



Town of Bethel
Zoning Board of Appeals

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

A Work Session was held on July 17, 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, Jim Crowley, Vice Chairman, Richard Conroy, Cirino Bruno, Dan Brey, Jesse Komatz, Victor Kask, Jim Ahearn, Alternate, Bette Jean Gettel, Code Enforcement Officer, Dawn Ryder, Liaison, Jacqueline Ricciani, Attorney, and Jannetta MacArthur, Recording Secretary.

Pledge to the flag.

Motion to approve minutes from the May 15, 2017 meeting by Richard Conroy, second by Cirino Bruno.

All in favor – 7

Opposed-0

Agreed and carried

1) 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. (Herman Fisher)

Steve Morey: Mr. Fisher would you like to tell us about this application?

Herman Fisher: I would like to ask for a use variance. He put on an addition without a permit. He knows he made a mistake. At the time when they bought this property it was a conforming use. Now they changed the law, it is nonconforming.

Jacqueline Ricciani: When did he buy the property?

Herman Fisher: I don't know.

Richard Conroy: In 2004, for \$42,000. There is no record on file that someone else owns this building.

Steve Kurlander: In the orthodox culture, they have agreements, handshakes; my client is a victim here. I represent Mr. Weinstock.

Cirino Bruno: Who is the applicant?

Steve Kurlander: Keilly. So you don't want me to talk?



Town of Bethel
Zoning Board of Appeals

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

Cirino Bruno: No, I'm just trying to figure out who is on first, and who the players are, all right?

Steve Kurlander: It is confusing. It really is. When I got this case everything was done wrong. I do not represent Keilly. They haven't been cooperative. It is a matter of trying to avoid litigation. I represent Abe Weinstock. You don't have to explain the law to me.

Cirino Bruno: It is an underground agreement, it's a handshake. It's pursuant to a ...

Richard Conroy: He doesn't own the property; he has no leg to stand on.

Steve Kurlander He was supposed to get shares from Keilly, LLC. It was never done. There are a lot of other owners in there. I call it a Ponzi scheme. I think that... I have been to the unit, it's nice. It's not like it was put up like a shack or a bungalow. Am I wrong?

Bette Jean Gettel: The interior was done to code.

Steve Kurlander: It was done wrong. It is not a safety risk. I am going to ask you to keep an open mind on this. I know right from the start it looks crappy. It really does.

Cirino Bruno: I'm not sure denying this won't help your client, resolve it. If we give him the variance, then your client is out in left field.

Steve Kurlander: Not really, because then when can go to the next step. We can move the boundary lines.

Cirino Bruno: You are going to have to sue to get ownership interest that you don't have right now.

Steve Kurlander: It is what I have to work with. It's not like....

Cirino Bruno: The question is, does the horse go before the cart or behind the cart?

Steve Kurlander: It is very important that we get this variance. It would be justification to establish ownership on my client's behalf, in terms of equity.

Richard Conroy: When did he get you to represent him?

Steve Kurlander: About a year ago. After the fact. I'm not saying it's not screwed up. It is fixable.

Cirino Bruno: I have a real problem with this.



Town of Bethel
Zoning Board of Appeals

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

Steve Kurlander: I understand you have a real problem with this, you are not wrong; we are here not to say things aren't screwed up. It is a matter of letting Mr. Fisher explain how they are going to try to fix it. It is fixable.

Cirino Bruno: So you need to fix it and then come back here.

Steve Kurlander: We can't fix it without the variance.

Cirino Bruno: That's not true. You're in court, you'll fix. You'll find out whether your client has any ownership interest at all, then we will find out which party has

Steve Kurlander: We don't want to sue the town.

Jacqueline Ricciani: Under what theory could you possibly sue the town?

Steve Kurlander: We are going to bring them in anyway.

Jim Crowley: Mr. Chairman, I have a question. I am completely lost here. I know this is the Zoning Board, and we deal with zoning right, and we deal with setbacks, and property lines, we don't deal with Jewish law, and all this other stuff. You can settle that in the courts, or you can settle this in the courts and then come back and deal with zoning. But if we are dealing with zoning, we are going to deal with zoning as far as boundary lines, footage, and setbacks...

Steve Morey: And use, Jim.

Jim Crowley: And use. I think we should deal with that and that only. Or not deal with any of it, if they are litigating it.

Steve Kurlander: We're not litigating.

Jim Crowley: Come to court first, and then come back. Maybe we shouldn't proceed as a board first until the courts take care of this.

Steve Kurlander: There is nothing in court right now.

