

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

## TOWN OF FALLSBURG ZONING BOARD MEETING

September 15th, 2016

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

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

### NEW BUSINESS:

1. MARSHALL WEISSMAN – FALLSBURG 14 PARTNERS LLC – SBL# 36-1-33.2 – Requests an area for a 3 lot sub-division for relief from the minimum lot width requirements of 100'. Zone: R-1. Location: Laurel Ave., So. Fallsburg.

- Joel Kohn represented.
- Joel Kohn: It was approved a couple years ago for 10 units, however that approval lapsed. Right now they are just proposing a 3 lot subdivision for 3 single family homes. Each lot is supposed to be an acre, the minimum lot area for a single family home is a half an acre. The only variance they need is because it is a narrow strip of land, they cannot meet the minimum width for the property. Instead of being 100 feet, it will be 75 feet.
- Steven Burke: Any questions?
- Paula E Kay: Your list?
- Joel Kohn: I gave it to Denise.
- Paul Lucyk: Do you have an idea of the proposed structures, where they are going to go? How large they are going to be?
- Joel Kohn: It all will be within the setback. It is all single family. It will meet setbacks.
- Paul Lucyk: So we have the zoning which requires the minimum width of 100 feet and then you will have side setbacks for the house.
- Joel Kohn: It's all shown on the plan, so you can see where it will have the homes.
- Steven Burke: Any questions?
- Jason Pantel: Aside from maximizing the owner's profit, there's really no reason to

put three homes on that.

- Joel Kohn: Maximizing the profit would be to do a new road in here and put in 6 units. They could probably do 5.
- Jason Pantel: You can't do that for another year and a half.
- George Sarvis: There's no reason for tonight.
- Steven Burke: Anybody else? Okay. We'll open it to the public. Mailings?
- Paula E Kay: We have the mailings. The only other question is about the wetlands.
- Joel Kohn: The wetlands were delineated.
- Peter Frunzi: I notice there is a large chunk here considered wetlands.
- Joel Kohn: This will not be touched.
- Paula E Kay: Is that state or federal?
- Joel Kohn: Federal wetlands.
- Paul Lucyk: Just to get some clarity, the minimum width is 100 feet and there is 75. There are also going to be side yard setbacks.
- Joel Kohn: The maximum will be approximately 30 feet.
- Paul Lucyk: That's what I was getting at. 20 feet and 20 feet is the required setback. The maximum width of the structure will be 30 feet.
- Jason Pantel: I don't know if I can see 5 homes with all the required setbacks.
- Steven Burke: The only problem I have with this proposal, stuff like this shouldn't be coming here. If you have a piece of property that you can do something with, but you want to do something else with. It is okay that you would like to do, but they bought the piece of property knowing the zoning, and they want to do something different. In my opinion, that shouldn't come here.
- Joel Kohn: They had approval for 10 duplex homes.
- Steven Burke: You should have done it 10 years ago.
- Joel Kohn: They just want 3 single family homes.
- Steven Burke: It's like me buying something knowing its potential and limitations, then I'm not happy with it so I put it on someone else to change it. This is not a hardship.
- Jason Pantel: I would say there is a significant cost to put in a driveway with drainage.
- Joel Kohn: It is a significant cost. The lot area will be an area, which is a lot more than required.
- Steven Burke: I don't begrudge anyone trying to make money. If it wasn't about money, you would put 1 house there. Is it only for his family?
- Joel Kohn: That is what he said.
- Steven Burke: There is way too much of this that has happened in the past. A lot of this stuff we didn't have a problem with and let it go, it has gotten to the point of being a lot. You have more than 1 option to do this. I am almost more in favor of putting the 5 there. Maximizes even more. Rather than tweak things.
- Joel Kohn: With 1 driveway we will have more cars coming in.

- Steven Burke: I'm not worried about the cars inside the development, I'm worry about the cars outside.
- Joel Kohn: It will be more trips if you do 1 driveway than if you do 3.
- Steven Burke: That is just the way I look at it. I have a problem with your client buying something and they knew what it was, and now they want to change it.
- Jason Pantel: It's really not big enough for 3 side by side lots.
- Joel Kohn: Everything will be met, it's just the size of the width.
- Peter Frunzi: You'll have 30 foot of home.
- Paula E Kay: We don't have the width plans so we don't know that yet.
- Joel Kohn: That could be a condition on the variance.
- George Sarvis: That's a separate issue to be brought up. When the building plan applications are presented, if you grant today's application and then give me a plan to show 10 feet before the property line, they have to come back to the board for that.
- Paul Lucyk: Just to clarify what Steven was eluding to, we have gone above and beyond in terms of generosity in the past. Unless there is a hardship, we are not supposed to grant any variance.
- Steven Burke: Even then the hardships are limited as well. Anything else?
- Joel Kohn: I would like the board to take into consideration how much money was spent, a couple hundred thousand dollars. It was ready for the last approval that he lost.
- Jason Pantel: That was 10 years ago.
- Paula E Kay: Why did he lose it?
- Joel Kohn: The approval lapsed because it didn't go far on the extension of the approvals.
- Paula E Kay: He was working somewhere else?
- Joel Kohn: He lives in Jersey, and their approvals lapse after 5 years.
- Paula E Kay: So he was unaware.
- Steven Burke: But he's a developer?
- Joel Kohn: No. He lives in Lakewood New Jersey. It lapses after 5 years.
- Jason Pantel: If you came back with the same plan and said you lost all this money it, it's a big difference between losing that money anyway, and this will make up for it? It's nothing that we or the town did, to say he spent all that money it, that was a long time ago.
- Joel Kohn: It was 5 years ago. Maybe the Town should send out a letter.
- Paula E Kay: No. I think the Town has enough to do other than keeping track of developers.
- Joel Kohn: To answer that is why he lost the approval, he didn't know.
- Steven Burke: It may have helped your case if you came here with bills showing.
- Paula E Kay: That's not really part of an area variance...
- Steven Burke: No it's not.

