

“Minutes are not official until approved by their respective board.”

TOWN OF FALLSBURG ZONING BOARD MEETING

April 21st, 2016

Steve Burke, Chairman, Jason Pantel, Joe Puccio, Paul Lucyk, Neil Sapolsky, Board Members, George Sarvis, Code Enforcement, Paula E. Kay, Deputy Town Attorney.

- Steve Burke called the meeting to order.
- March meeting minutes approved.

NEW BUSINESS:

1. RITA & ELI KOPS – SBL# 39-1-2.2 – Requests a use variance to re-establish the use of a mobile home. The applicant has exceeded the 2 year termination period for a non-conforming use. Zone: R-1. Acres: 3.10. Location: 185 & 187 Brickman Rd., Fallsburg.

- Allen Frishman represented.
- Allen Frishman: This is to renew a mobile home on the property. It's approximately a 1986 unit. It's in good condition. They are trying to renew the use of the unit. Several years ago it was rented out and there was a problem with animal abuse. The tenant had to leave. The unit sat for a while. It helped her keep up the payments of the mortgage. Time had lapsed for where she was unable to spend money to clean it up because of financial responsibility. She is finally able to get things going. It was determined when the electric was to be turned on again, the expiration had run out by 2 months of the 2 year clause. The trailer hadn't been sitting forever and ever. The family had used it. Not sleeping in there. When I first took on the variance, I said she has to clean up the property. I don't know if you saw the property a while back, there was a bunch of out sheds and some religious books that happened to be buried. That has been removed and it is now a clean area. I told her if the Zoning Board visits with all the sheds, it would be a strike against. It was an expense of \$3,600.00 to get the property in clean shape. The property was cleaned, she started to fall behind.
- Steven Burke: The only thing I would like to say is that we would appreciate it not having to come to this before cleaning it up. If you weren't coming to the board,

would it be done? It would probably how it is. This kind of stuff is unacceptable.

- Rita Kops: We bought it that way.
- Steven Burke: My question would be to you then, how long did you own it before you decided to clean it up. You're telling me you asked them to clean it up because of a certain reason. You should clean it up because you want it to be beautiful.
- Allen Frishman: She bought the property, the prior owner was supposed to take down the sheds. As far as the books, they weren't sitting there for a long time. She was waiting on a certain individual to come and get them. One of the things was cleaning out the unit, I wasn't able to get George in there to look at it, but I took a couple of pictures. It is not a piece of garbage, the windows qualify, they meet egress. It is a 1986, we're not....if it was a 2010 I would have to be here because of the expiration date. We're here just to be able to use this unit again. There was a problem where because it hadn't been rented for a while she was falling behind on the taxes. She had to get a loan from a relative to keep the property. She has her brother who wants to move into the trailer and help support the property here in the audience. That's really it in a nutshell. I gave you a copy of the certificate from NYSEG, if she was 2 months early we wouldn't be here. It's not like 5 years vacant. Unfortunately, she let her son-in-law take over her finances on this. She didn't realize her son had the electric turned off and she thought he was paying the bill. There was some miscommunication within the family.
- Rita Kops: I lived in the city, I used to go to public school and wasn't always religious. During junior high my mother put me in religious school. I met my husband, we got married, and I love my husband but he has mental issues. We had to get out of the city, so we chose Fallsburg. He had a job with milking, then when he lost that job I said I don't want to move. I love Fallsburg. It's nice and quiet. We have been through a lot of stress through life. Sullivan County has been wonderful to me. Monticello was very supportive. When my father-in-law passed away, he left my husband money to buy a house. We had this tenant who worked locally, somehow everywhere they went they destroyed property. I didn't realize that. He always paid his rent, his mother was the issue. Somehow there was abuse going on, I was told to get rid of them by the neighbors. So I got rid of them. I was terrified. Now, if I have someone going in that I know, I will feel calm. Now we have to start fixing it up so someone can live there. That was when I realized my son shut off the water. He said he was trying to save me money. I told him he has to talk to me first. I was going to go to the Town and let them know I should be only the one that can turn these things off.
- Allen Frishman: This is not an application, we aren't trying to build anything. It was used, we just missed that time period by 2 months. We don't think it is necessary to be penalized for that length of time.
- Rita Kops: It would be nice to have a tenant in there so I can pay the taxes. It's