Jacqueline Ricciani: I have to jump in here. When Mr. Kurlander talks about nothing is in court he means between Mr. Weinstock and Keilly LLC. That's what he is talking about, for them to work out their respective ownership rights. The Town of Bethel is prosecuting an enforcement action in the Town Court for the expansion of this bungalow, which is not permitted because the code says you cannot



Town of Bethel
Zoning Board of Appeals

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

expand a nonconforming use, and because they did it without a building permit.

Jim Crowley: I would think that should get resolved first.

Jacqueline Ricciani: Well, actually when that kind of an enforcement action is brought, the defendant can bring an application to the ZBA seeking the variance to remedy the violation. If they get this variance, then they will be in compliance and the enforcement action will go away. In fact, bringing this application here stays the enforcement action so that it gives the applicant a remedy.

Jim Crowley: This is a use variance

Jacqueline Ricciani: Yes this is a use variance.

Cirino Bruno: I have one question Jacy. In here say, and I may be wrong in what I heard, there is another property owner on whose property a certain amount of this building is encroaching on, courtesy of the expansion. Who is that person? It's not Keilly, it's not Weinstock, it's a third person.

Jacqueline Ricciani: New Sunflower, LLC. There was supposed to be a lot line change.

Cirino Bruno: As a board member I have a concern and a problem. How do I grant this use variance on another person's property?

Jacqueline Ricciani: Part of this application was also supposed to be a lot line change or something to accommodate that, but we don't have a proper map to show that.

Cirino Bruno: I would like to make a motion that these minutes are furnished to them, and they come back with a proper application.

Jacqueline Ricciani: It's not complete yet until they give you the map with the setbacks and showing everything that they need to show.

Cirino Bruno: And a sale of the 6 inches or 6 feet of property.....so abstract companies in the future don't have a problem.

Jacqueline Ricciani: Correct.

Cirino Bruno: I don't know what it is we can do tonight.

Jacqueline Ricciani: You can tell the applicant what else you need to consider the application.



Town of Bethel
Zoning Board of Appeals

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

Cirino Bruno: That's what I am trying to do.

Steve Morey: Who is the action by the town against?

Jacqueline Ricciani: Keilly LLC.

Steve Kurlander: If you want them here...

Jacqueline Ricciani: They provided a proxy.

Steve Kurlander: Your concerns about Sunflower, they are basically the same.

Steve Morey: They may understand they are the same thing, but I don't believe they are in the same name.

Jacqueline Ricciani: I understand the neighboring corporations have the same shareholder.

Jim Crowley: Cirino, did you make a motion?

Cirino Bruno: I was trying to. I think we have explained our concerns on the record. I make a motion that this meeting be adjourned and let the applicant be provided with a record of what it is we need in order to entertain this application.

Steve Morey: Do you understand that Mr. Fisher?

Mr. Fisher: You want a proper map that shows the lot line.

Cirino Bruno: More than a proper map. We need a specific document permitting the encroachment if we permit the enlargement of this building onto the neighbor's property.

Jacqueline Ricciani: Gotta move the property line.

Bette Jean Gettel: They need a lot line....

Cirino Bruno: They need to move the property line. We don't move the property line. I think I said we need a document showing that has been done.

Bette Jean Gettel: No, what you are looking for is a site plan showing the lot line... I will not authorize the lot line improvement, I'll tell you that right now. Because they cannot meet the setbacks.



Town of Bethel
Zoning Board of Appeals

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

Jim Crowley: So then they need another variance then. Then they need an area variance on top of the use variance.

Jacqueline Ricciani: No the other property would need it.

Cirino Bruno: What property?

Jacqueline Ricciani: The property that is being infringed.

Steve Morey: Because they are going to create a setback violation by moving that lot line because there are other structures on the neighboring ...

Cirino Bruno: So existing buildings on the neighboring property will end up

Jacqueline Ricciani: So these are the ones that are an issue, (showing on map), there are existing dwellings along here, so if we move this lot line then it is going to have an impact on the setbacks on these buildings. Which is why you need a map that shows you where these buildings are.

Cirino Bruno: So you need a map that shows you where those buildings are, you need a tri part application, between the real owner, the equitable owner, and the neighbor, which basically recites they are going to sell part of that property to this applicant and we are going to give them an area and use variance to make legitimate all these structures as they currently exist on this property.

Jacqueline Ricciani: And that is all contingent on getting the variances here.

Steve Morey: Is there anything else they need to understand and supply?

Jacqueline Ricciani: I would direct the applicant to Section 345-50 Sub paragraph E, 2, which lists the criteria that this board will consider for a use variance and the documentation that the applicant needs to submit in support of their request for a use variance, and that continues for 10 pages, in the code.

