

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 October 15, 2012. The meeting was held at the Duggan School, 3460 State Route 55, Kauneonga Lake, at 7:30 PM. The agenda is as follows:

In attendance: Stephen Morey, Chairman, Jim Crowley Vice Chairman, Jesse Komatz, Robert Yakin, Daniel Brey, Cirino Bruno, Alternate, BJ Gettel, Code Enforcement Officer, and Jannetta MacArthur, Recording Secretary

Excused: Richard Conroy, Robert Brown, and Jacqueline Ricciani, Attorney excused

6 members present

Pledge to the flag

Also in attendance: Daniel Gettel, Planning Board Chairman

***Motion to approve minutes from the May 21, 2012 by Bob Yakin, second by Jesse Komatz***

***All in favor – 5***

***Opposed –0***

***Agreed and carried***

***1) Application for a proposed Use Variance for agricultural use on State Route 17B, located at 1253 State Route 17B, known as Bethel Tax Map # 38-1-30, proposed by Stephen Morey.***

Steve Morey: Being the representative of the applicant, I wish to recuse myself of any of the proceedings for this application and the board should make a motion that our vice chairman at this time take over the proceedings at this time.

***Motion to seat Vice Chairman Jim Crowley as chairman for this meeting, motion by Steve Morey, second by Jesse Komatz***

***All in favor - 5***

***Opposed –0***

***Agreed and carried***

***Motion to seat Cirino Bruno by Dan Brey, second by Bob Yakin***

***All in favor – 6***

***Opposed –0***

***Agreed and carried***

Steve Morey – Applicant: Passing photos of the actual property, to show the boundaries of the property. What we are looking at is a use variance for non-domesticated animals. This is my homestead. This is where I grew up, this is my parents place. I believe the house was constructed in 1926. I believe my parents purchased from people by the name of Moore in 1953 or 1954. Both of my parents are deceased. The property is now for sale by my sister and brother in law in North Carolina. We are looking at a use variance, somewhat based by the recommendation by the realtor, because if you look at the building and the layout of the property, it is conducive to horses or large animals. (Showing on the map), this being the house, this building here does not exist. There is a building hidden in the trees at the end of the driveway, where it meets 17B. (Showing on map the buildings that exist). My father constructed these two buildings in the late 70's. The property is for sale. There is an interested

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purchaser who is inquiring about the possibility of having horses on the property. As I said, our realtor has let us know that a lot of the people that looked at the property are interested in the possibility of having horses on the property. If I have the code correct, I believe it states that a minimum of 3 acres for the first large non-domesticated animal, and then a maximum of 2 for every 1 acre. This property is 10 acres.

Jim Crowley: So that would 13 horses

Steve Morey: 15 horses

BJ Gettel: It depends on how the board looks at it. If you subtract an acre for the house and for the structures that are currently there..... If you want to take as 10 acres, yes then 15

Steve Morey: Let me just back track. This property was somewhat active as a farm. The lower level of this barn has cow stalls. I know cows were on this property. Other than that, any questions, anyone else? I am representing my sister and brother in law as the applicant. We are not making this application for our benefit. This isn't for our use on this property

Bob Yakin: The barn that your father built is that building for storage?

Steve Morey: Actually both of these are, he was in the construction business, and they were built for storage. Yes, my father built it. It has a gambrel style roof on it. At one time I did have relatives that had 2 horses on the property. There are stalls in the back section of this gambrel style, and the property was fenced off, from this tree line right straight across this back portion. The property is pretty close to this tree line, and squares off and goes straight back, it makes that square. (Showing on map)

Cirino Bruno: Your property front's 17B?

Steve Morey: Yes

Cirino Bruno: Your closest neighbor, where is he?

Steve Morey: Are you asking me where he is located? Showing on map handed out to members.

Cirino Bruno: Do you know how many horses they want to put there?

Steve Morey: I spoke to the interested party; they said a horse or horses for their daughter. I got the feeling she is thinking maybe expanding to 2 or 3. I really can't say. The code would permit as many as 15. I think the ZBA would have the authority to restrict the number. I am not certain about that

Jim Crowley: Do you think this is a condition of sale?