almost \$10,000.00 worth of taxes that I am paying. My brother's money is kind of running out. After my mother passed, she said to take care of him. The only thing I didn't realize is the time frame. Financial is always an issue. I did have one other prospect, but they changed their mind. They didn't want a trailer because it was too hot in the summer. They didn't want to spend on the air conditioner. I want to utilize my current option.

- Steven Burke: Any violations?
- George Sarvis: All cleaned up.
- Steven Burke: I have a thing about that kind of stuff.
- Allen Frishman: The lawyer she hired, I can't believe he didn't make sure there was money in escrow.
- Joe Puccio: Did you just purchase this? How long have you had it?
- Rita Kops: 1998.
- Paula E Kay: That's been there since 1998?
- Rita Kops: Yes that is how I bought it. I wasn't even looking at that, it was in the back of the place. I wanted to get rid of it, but there were priorities in my life.
- Allen Frishman: I never saw these units until I pulled into the driveway. If we had seen them, we would have written a letter about it.
- Steven Burke: I am happy they are gone. Anything else?
- Allen Frishman: I hope you take everything into consideration. The money situation, the lack of reasonable tenants until now. It's already there. It has been there.
- Steven Burke: Anyone from the public like to speak on this? No? So we will close the public.
- Paul Lucyk: Is this year round?
- Rita Kops: Yes.
- George Sarvis: Mailings are good too.
- Steven Burke: Any questions from the board?
- Joe Puccio: It shouldn't come out to us now how the property looked, and then we would say then clean it up. I don't have a problem with it, it should have come to us and then you did what you did.
- Allen Frishman: I told her to do it on her own accord. Was that right approach?
- Steven Burke: Yes.
- Joe Puccio: But she has been there since 1998.
- Allen Frishman: Like I said, did you ever see this?
- George Sarvis: No.
- Joe Puccio: It probably wouldn't have been a problem had it not come to this 2 months over.
- Allen Frishman: It was not there in the open because I drove in to the driveway and I said if a Zoning Board member drives in they will have it as an issue.
- Steven Burke: The thing is that we see many issues like this where the only way

we can get somebody to remove an eye sore is to say if you want something, we need you to clean that mess up. It is terrible we have to make these deals. The only way we can get it done is to put people's feet to the fire. When you say you love this town, everyone up here does. We are all just regular people in this community. It's a shame that we have to do that. A lot of times it's not dilapidated buildings, it's piles of garbage. That kind of stuff really bothers me. I appreciate that you did clean that up even if it was because Allen told you to do it. We'll run down the questions. Cannot realize a reasonable return substantial as shown by competent financial evidence?

- All board members vote yes.
- Steven Burke: Alleged hardship is unique and does not apply to substantial portion of district or neighborhood.
- All board members vote it is unique.
- Steven Burke: Requested variance will not alter essential character of the neighborhood.
- All board members vote no.
- Steven Burke: Alleged hardship has not been self-created?
- 1 board member votes no, all others vote it has been self-created.
 - MOTION:
 - Joe Puccio makes a motion for lead agency. Jason Pantel seconds. All in favor.
 - Joe Puccio makes a motion for negative dec. Jason Pantel seconds. All in favor.
 - Paul Lucyk motions for approval. Joe Puccio seconds. All in favor.

2. FOUR BROTHERS INVESTMENTS – SBL# 8-1-37.2 – Requests a use variance for a 50 x 80 pole building on an undersized lot. Zone: AG-1. Acres: 1.26. Location: 321 Divine Corners Rd., Loch Sheldrake.