Cirino Bruno: I would like to observe, that this matter is going to be so complicated that my suggestion would be that the parties get together and retain an attorney or someone capable of presenting it, and explaining it, preparing and delivering the appropriate documents to get this all accomplished. Otherwise you are going to be coming back and back and back and back, and I direct that to Mr. Fisher.

Richard Conroy: Now the whole time they are in front of us that puts this court case on hold?

Jacqueline Ricciani: Correct.



Town of Bethel
Zoning Board of Appeals
PO Box 300, 3454 Route 55
White Lake, NY 12786

Richard Conroy: In the meantime do they have use of this building?

Bette Jean Gettel: Yes they do.

Richard Conroy: They can use the building now, without a CO?

Cirino Bruno: How do they have use without a CO?

Bette Jean Gettel: The original structure was built prior to the addition...

Jacqueline Ricciani: And that has a CO.

Bette Jean Gettel: All submissions for the August meeting need to be in no later than August 7th. We meet on August 21st.

Richard Conroy: The list of reasons for granting the use variance are very very specific. We need specific answers; otherwise I don't think we are going to entertain it.

Jacqueline Ricciani: It is all spelled out in the code.

Steve Kurlander: You all have an open mind, right?

Steve Morey: You said this was repairable in part of your conversation, until we got off on another tangent. Could you briefly describe to me how this can be corrected?

Steve Kurlander: If we get the variances that we need, we can adjust the lot line. Right now the owner of the colony and my client are not suing each other, they are not going at it at this point. If it were my choice... there is a certain way the orthodox do it. We are trying to do it the meng way. The honorable way. My client is a very honorable man. He is not looking to take on the world here in lawsuits.

Jesse Komatz: How many bungalows are on this property?

Jacqueline Ricciani: They are duplexes.

Richard Conroy: On the one we are talking about? There are more than... 12 cabins, a rec center, however I don't know if that inventory is updated. I think there have been more buildings put up.

Jim Crowley: Are we still in the motion stage?



Town of Bethel
Zoning Board of Appeals

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

Steve Morey: I stated to Cirino that he simply make his motion to state that ...the applicant come back with the criteria as described in the minutes of this meeting, that he make his presentation at that point, as per the items discussed in the meeting. I don't know when the minutes will be available.

Cirino Bruno: And to add to that to make it a joint application, so that the property line and the variance that has to be given by virtue of moving that property line can be simultaneously addressed.

Motion that the applicant come back with the criteria as described in these minutes that he make his presentation at that point per the items discussed, as well as make a joint application so that the property line and the variance that has to be given by virtue of moving that property line can be simultaneously addressed by Cirino Bruno, second by Jim Crowley.

All in favor – 7

Opposed-0

Agreed and carried

Steve Morey: I have another question, this document of authorization, the first paragraph is the application of Herman Fisher and Abe Weinstock, it goes on to describe the property, 17B Bethel, NY 40-12-7, I don't believe that is the correct information. It should be 40-1-7.

Jacqueline Ricciani: It is a typo.

Jim Crowley: So we are going to get a real map, right. It is going to be drawn to scale, survey...

Steve Kurlander: My client is spending \$10,000 for a proper map. I deal with surveyors, that is the price. It is a huge expense for my client.

Jacqueline Ricciani: One of the things that was discussed at the work session is the dimension of the structure before the addition was put on, and the dimensions after the addition was added. And the depth that was added.

Steve Kurlander: I am actually going to ask the surveyor to come to the meeting.

Richard Conroy: It's not going to help.

Cirino Bruno: He needs to show us with the stamp on the survey.

Steve Kurlander: You don't want the surveyor here?

Jacqueline Ricciani: Let the applicant bring whoever they want.



Town of Bethel
Zoning Board of Appeals
PO Box 300, 3454 Route 55
White Lake, NY 12786

Cirino Bruno: I'm trying to impress on you, if the survey isn't stamped, and someone is telling me I think....it isn't going to work

Bette Jean Gettel: Please revise your EAF.

Richard Conroy: I would like a narrative of what you want to do as well.

Steve Morey: It is important that you research the section of the code Ms. Ricciani described to you. It is very important.

Mr. Fisher: Thank you.

Steve Morey: Dawn, do you have input for us?

Dawn Ryder: I think you did the right thing tonight. Like Cirino said, how do you give a variance when it is someone else's property? I would be in favor of them ripping it all down.

Richard Conroy: These people own all these lots under different names. Everything goes to the same address, the same guy. They build without permits, they build over the property line, they don't pay their taxes when they are supposed to, and now they want us to come and say, it's okay, you can do this.

Cirino Bruno: We have to do this so they don't end up in litigation amongst each other.

General discussion.

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.