



Town of Bethel
Zoning Board of Appeals

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

Randy Wasson: Just to review, this is the former Hotel Otradnoye. This is Old White Lake Turnpike. It is in Swan Lake. This is the former site where all the buildings are. We received from the board, I should back up, it was a hotel, and it is being converted to a summer camp. As a result of that conversion, the town zoning requires very large setbacks on all sides, 200 ft. In the front and the back, 150 ft., on the sides virtually none of these buildings met any of those setbacks. The board was good enough to grant us the variances that are listed right here last year. At that point and time we represented that this building # 13 was going to be removed. We didn't request a variance because the reason why that we didn't was we were going to tear it down because we were going to put the bus parking for the campers in this area, and they would have room to maneuver and park right there, off of this existing driveway here. The camp subsequently acquired the piece of property that adjoins it, which is this long piece here. Buttrick Road is right here, so they acquired this piece, and then we decided to bring the buses in on this upper driveway and park them over in this area, and as well have a larger parking area here. It has always been a headache with cars and buses on White Lake Turnpike. As a result of that change in plan, we don't really have to take down building #13. We would like to keep it. To keep it we would need another variance from the board for 52 ft. from the presumed line back to that building for the front yard setback. We don't need any other variances for that building; it meets the side yard and rear yard setbacks. That is what we need in order to keep it.

Cirino Bruno: Mr. Wasson we have previously given you a variance of 50 plus feet on another building correct?

Randy Wasson: Correct. 56 ft. on building #2, and also 33 ft. on building #12.

Steve Morey: Thank you. Is there anyone here from the public that would like to comment on this public hearing?

No one

Steve Morey: Any other questions from the board?

No one

Motion to close public hearing by Jim Crowley, second by Cirino Bruno.

All in favor – 4

Opposed-0

Agreed and carried

Steve Morey: We have a choice now, we can deliberate about this application first, or go into our second public hearing and deliberate on either or, or both or whatever.



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Jim Crowley: Let's finish this one.

Cirino Bruno: I move that we grant the variance.

Jacqueline Ricciani: You have to go through your criteria first.

Cirino Bruno: I move that we grant the variance based on the criteria we granted on the previous approval.

Jim Crowley: I agree. We gave them 56 ft. last time.

Steve Morey: The way I understand it we granted a conditional variance based on those lots being combined.... have they been combined?

Randy Wasson: Not yet. We are before the Planning Board at this point and time. They will want us to combine.

Jacqueline Ricciani: I would like to remind you that you reviewed the two larger zoning variances.

Steve Morey: Is there work going on at this site?

Bette Jean Gettel: Not at this time.

Steve Morey: We still need to go through the criteria.

Jacqueline Ricciani: And just as a reminder from last time, I have the decision if anybody wants to take a look at it. You really just selected the two extremes and did the criteria for them, and one of the two extremes was building #12 that Randy just pointed out that had the large variance granted. So each individual building was not reviewed. Now you are looking at an individual building, you really need to go through your criteria.

Cirino Bruno: The building which we reviewed they sought for 52 ft. For both criteria which we granted, we should grant this one, but if you want to go through it.

Jacqueline Ricciani: I think that is the proper way to go through this application. There are criteria in the code that you are supposed to consider.

Steve Morey: Reading the Area Variance.



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Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: No.

Jim Crowley: Look at the map. Look at all the buildings on that property. There are already 12 buildings. How does it change the neighborhood? It has been there for years.

Steve Morey: I agree, it has been there for years. I don't see how it is going to change the character of the neighborhood.

Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. No

Steve Morey: Nothing has changed there, as far as trying to purchase other properties. They did acquire that other parcel as of last year.

Jacqueline Ricciani: You can't change the location of the building.

Whether the requested area variance is substantial. Yes

Steve Morey: What is the setback of that building again?

Randy Wasson: 52.

Jacqueline Ricciani: It's currently 52?

Randy Wasson: We need an additional 148ft.

Jim Crowley: It is very substantial, but not more than the other one.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; No.

Steve Morey: It is the same answer as the other.

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Zoning Appeals, but which consideration shall not necessarily preclude the granting of the area variance. No.