- Mike Kozykowski represented.
- Mike Kozykowski: It is an area variance.
- Steven Burke: How big is the backyard?
- Paula E Kay: They have the wrong section of the code in their application. It's just a lot coverage issue.
- Mike Kozykowski: The lot is small though.
- Paula E Kay: You applied under 310.17 accessory structures which deals with
- Discussion.
- Paula E Kay: This lot is old, the building is in the rear. We need to get confirmation for the lot coverage. Tell the board the lot coverage.
- Steven Burke: You do realize this is a pretty big building.
- Mike Kozykowski: Yes. He owns all the property in the neighboring area on all 3

- sides actually.
- Steven Burke: They connect?
 - Mike Kozykowski: Yep. This is the property, and he owns all this property around it.
 - Steven Burke: Across the street too?
 - Mike Kozykowski: Yes. All the blues. The only question I had was on the bulk table, if you look at the tax maps, it says it is zoning A1. You guys are AG agriculture. I went with the AG 10%, overall lot coverage ends up being 15 and a quarter 15.25. It's a 50% increase of the existing lot coverage.
 - Paula E Kay: What he is saying is, they don't have the 20% of your required rear yard, they are okay with that. The issue is the 10% lot coverage for all the structures on the property. That other shed we were talking about.
 - Steven Burke: That storage body is in violation. Those are not legal in the town.
 - Mike Kozykowski: I am thinking he is going to take that down in case he gets approved for the big building.
 - Steven Burke: He is going to have to take that down even if he doesn't get approved.
 - Mike Kozykowski: Okay. Is that the open permit?
 - George Sarvis: I didn't get to do the research on that. I think it was for the addition to that.
 - Steven Burke: You can't have an accessory structure without a house. What is that considered?
 - Paula E Kay: (inaudible)
 - Discussion.
 - George Sarvis: They got the permit for the addition, I don't believe we had it closed out. Years ago, the Code Enforcement officers didn't take notes. They went there and they said they passed. So now we are at a loss for open permits. We require engineering firms to do the asbestos, sign off on it, and give us a certificate of compliance.
 - Paul Lucyk: If we have an open permit on that building, we can't do anything until that is closed.
 - George Sarvis: A condition of your approval should be that the permit is closed out, the shed is gone, and whatever else you might propose.
 - Paula E Kay: I am okay with that.
 - Paul Lucyk: These 3 are owned by these?
 - Mike Kozykowski: They are all owned by Four Brothers.
 - Paula E Kay: At the top of your chart it says minimum lot coverage 10%. What is the lot coverage of this building?
 - Mike Kozykowski: 15.25
 - Paula E Kay: Where does it say that?
 - Mike Kozykowski: It doesn't, I just know it off the top of my head.

- Paula E Kay: That's including the existing shed?
- Mike Kozykowski: Yes.
- Paula E Kay: Since a condition is that is removed, you should recalculate that.
- Discussion.
- Steven Burke: I tell you what happened in that area a long time ago, there was a lot of Jeff Bank property in that area, guys bought piece after piece. It didn't make sense for the bank not to sell it. There is a lot of property like that.
- Discussion.
- Paula E Kay: We need the actual number.
- George Sarvis: The square footage of the shed, these guys need an actual number of what they are going to approve.
- Joe Puccio: You don't have the shed size?
- Mike Kozykowski: I have it somewhere.
- Steven Burke: It's a shaping container, very nicely painted and clean with a vent on top. They have a lot of four wheelers and toys.
- Mike Kozykowski: I think it is their hunting property.
- Steven Burke: What do men do with hunting property? They keep it very nice. They put in a U-shaped driveway.
- George Sarvis: Right, compared to what it looked like before.
- Jason Pantel: What's the issue now?
- Paula E Kay: We're trying to figure out right now what they are looking for, numbers wise. So you can figure out if it is substantial.
- Steven Burke: 50 by 80 in my head is substantial.
- Paula E Kay: If the allowable lot coverage is 10% and they are only somewhere between 13% and 15%, then....
- Steven Burke: Then they can come here and conform to what sized building does fit there and not come here at all. What size building does conform to the lot coverage?
- Joe Puccio: Any complaints from the neighbors?
- Steven Burke: There's nobody here, they bought it from the neighbor.
- Mike Kozykowski: I know they already did cut it down from the size before, they wanted to go bigger. They don't want to go smaller, they have big equipment. One of the options I brought up to them was combining or taking from the other tax parcels they have, make it a conforming lot of 5 acres and rezoning it to residential or whatever, then going and following that. That was pending what happens tonight.
- Jason Pantel: That answers the question right there.
- George Sarvis: Are there other properties drawn into this?
- Paula E Kay: They could do a lot change.
- George Sarvis: Then they wouldn't need the variance.
- Steven Burke: Then they'd have to go residential?

