

"Minutes are not official until approved by their respective board."

TOWN OF FALLSBURG ZONING BOARD MEETING

February 16th, 2017

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

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

NEW BUSINESS:

1. ROBERT COLEMAN – SBL# 7-1-42 - Requests a use variance to allow a manufactured home that is over 12 years old. Requests an area variance to allow a manufactured home that is less than 1200 s.f. in an REC-2 zone. Zone: REC-2. Acres: 1. Location: 371 Hysana Rd., Liberty.
 - Robert Coleman represented.
 - Robert Coleman: I only bring to the community, I'll bring good to my property. I'll upkeep it. It had a hard time, it had a certain amount of time to move it from my property. It was short notice. That is my home.
 - Steven Burke: You lived there before?
 - Robert Coleman: Yessir, it is nice on the inside. I have pictures.
 - Steven Burke: Did you purchase this piece of property?
 - Robert Coleman: I have one more payment, this is my last payment this month.
 - Steven Burke: Anything else you would like to tell us? This is a picture of the registration you submitted to the Town?
 - Robert Coleman: That was not right.
 - Steven Burke: How long do you own this home?
 - Robert Coleman: My grandmother gave it to me.
 - Steven Burke: How long do you own it?
 - Robert Coleman: She finalized it a year ago.
 - Steven Burke: She owned it before you?
 - Robert Coleman: I had the title and everything.
 - Steven Burke: Was she the only owner before you?

- Robert Coleman: No she bought it from another person.
- Steven Burke: It's a 97?
- Robert Coleman: It's a 1990.
- Steven Burke: Here it says....
- Robert Coleman: I don't know why it says that. I'm not a trailer person and I didn't know where to look. I was in and out of the office. I had my grandmother and mother living in Florida, recently I was shot in Parksville. They all left but I wasn't going to leave.
- Steven Burke: Anyone have any questions?
- Paula E Kay: You submitted this document...this trailer was in the town of Neversink? Why was it moved?
- Robert Coleman: The 2 parcels of land that my mother and stepfather owned, they were losing it.
- Paula E Kay: Who owns the property?
- Robert Coleman: The trailer is on my property, here is the title. Here is the bill of sale.
- Paula E Kay: The issue as it is, our code does not allow trailers to be placed on property.
- Robert Coleman: If you go down that road there are a bunch of flat trailer rooves, they are probably grandfathered in, but they are in much worse condition. I will do whatever it takes.
- Steven Burke: When did you move this in?
- Robert Coleman: January 9th. It was supposed to be in the spring time.
- Steven Burke: Did you move it or did you pay someone to move it?
- Robert Coleman: I had Jesse Kenney, Sullivan County Transport. I needed a bull dozer to get it out from where it was. It cost me \$600.00. He did some things on my property that upset this gentleman.
- Paula E Kay: Who is Maria?
- Robert Coleman: That is the owner of the property at 371 Hacienda Road.
- Paula E Kay: So you don't own the property yet?
- Robert Coleman: This is my last payment.
- Paula E Kay: She still has the property.
- Robert Coleman: I have a note of mortgage.
- Paula E Kay: You don't own the deed.
- Robert Coleman: The deed will be in my name at the end of this month.
- Paula E Kay: As of right you don't own it.
- Robert Coleman: Yes ma'am.
- Steven Burke: When you moved this trailer you had no idea that you needed to go to the Building Department?
- Robert Coleman: I paid \$649 for the building permit, but I guess it wasn't the right year.
- Paula E Kay: There was also an issue with the location. My understanding is that where it ended up being settled isn't in accordance with Town zoning.
- Robert Coleman: Where it will be placed, it is all from the setbacks.