Jim Crowley: When was that building built?



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Randy Wasson: Don't know. '50's 60's.

Jim Crowley: We didn't have zoning until '66. This building I'm sure predates that.

Steve Morey: If it was built before zoning, then it wasn't self created.

The only question we answered yes to is if the requested area variance is substantial, otherwise 4 out of 5 we answered no.

Motion to approve variance, all fees be paid and the parcels are combined by Jim Crowley, second by Cirino Bruno

Roll call vote

Cirino Bruno - Yes

Jesse Komatz- Yes

Jim Crowley - Yes

Steve Morey – Yes

Motion passed.

Randy Wasson: Thank you very much.

2) Public Hearing for an area variance located at the corner of SR 17B and Plank Road, known as Bethel Tax Map #: 38-2-81, proposed by Black Oak Buildings. (Noeth)

Motion to go into public hearing for the proposed area variance by Jim Crowley, second by Cirino Bruno.

All in favor – 4

Opposed-0

Agreed and carried.

Return receipts received.

Ivan Kalter presenting: Dr. Noeth has three parcels. One of the parcels is 9/10 of an acre, where she operates her chiropractic business, the business to the right. There is a second parcel with 1.2 acres over here, and the third parcel which we decided has about 9/10th of an acre. A total of 3 acres. These



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buildings that you see here have since been removed. So this is a vacant parcel.

Jacqueline Ricciani: I'm sorry, what is 9/10th of an acre?

Ivan Kalter: This one, the Wild is now vacant. This old map, it shows a building, it is now vacant. Dr. Noeth intends to have a shed business. The sheds are shown on the brochure that I provided to you. Most of the sheds will be on the Wild parcel. We are seeking an area variance; the zoning requires two acres per business, for a total of four acres. We have computed this has three acres. We take a position that there will be no change in the nature of the neighborhood. The area variance is not substantial, it is one acre. We already have three, we need four. It will not change the nature of the area. It is not self-imposed and it is consistent with the commercial area of RT 17B and Plank Road. It is commercially zoned RT 17B.

Jacqueline Ricciani: Mr. Kalter, I disagree with your computation leading to having three acres and only needing a variance of one.

Ivan Kalter: We did it before. You came up with 9/10th of an acre for the Wild parcel.

Jacqueline Ricciani: No, that was .3.

Steve Morey: The other parcel is .9, and the other is 1.2.

Ivan Kalter: I was under the impression it came out to 3, but....

Jacqueline Ricciani: Lot 81....

Ivan Kalter: This would be 2.1, and whatever this is.....

Jacqueline Ricciani: No, that is 1.2.

Ivan Kalter: This is 1.2, and this is .9, and whatever the Wild parcel is.

Jacqueline Ricciani: It is .3.

Ivan Kalter: In fact I marked it Jacy.

Jacqueline Ricciani: It is .3 that is correct.

Ivan Kalter: If it is .3 then we have .3, then we have 1.2, 2.4, we need 1.6. Which once again will not



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change the nature of the area. It won't change any of the other requirements, an area variance it might be an upgrade with the landscape plan that has been submitted. If it is required we might need to combine all three lots. The Planning Board might require us too.

Steve Morey: Would you like to display that other poster board?

Dr. Jamie Noeth: If you would like us too.

Steve Morey: I don't know if there is more detail.

Dr. Jamie Noeth: Not really.

Cirino Bruno: Mr. Kalter, these are moveable, correct?

Ivan Kalter: Yes, they are all mobile. It is referred to on the map as the Wild parcel. Again it does not create an adverse effect to the area. It is the way the property is. The three parcels that Dr. Noeth owns. We believe an area variance would be appropriate under the circumstances.

Jim Crowley: How many sheds are we talking about?

Ivan Kalter: Roughly nine.

Jacqueline Ricciani: I don't believe that is to scale.

Ivan Kalter: If the drawing is accurate, it is roughly nine. It is shown in the upper left hand corner. The circular shows the type of sheds that are going to be sold. As you can see those sheds are rather small. They are not for residential use, they are attractive sheds. If you think of it that way it would be an upgrade with the schematic. They would be off the highway. There would be only one that would be close to the highway, and the rest of them can be shown on the site.