- Paula E Kay: No it can be a lot improvement.
- Jason Pantel: It's better being agricultural isn't it?
- George Sarvis: One thing is for sure, if you grant the variance for the parcel there, they won't be able to put an 8x8 shed without coming back here. Every time they want something, they are coming to this board for everything in the future.
- Paul Lucyk: This a pole building, that means it open?
- Mike Kozykowski: No not completely, it's just the poles that are...
- Steven Burke: It's not open. It has a garage.
- Jason Pantel: Insulated and everything.
- Paula E Kay: We don't really know yet what they are asking for, obviously no one is here from the neighbors. We don't have an accurate application, the map doesn't help you. We don't have...
- Mike Kozykowski: It's going to be 300 square feet.
- Jason Pantel: 90% of our applications have to do with lot coverage, if that's where you are leading to.
- Paula E Kay: I am a little uncomfortable with approving something where we don't have actual measurements or a map that backs it up.
- Steven Burke: You want 30 days to come back?
- Mike Kozykowski: The most it is going to go down...
- Steven Burke: You're willing to...
- Mike Kozykowski: That shed is 300 square feet, 15 by 20. So that is the most it will go down.
- Steven Burke: You're doing yourself a favor of that coming down, that has to come down no matter.
- Mike Kozykowski: It's not included in the lot coverage, that's 300 square feet but that will still being over the 10% even if you take that out.
- Steven Burke: You have another way of doing this without a variance.
- Mike Kozykowski: They have to get rezoned and a new survey, if he can just get the variance...
- Paula E Kay: If we had an application in front of us that was accurate with maps that showed the lot coverage and what you're asking for so the variance was clear, I would say go ahead. It seems you have options, that may be the solution to think about. Either come back with that application and maps, or go the lot route.
- Steven Burke: If they get the variance to put this building up and don't connect the properties, then they have another 5 acre parcel or they could put another pole building up on the adjoining property.
- Paula E Kay: They would need a variance for an accessory.
- Steven Burke: It seems like that is the route these guys are going to try to do it. What if they get the variance, then down the line connect the properties? Then

- can they put another building up?
- Jason Pantel: It has to be a primary structure.
 - Steven Burke: If they get that variance, put this building up, then 2 years combine the properties, they can put another one up.
 - Paul Lucyk: Or sell them off. That option too.
 - Jason Pantel: I'd rather not do the lot coverage when there is so much available land. We have been saying no and no, different use of course but same math.
 - Paul Lucyk: What would it cost them to zone out for 5 acres?
 - Jason Pantel: A survey.
 - Steven Burke: There are other options for them to go.
 - Jason Pantel: This was done recently. So you have know your...
 - Mike Kozykowski: I didn't do the survey, they had it done.
 - Jason Pantel: They probably have a survey for the other 30 acres.
 - Paul Lucyk: Just make it the 5 acres.
 - Discussion.
 - Steven Burke: That's a pretty extreme sized building. Do you want to come back in 30 days?
 - Mike Kozykowski: Can we leave it open just in case?
 - Steven Burke: Yes. Thank you.

Joe Puccio motions to adjourn. Jason Pantel seconds. All in favor.