Steve Morey: Yes, I think so

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Jim Crowley: You want a use variance

Steve Morey: Yes. The other thing that I may have left out, at the same time, even after the original owners had it, and when my parents owned it, there was another farm, I believe this is the entrance of Jenna Estates on 17B, just below that was Lilley's farm, which was a dairy farm, and horses. The father Willard Lilley had it, then when Ed Lilley, the son took over the parcel of property had it, it was horses. Then Capelli had it, it had horses

Jim Crowley: Steve, when was the last time there were animals on that property? I know as far as rulings go it doesn't matter, but I'm just curious. I remember a couple of horses there, I can't tell you when, but I remember that.

Steve Morey: I'm thinking in the '80's. BJ was able to tell me that zoning actually took effect in 1968. My parents purchased in the '50's, and predated zoning, so they were grandfathered. After zoning took effect, it wasn't an active farm. There were two circumstances when there were horses on this property. There were 2 for a few years, and then there were none, and then there were 2 again for another few years. That was sometime between 1970 – 1985 when that was in place. I can't tell you with zoning being in effect whether there was a variance for those horses at that time. What might make that an important factor is that I read in the code if a variance is granted such as this, and it is abandoned for a two-year period of time, it would not be permitted again, if there was a variance that was abandoned. I'm guessing there was probably never a variance for the horses.

***Motion to go to public hearing by Cirino Bruno, second by Rob Yakin***

***All in favor-5***

***Opposed-0***

***Agreed and carried***

BJ Gettel: Please keep in mind I will need to have a 239 go to County and State. I need a narrative written up.

Steve Morey: Okay, if you could give me the information I need for that narrative, or do you want me to just write something up

BJ Gettel: Basically what they are looking for is justification.

Jim Crowley: Like condition of sale, etc. Basically you have to write a short story

Jesse Komatz: Could you find out exactly what the potential buyers intention of how many horses are?

Steve Morey: I could try

Jesse Komatz: I had horses; this piece of property looks comfortable that it could maximize 5 horses. I don't know.

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Steve Morey: I don't know, I am just guessing that the ZBA could maximize the number of horses that would be permitted. However, the code says non-domesticated animals. As matter of fact that code doesn't make a reference to horses. It would be cows, horses, and pigs.

Jim Crowley: Then there is another whole section on smaller animals.

Steve Morey: Would we need legal interpretation of the maximum number of non-domesticated animals on there approved by this board?

BJ Gettel: I can check with the attorney in the morning. I do know you can put limitations on conditions of approval. If it is small non-domesticated animals, your ratio is much larger. It is 10 or 20 for the first acre, and 20 for every acre thereafter. You have to take that into consideration. If you want to be specific for small or large, then you know what you need to do

Steve Morey: I think they asked me a question whether this would be a condition of sale. Talking to the real estate agent his thought was, he was under the impression that it couldn't be done on this property. That is how it was handled with anyone that showed interest in the property previously. It is a discovery for him that we can go through this variance procedure and there is a possibility that we can do this. His comment to me was we should have done it years ago. He has had this listing for 4 years, maybe more. A lot of people who have seen the property, have looked at the property with this in mind

Jim Crowley: I'm sure there will be someone here from the public hearing ...I'm sure there will be a question, something with the fencing, keeping them off 17B. With the public hearing, I'm sure someone will ask.

Steve Morey: That was a question I had of BJ. If the ZBA grants the variance, will this have to go to the Planning Board?

BJ Gettel: Yes, it is a use variance. Then you will be requesting a special use. I will double check with Jacy in the morning

Steve Morey: I will try to find out the maximum number of horses the interested party is considering.

***Motion to adjourn by Cirino Bruno, second by Jesse Komatz***

***All in favor-6***

***Opposed-0***

***Agreed and carried***

7:50 pm

Respectively submitted,  
*Jannetta MacArthur*  
Recording Secretary