Jacqueline Ricciani: Again, the location of the sheds is something the Planning Board is going to consider. That would be the applicants next stop if the variances are granted here, it still has to go to the Planning Board. You will need a site plan.

Ivan Kalter: Of course we would have to comply with setback and any other requirements there are. That is going to be for Mr. Zeiger.

Steve Morey: Is there anyone here from the public that would like to comment on this application?



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No one.

Motion to close public hearing by Cirino Bruno, second by Jim Crowley.

All in favor – 4

Opposed-0

Agreed and carried

Jacqueline Ricciani: Before you go through the criteria, you have to do a M239.

Steve Morey: I just wanted to ask this, when you counted.... in response to the number of sheds that you were showing, how many sheds are you planning? I see ten.

Ivan Kalter: One might be hidden by the trees, so there could be possibly ten. Once again this is a plan; it can be changed by the Planning Board.

Steve Morey: Did we get a response from the County on the M239?

Bette Jean Gettel: Local determination.

Steve Morey: Reading from M239 County. This is from the County. Copy on file in Town Hall. The State responded as well.

Jim Crowley: You are not proposing to do any of this in any right of way, right? You stated last time you are using your current driveway of your business. You're not coming off of 17B, your driveway entrance is off of Plank Rd, and so it doesn't really come into play.

Jacqueline Ricciani: What you are looking at, it says suggested house.

Jim Crowley: That has nothing to do with this.

Ira Kalter: We are not going to need that driveway.

Jacqueline Ricciani: It also seems what you are looking at might have been for residential development, because at the end of the driveway it says adjusted house.

Jim Crowley: That is a whole different can of worms. That has nothing to do with this.

Ira Kalter: That is correct. If we want to use that driveway we are going to have to comply with the DOT.



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Jim Crowley: It has nothing to do with this piece, because you can't even get there, you have another piece ahead of it before 17B, this Outdoor Media Corp.

Jacqueline Ricciani: It seems that is what was submitted to the County and the State to review submitted to them. This is what was submitted. They review what is submitted to them.

Jim Crowley: It null and void in this case.

Ira Kalter: You're correct; it has nothing to do with it.

Jim Crowley: I realize you were just reading it Steve; I just wanted clarification on it, that's all.

Motion to file and receive correspondence by the County and the State by Jim Crowley, second by Jesse Komatz.

All in favor – 4

Opposed-0

Agreed and carried

Steve Morey: I am still a little confused by this property. There are three parcels here. Are they combined?

Ivan Kalter: They are on three separate deeds. We might have to combine the properties if it is required.

Steve Morey: It is my understanding that you have already been to the Planning Board, and then they sent you to the Zoning Board of Appeals for the area variance. Based upon.....is your presentation to the Planning Board been the same as to us?

Jamie Noeth: Yes.

Steve Morey: We discussed in the work session whether or not... it is two businesses, and these lots were all combined, you would need a total of 4 acres. However, if you are not combining these lots, and only going to this .3 acre, the former Wild owned property, it is a different variance all together. Do you understand what I mean?

Ivan Kalter: That's correct. Jacy and I had a disagreement, because if we are only talking about Lot 2, and the Wild lot, then we have 1.2, 1.5, and we need 5/10ths of an acre for a 2 acre variance. Jacy's position is ...

Steve Morey: Just a minute, you just said 1.2, and 1.5, where is that number coming from?



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Ivan Kalter: Let's start again. My position originally was that we were here with regard to Lot 2 and Wild. And that we need 2 acres, and that the combined acreage of Lot 2 and Wild was 1.5, so we would only need 5/10ths of an acre area variance. Jacy's position is that because we have one business on 9/10ths of an acre that we need a total of 4 acres. If Jacy is right, we need an area variance of 1.5, 1.6.

Jacqueline Ricciani: For the record to be clear, this is not my position, this is the Planning Board's position that I had just relayed that information to Ivan Kalter, to give him some background on why this application was here. I merely reported to Mr. Kalter.

Jim Crowley: What is the Planning Board's position?