- George Sarvis: As far as Zoning, he took from one spot and put in a spot that will make it conforming.
- Robert Coleman: Where it is sitting now, I had to get it there then I will get the foundation in.
- George Sarvis: He was nonconforming with his placement with the old one he took out. The new one, he agreed to put it toward the middle.
- Richard Levine: The old one is out and you are staying in this one?
- Robert Coleman: I am staying at a friend's house.
- Jason Pantel: You took the old one out?
- Robert Coleman: The owner took it out. I am paying all the taxes on the property.
- Steven Burke: Did you destroy anyone's property or did you bulldozer guy do any damage?
- Robert Coleman: I was not there, Jesse Kenney I guess told Gil that if he could move the snow bank, I was going to get their money, after we left I was on my way to the bank, I figured it is a flat ground they should have no problems. I guess not.
- Steven Burke: The guy you hired did do some damage?
- Robert Coleman: Yes sir. If I was there, nothing would have ever happened.
- Steven Burke: Did you offer to fix the damage?
- Robert Coleman: Yes, when he came knocking that day I told him I would move the stump over right now and clean it up in the spring time. I was unaware of it, nobody told me all of this.
- Steven Burke: Any questions? Violations?
- George Sarvis: Yes. He came in to apply for a permit to put this mobile home on the property. The agreement was that he would put it in the middle and make it conforming. It wasn't 1,200 square feet as it had to be, he had to put an addition on it to come up to the 1,200 square feet which is a doable process. He submitted the paperwork, these pictures, I told him he needed documentation on the manufacturer. He submitted the paperwork, the rudimentary plans for a 200 square foot foyer type room. He got a permit. Somehow, whatever his problem was with the place where it was currently located in Neversink, he never got to do the slab for his place. From what I understand, he had to get it out of the mobile home park in Neversink. He did, at his own risk, apparently aggravated his neighbors. Gregg went out to check it out. In the meantime, we did some research with the Town of Neversink where it came from, the documentation we got from them didn't match the documentation he submitted with the picture. If you look at the picture closely, you can see it has been altered. That being said, we issued a staff work order because it didn't fall into the 12 year rule anymore. That was 27 years. That's why he is here.
- Steven Burke: The information you got from Neversink...
- George Sarvis: We got the certificate title for the vehicle, we got the building permit for when they placed it in the mobile park, and the CO that Neversink submitted to us. The information didn't match the information he submitted.
- Steven Burke: I am hoping this was a mistake, the picture you showed.
- Paula E Kay: But for zoning purposes, you are looking at...
- Steven Burke: A 27 year old thing. I get that. I am just hoping that it was a mistake

and it wasn't submitted intentionally.

- Robert Coleman: I don't lie sir. If I was there, we wouldn't even be here.
- Steven Burke: I am saying that I am hoping that you did.
- George Sarvis: All that being said, the paperwork didn't match up, he was told to come here to get a use variance for the age, and while he is here, instead of building the addition, he might as well ask for the area variance. He is going to have a hard time building the addition based on the communication.
- Jason Pantel: Wouldn't you have to move the house back more?
- Robert Coleman: No we had all the setbacks. It was going on the back yard.
- Jason Pantel: If you had it on the front, you wouldn't have your 75 foot setback.
- George Sarvis: No you are 75 feet now.
- Steven Burke: Okay, we will open it to the public. Anyone like to speak?
- Richard Lee: My question is, I think the owner should be here.
- Paula E Kay: We allow property owner's to sign owner proxy to allow third parties which can be contract vendees which he is, or an agent like an architect or attorney to come and buy. As long as we have the signed proxy.
- Richard Lee: So who is representing her?
- Paula E Kay: He is.
- Richard Lee: I find fault lies with her, what he did was wrong. Bringing the thing in the middle of the day, then the generator. Living in it the next day. We all know it happened. My thing is, it is 27 years old, didn't go through the proper procedures, I pay a lot of money. I own 2 properties and keep my place very nice. Pay a lot of money for taxes. Over \$300,000.00 in the last 28 years. I have nothing against you putting a mobile home there, just do it the right way. It doesn't conform. This owner in the past has had...she doesn't give a crap about anything. Personally, I think she is screwing this guy, putting him in a bad spot. I feel for him, but I live there. I take care of my place. Not bringing the thing in during the middle of the day, where are the footings? You could have took your trailer and put in storage until the time was right to do it the right way. The property has had numerous violations before, the other trailer was there. The septic is a wreck. She has roof shingles buried in the property. I think she needs to clean it up before she sells to this guy.
- Kevin Leeland: I had the altercation with him bulldozing on my property. Again that property should have been looked over, there are 2 failing septic systems and I don't think he realizes what he is getting himself into. The old roof isn't even buried, it is bulldozed up against the woods. If anybody else had that on their property, someone would have to do something about it.
- Steven Burke: Did you see that?
- George Sarvis: Gregg went out there.
- Kevin Leeland: It was snow covered. That's all I have to say.
- Anthony S: I own the gravel bank on McIntosh Road, I also own close to 94 acres behind Kevin's house. I am concerned about this trailer, because I thought in New York State you can't have a trailer older than 1995 put on a property?
- George Sarvis: News to me.
- Anthony S: I thought you can't insure them. Can't mortgage, do anything.
- Steven Burke: You can insure that, I know that. You can't move it, maybe. If it is