- Joel Kohn: I have the original approval if the board wants to see that.
- Steven Burke: He didn't do it.
- Jason Pantel: Why not just get approved again?
- Joel Kohn: He can't the zoning has changed.
- Steven Burke: Let's run down. Whether the benefit can be achieved by other means feasible.
- All board members say yes.
- Steven Burke: Undesirable change in the neighborhood character or nearby properties?
- All board members say yes.
- Paula E Kay: Anyone want to explain why?
- Paul Lucyk: If everyone else has lots that are 100 and 125 feet, then bringing in smaller homes could be a difference in value or the types of homes.
- Jason Pantel: The extra driveways.
- Steven Burke: Whether the request is substantial?
- All board members say yes.
- Steven Burke: Whether the request will have adverse physical or environmental effects?
- 3 board members say yes, 1 says no.
- Steven Burke: Whether alleged difficulty is self-created?
- All board members say yes.
  - MOTION:
  - Jason Pantel motions for lead agency. Paul Lucyk seconds. All in favor.
  - MOTION:
  - Peter Frunzi motions for negative dec. Jason Pantels seconds. All in favor.
  - MOTION:
  - Peter Frunzi motions to deny. Jason Pantel seconds. All in favor.
- Paula E Kay: If anyone can explain why.
- Jason Pantel: You have way too many options, to not do this.
- Peter Frunzi: It's pushing everything to the limit, and putting us on the spot.
- Jason Pantel: You can't have 10 units, but you can have 5 or 6.
- Paula E Kay: He could have 10 units potentially when the moratorium is over.
- Jason Pantel: 5 or 6 with that amount of space and the swimming pool. It's not bad.
- Joel Kohn: With several variances.
- Paul Lucyk: I would like to grant, but our hands are tied. The whole schematic of the other plan, even if you didn't do 10, just to flip the project on its side, you won't even need to be here.

## 2. NACHUM AND TYBA REZNIK – SBL# 39A-1-48 – Requests a re-hearing for an area

variance for a mud room to reduce the side yard set back from the required 20 feet to 11.3 feet. Zone: R-1. Location: 14 Estate Dr., Fallsburg.

- Jay Zeiger represented.
- Paula E Kay: The only action tonight would be the motion to hear the original application. Jay is going to do his best for that.
- Jay Zeiger: This is the infamous mud room. What happened is there was an addition built to the house. This is the addition. They got a building permit to build the addition. There was a meeting of the contractor and the contractor said to the home owner, this additional room is where the 90 plus father of the home owner is living. The contractor said this doesn't sit right, when you open the door the cold air in the winter and the hot air in the summer will rush in. He recommended to the home owner, the home owner consented. The home owner was relying on the contractor and the original permit. The contractor went ahead and built it, contacted George for the CO, and George says you can't get the CO because this was not within the plans, further what was built is within the setback. The mud room only. Therefore we can't get a permit for the C of O until we get a variance. We were here for a variance a couple of times already, I believe in July this board denied the variance on the grounds that perhaps the mudroom could be moved. The home owner and explored some options, looked at the different options and the conclusion is that it can't be moved.
- George Sarvis: In my humble opinion, I have been with Code Enforcement for 11 years, to take this thing and put it around to the back of the house defeats the whole purpose.
- Paula E Kay: Tonight we are not focusing on the merits, just the opportunity of a re-hearing. I know we are looking for more information from the contractor and I don't know if that will be possible.
- Steven Burke: We were told by the home owner that there was no recourse with the contractor, then all of a sudden, when she tried to get in touch with him, he appeared. From what I understand.
- Paula E Kay: We're not saying if it is okay or not. All we are doing is determining if we will re-hear it. We have a bit of new information we can provide, there must be that opportunity to do so.
- Steven Burke: Did the contractor appear?
- Paula E Kay: My understanding is that he did not appear.
- Steven Burke: Was he contacted somehow?
- Jay Zeiger: Not as far as I know.
- Paula E Kay: My understanding is several unsuccessful attempts.
- Paul Lucyk: He's probably not going to come move it for free. Why do we need to get in touch with him?
- Steven Burke: Because he submitted the plans, but he didn't submit these plans. He submitted no mudroom and then suggested to the home owner. This board at

that juncture felt it was dumped on us that she should be in litigation with the guy, that she paid and didn't do the right job. It wasn't really our problem to figure this out.

- Paula E Kay: I think there is more information to provide.
- Steven Burke: We won't speak about this.
- Paula E Kay: We are voting on re-hearing. They would hear in October, they would have to notice again. We will put together additional information for the board.
- Peter Frunzi: What is the difference between the last meeting and the new, what new information?
- Paula E Kay: I'm not prepared to speak about that now, and Jay can't. I will have that information between this meeting and the next, whatever documentation you need.
  - MOTION:
  - Peter Frunzi motions to approve a re-hearing. Joe Puccio seconds. All in favor.
- Steven Burke: Next month?
- Jay Zeiger: Next month.

Jason Pantel motions to adjourn. Peter Frunzi seconds. All in favor.