physically get 58 houses on there? I know usually they don't care about the topo

Randy Wasson: We laid the roads out first, based on the topo; we want to make sure there is a build able area on the lot.

Victor Kask: That is physically doable?

Randy Wasson: Yes

Dawn Ryder: Can I clarify you can get 20 something there with the current code without a sewer?

Randy Wasson: That's right.

Richard Conroy: That is what we discussed last meeting.





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Victor Kask: You are in effect increasing density by two times by going to the conservation district.

Jacqueline Ricciani: I have to add, I disagree with Mr. Wasson, I really don't believe that this package plant they are proposing meets the definition in our code with regard to a public sewer. When you look under the sewer part, not the zoning part. Referring to Pg # 257:3 – Public sewer, it is the sewer section.

Jim Crowley: Public sewer – A common sewer controlled by a governmental agency or public utility.

Randy Wasson: That is the definition. A public utility can be a transportation corporation.

Richard Conroy: No, that's not what it says.

Randy Wasson: Okay, bear with me. 257 -48 b, page 257:26, Article 4, 257 -48, paragraph b, that says any wastewater treatment systems for new commercial .... basically what that says is sewer systems for commercial and institutional and conservation subdivision shall be designed in accordance with New York State DEC, and NYS Health Department standards. I think the implication is that they are appropriate.

Richard Conroy: I disagree. It is a private sewer run by an HOA.

Randy Wasson: Section 300 – 25 which is sewage disposal, section a, PG 326.

“Sewage disposal. The subdivider shall investigate and determine the feasibility of the following in the following order:

(1)

Connecting to an existing municipal central sewage disposal system; and

(2)

If it is determined to be unfeasible to connect to an existing municipal central sewage disposal system, then the subdivider shall consider constructing an on-site central sewage disposal system or connecting to an existing off-site central sewage disposal system, unless the lots are located within the AG or FC districts, in which case an on-site central sewage disposal system shall only be constructed if the subdivision is a conservation subdivision;”

Jacqueline Ricciani: That doesn't make it public. Just because it is something that is provided, just because it something that is to be investigated, doesn't mean because it is written in here that it automatically becomes a public system.

Randy Wasson: Okay, I'll finish reading it then.



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“in the event the subdivider constructs an on-site central sewage disposal system, the subdivider and the Town shall enter into a developer's agreement establishing the requirements for the ownership and maintenance of such on-site central sewage disposal system, which agreement shall be approved by the Town Board and also approved by the Town Attorney as to form and manner of execution and the Town Engineer as to sufficiency; “

Jim Crowley: Randy, you are here for a use variance for a conservation subdivision.

Randy Wasson: Right.

Jim Crowley: That is what we are going to focus on. The Town Board, the Planning Board, this sewer deal that will be theirs. That is not our problem. We are going to deal whether that is permitted, and that only, that is what your variance is for, conservation subdivision. We have no control over the sewer that is the Planning Board, and a Town Board issue.

Jacqueline Ricciani: What the applicant needs to do is lay out a conventional subdivision. That determines the number of houses that he can put in his conservation submission. His layout of a conventional submission with half acre zoning to get 58 units, if it turns out that it really should be one acre zoning because of this sewer district then he would have maybe half that number.

Jim Crowley: I disagree. That plan there, it is great Randy, but that is not what we are talking about, correct? You want a use variance for that conservation submission, correct?

Randy Wasson: Yes

Jim Crowley: Or do you want both?

Randy Wasson: No, that is what I want, but last month I got kicked out because it was decided that we can't move forward because I can't do a central sewer because it needs to be privately owned.

Jim Crowley: Do you understand what my frustration is? It is very hard to move forward on any of that, until that is done.

Randy Wasson: I agree.

Jim Crowley: As far as your application on the subdivision I feel the sewer is not our problem. We can't make a decision on it, that is a Town Board decision, and then it will become a Planning Board problem. It is not a Zoning Board issue. The Zoning Board issue is whether this conservation subdivision which is not permitted will get a use variance so it can proceed forward in whatever hurdles you have down the road.



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Richard Conroy: When we ended this last month, the last word on this was by you said, I will go to my client and see what he wants to do, so apparently he didn't want to do anything.

Randy Wasson: After the last meeting I was under the impression we.... I didn't have this with me. We had kind of touched on it, as the town needs....

Richard Conroy: Through the minutes, everybody here said it sounded like one acre zoning, and you said, "I will go to my client and see what he wants to do." So, apparently he didn't want to do anything, because you didn't go to your client.