Jacqueline Ricciani: The Planning Board's position is that for the two businesses that are going to be run from this parcel... let me just say something on the side, there have been cases where an applicant owns contiguous parcels, very often they are combined, but that is not always the case. So what you have here is an applicant who owns three contiguous parcels. The applicant seeks to operate two businesses on this land. Each business under the code needs two acres. So the Planning Board has taken the position in the past, and took the position with this property that if you are going to have two businesses you need four acres. That is what brought the applicant here.

Jim Crowley: That makes sense.

Steve Morey: I tend to agree with you.

Ivan Kalter: The bottom line now is if the Planning Board position is correct, that we are 1.6 acres short, and we are asking for an area variance...

Jim Crowley: To combine that, because it is such a small piece of property, why not add it to the others.

Cirino Bruno: I would combine them.

Jim Crowley: I think you would be ahead of the game, what else are you going to do with it?

Ivan Kalter: Earlier we said, we would be willing to do that if required.

Jim Crowley: The other argument is, these are not permanent structures. They are sheds. You load them up and take them away. It's not houses; it is not a permanent thing.

Ivan Kalter: There could be five or ten, depends.



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Jacqueline Ricciani: I'm not sure about the topography, it might not allow it.

Ivan Kalter: Either way, how you compute it, we need an area variance.

Jesse Komatz: The benefit to the applicant is that right now they have a business that is non compliant. If they combine it and they get a variance..... by combining all of this and getting a variance, if we grant it, that covers that.

Jacqueline Ricciani: What is existing right now is 2.4 acres, but to add a second business she needs more land.

Jesse Komatz: If they are combined.

Jacqueline Ricciani: Correct.

Ivan Kalter: We will do just one deed.

Jacqueline Ricciani: You don't even have to do a deed. It is just a combination to the Assessor's office. To Mr. Crowley's point earlier, there is a good likelihood based upon the initial presentation to the Planning Board, there is a great likelihood that the Planning Board is going to make combining them a condition of their approval anyway, if it gets approved there.

Jim Crowley: We are going to look at it as they will be needing 1.6 acres.

Steve Morey: They have 2.4, they need 4, for the area variance, they need 1.6 acres.

Jim Crowley: Jesse, Cirino, yes?

Jesse and Cirino – agree.

Steve Morey: Let's review our criteria once again.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. No.

Jim Crowley: There are already garages, other businesses there. 7X motors, restaurants, it's commercial.

Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant



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to pursue, other than an area variance. No

Jim Crowley: Can you buy any more land?

Jamie Noeth: Right there, right now, no. Mike Cassaro is not going to sell his billboards any time soon.

Steve Morey: Looking at this map, the Cassaro piece of property looks to be smaller, so if it was available, the variance would still be necessary.

Whether the requested area variance is substantial: Yes

Jim Crowley: Number wise it is substantial.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; No

Jim Crowley: They are temporary structures.

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Zoning Appeals, but which consideration shall not necessarily preclude the granting of the area variance. Yes.

Jesse Komatz: They decided to put a business there.

Steve Morey: Does anyone have any other questions or comments?

Jacqueline Ricciani: Before you make a motion, I think you should discuss the conditions. I am going to suggest that you put an additional condition on it. That the applicant obtains a special use permit from the Planning Board to operate this retail business. She shouldn't be able to do anything else on the property, just the sheds.

Jim Crowley: I have to think a minute.

Steve Morey: If we grant the variance for a second business on that piece of property without a specific business in mind, it could become something other than a sales location for sheds. We would have no control over that. I think the point is we are trying to make this specific for what the applicant is applying for.

Cirino Bruno: I don't think the applicant has a problem with that.



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Ivan Kalter: I think the statute requires a special use also.

Jesse Komatz: A special use for non-permanent buildings.

Jacqueline Ricciani: It is a retail use. She needs a special use, it is a retail business, the sheds are going to be the outdoor display portion, but it is a separate business. She does need a special use permit from the Planning Board. The Town code requires it. There are a lot of different uses that are permitted in this zoning district. Retail sales are one of them. To do retail sales you need two acres. There are other types of businesses that are also permitted in this district that may or may not have that acreage, may or may not need the special use permit. I can certainly look up....campgrounds, day care centers, restaurants, and they have different requirements as to whether they need a special use permit or just site plan approval. They have different requirements for how much acreage they require. For this retail use you need a special use permit on two acres.

Motion to approve area variance with the following conditions by Cirino Bruno, second by Jim Crowley.

- 1. That the applicant obtain a special use permit from the Planning Board to operate this retail business. Nothing else is permitted, just for this use, retail business for sheds.***
- 2. The three properties should be combined as one.***
- 3. All fees be paid.***

Roll call vote

Cirino Bruno - Yes

Jesse Komatz- Yes

Jim Crowley - Yes

Steve Morey – Yes

Motion passed.



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Bette Jean Gettel: We had three applications to interview for the vacancy on the board. Wendy Brown is the only one that is here this evening. We will go into executive session, I don't know who you would like to invite. The three applicants were Jim Ahearn, who is currently away, Wendy Brown, and Dr. Joseph Pavlick.

Jacqueline Ricciani: Mr. Chairman, since I have no power at my house, may I be excused?

Steve Morey: Absolutely. I would like to go into executive session, and I would like to invite Dawn Ryder our liaison into the meeting.

Jim Crowley: Should we do this tonight? We only have part of the board here tonight.

Bette Jean Gettel: I would suggest that this would be a good reason to do it. You don't need to make your decision tonight.

Jesse Komatz: We will interview the other gentleman who is on vacation another time.

Steve Morey: I would suggest that Jannetta take minutes so the other members can read the information with regard to this applicant. Ms. Brown if you could tell us a little bit about yourself.

Wendy Brown: My husband and I have lived here in Bethel; I believe this is our 29th year. I have been in health care, private sector. I recently went to work for the County because I wanted to give something back. I committed to the Town of Bethel, among Healthy Bethel; I am a member of the Bethelites. I have always been involved in Planning and Zoning. That came by experience. We had a coop in Rockland County. When they starting to build the Tapanzee Bridge, I was one of four people that started a plan and went up against the Thruway Authority because of the zoning, and how it was going to impact our property. We were concerned about our property values, and I did a lot of research. We did our homework, we had our ducks in a row, I understood the traffic, and I understood all that stuff. I had binders of all of that information. The take away is that we won for our property 1.5 million dollars, from the New York State Thruway Authority, just to work with them to protect our property, and our investment. Through that parcel I always loved maps and that really solidified for me the other aspect for me. We see things in the paper all the time, people question how things were allowed I would like to be a part of the Zoning Board of Appeals.

Steve Morey: As a Zoning Board of Appeals we pretty much deal with conditions that property



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owners want to use their property for things other than the code allows them to do in the form of the use variance, and area variance like we did tonight, other than the code allows them to do. Once in a while we will get a request for an interpretation with someone that doesn't agree that the Building Department has given them the right answers or permission or something of that nature. Our schedule is the 3rd Monday of every month throughout the year. Generally we have a system through email, if there is not agenda, we are notified. There are 4 hours of training that needs to be done every year. You can carry hours over. I believe the Town Board can waive that condition as well if you haven't met the criteria.

Cirino Bruno: What part of Bethel do you live in?

Wendy Brown: Horseshoe Lake.

Cirino Bruno: Do you still live in Rockland?

Wendy Brown: No. I have been waiting for an opportunity like this. So when I saw this in the paper, I applied. My resume is my life. One of the things that I was involved in when I worked in a hospital in New Jersey, I was in charge of the construction.

Steve Morey: The State requires at least a 3 member board, but recommends a 5 member board. This is a 7 member board. Beyond the 7 members, recently the State made a mandated recommendation that you could have 2 alternates as well. We have been functioning with a 1 alternate.

Dawn to you have anything for us?

Dawn Ryder: Do you gentleman want to do training in the near future?

Steve Morey: I would like to do it on a meeting night if we don't have an agenda.

Dawn Ryder: If we could do it earlier that would be great.

Motion to adjourn by Cirino Bruno, second by Jim Crowley

All in favor – 4

Opposed-0

Agreed and carried

Respectively submitted,

Jannetta MacArthur



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Recording Secretary