Randy Wasson: Yes I did, he wants to do.. and all I am doing is saying to you, because last month you said we couldn't do this, I am saying with Town Board approval, and subject to the variance, I think we can do this. I can't go to the Town Board unless I have a use variance.

Jim Crowley: Are we all good, questions?

Daniel Brey: Is it half acre, or acre?

Jim Crowley: With conservation subdivision, Dan, there are criteria you can cluster the homes if you have central water and central sewer. What you do is cluster them together so then they are supposed to get more conservation easement, which is somehow, which isn't our problem either, deeded as communal land, HOA will run it, they will have to pay fees to maintain it.

Richard Conroy: It gets them away from the setbacks, by setting the houses closer together.

Jacqueline Ricciani: But if turns out that it should be the one acre zoning, then the picture you are looking at for the proposed conservation subdivision is going to look different.

Jim Crowley: He wants to go with this, so we will go through this process, so if it gets approved, it will go forward, it gets denied then he will have to submit another application to proceed with his plan B. I am not going to entertain a, b or c plans. We are going to do one, complete one, and then move forward. If he wants to submit an application if he gets denied for another plan. Then the process can start over again. It is a new plan, a new day.

BJ Gettel: I have enough information to submit for a County 239. What is the board's pleasure for next month?

Jim Crowley: I will entertain a motion that it goes to public hearing.



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Richard Conroy: We can't do anything else, we can't vote on it.

Jacqueline Ricciani: In talking about a use variance, we are talking about something that involves subdivision, so SEQRA is going to play a role. When you do your environmental review, because it cannot be stagment, stagmented review is very much frowned upon. And as this goes through the system, there will be other environmental reviews, taking into account different things when it goes to Town Board and again when it goes to Planning Board for the subdivision approval. I just want to advise you now when you do your SEQRA just be mindful that there will be additional review, that this is moving through the process and this is not the final step.

Jim Crowley: Correct. BJ, you will notify the County?

BJ Gettel: I will take care of the County 239.

***Motion to go to public hearing for September 21<sup>st</sup> by Richard Conroy, second by Daniel Brey***

***All in favor – 5***

***Opposed-0***

***Agreed and carried***

Jim Crowley: I just want to remind you Randy, make sure you bring the financials. I will turn the meeting back over to the Chairman.

***3. Application for an Area Variance to expand a preexisting non-conforming use located at 186 Lee Cole Road, known as Bethel Tax Map # 9-1-6, proposed by JJ Enterprise USA, Inc. (Wasson)***

***a. Enlargement of 3 two story buildings***

***b. Decrease a 4 unit to a 2 unit***

***c. Construct 2 single family units***

***Application withdrawn – No use variance***

Withdrew – application.

Steve Morey: That concludes the agenda items that are on our agenda. However, we do have a vacancy, so I am curious.

BJ Gettel: There was a hiccup, so it was not advertised.

Steve Morey: We will table to our September meeting. Dawn, do you have any input; you mentioned



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solid waste was a big topic coming up with the Town Board.

Dawn Ryder: We passed the solid waste; there are criteria for certain amount of junk. Junk being cars, refrigerators, appliances, couches...

Steve Morey: It will be a revision to our codebooks

BJ Gettel: Yes a revision is coming.

Jim Crowley: What is the definition of junk?

BJ Gettel: I don't have it with me; I don't want to say it incorrectly. I think it is junk automobiles...

Jim Crowley: The reason I say it, I have a junk car, who's definition is it that it is junk. I may think it is not junk, I may have another car, the same car, and that is a parts car. To me that car has a lot of value.

Dawn Ryder: That's fine, but it can't be more than five. So there is number and criteria.

BJ Gettel: According to New York State property maintenance code, one unlicensed, unregistered, inoperable.

Steve Morey: It has to meet all of those criteria?

BJ Gettel: Yes.

Jim Crowley: So if it still operable, then it isn't junk. I don't have a problem with this, but you know a lot of this is completely unenforceable laws. It is laws that are enforced when it is convenient for a municipality to enforce them. I am just saying. One man's junk is another man's treasure.

Dawn Ryder: I agree with you.

Steve Morey: Mr. Gettel, do you have any input to our meeting?

Daniel Gettel: Nothing

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

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

8:37 pm



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Respectively submitted,

*Gannetta MacArthur*  
Recording Secretary