more than 12 years old.

- George Sarvis: We have been dictated by New York State we cannot regulate inside a mobile home on the year or where they go. That's the New York State department.
- Anthony S: This property this whole time, they tore down that trailer, it's half done. The property isn't taken care of. I am a little concerned about the property. I own a lot of land there. If I start to develop, I have this eye sore.
- Steven Burke: The Town knows about it now. Anyone else?
- Katherine Edwards: I live right next door, my only concern is if he has done so much without knowledge of what he's supposed to be doing, in the future what more does he need to do? Electric needs to be put in? Is he aware of all the stuff that still needs to be done? It doesn't seem like everything has been done the correct way the first time. He mentioned himself that he has been shot 4 times.
- Steven Burke: That has nothing to do with it.
- Katherine Edwards: I am just saying that it will be next to us.
- Steven Burke: I understand.
- Robert Coleman: Here is the property in the summertime, I kept it nice and clean.
- Steven Burke: Okay. Board comments?
- Paul Lucyk: At the present time, this needs to be assessed. The problem with the lot itself. Everything should be looked into. I am not happy with the trailer that is older than a certain age. If it is code compliant, and safe, then it is a solid unit. Everything has to be checked out before you move something in it. Yesterday I was looking at the plans, it doesn't look like there is 100 feet separation between the well and the leech field. I think before you do anything, an engineer should go in and have everything assessed. What needs to be done so that it meets codes for that size unit to go in. Or even if it is a newer trailer.
- Jason Pantel: If he is denied tonight, what options are open for everybody here?
- Paula E Kay: So it will come an Enforcement action if he is denied. He will move it. He will come back with something that is code compliant.
- Jason Pantel: How long would he have to remove the trailer? When do you start the clock?
- George Sarvis: If you have a violation on your property, New York State dictates you be given a 30 day notice. That would be what we always start with. The first day of the violation, post it, here is the date it has to be done, or tell it to the judge.
- Steven Burke: If it's not moved by 30 days then you take him to court. In essence it could be 2 months.
- Paula E Kay: Technically it could be longer because by the time you get the jurisdiction from the Town Board to find, he is taken elsewhere.
- Steven Burke: There are also fines.
- Paula E Kay: Fines are on a daily basis.
- Jason Pantel: It seems to me when you first started your story with the people that moved the trailer in the first place, you probably have some recourse with them with the amount of damage you've done to the people around you. My personal opinion is I would want the trailer moved until the proper things were done on the property.

- Steven Burke: That trailer wouldn't be able to be put there anyway.
- Jason Pantel: If we vote no on the use variance, that's the way it is. Circumstances aren't as they were, I would find it difficult to say no. I think there are too many skeletons in the closet.
- Richard Levine: Going all around, the names are not happy. You should have done your homework. I feel bad for you because you got to this point with the home and it was done the wrong way. If it was done the right way no one would be sitting here it would go through for you. From what I understand, the old trailer was worse than what is on the property now. It is an improvement for the property.
- Jason Pantel: They tore it down before he had anything to do with the situation.
- Richard Levine: What was there is a lot worse than what is there now. He took that upon himself. That's his problem now.
- Neil Sapolsky: I feel bad for you too, but there are too many red flags on this thing. It might be the best thing, they know it better than you. They have been there a long time. I don't know if I want pissed off neighbors right now.
- Steven Burke: The only thing I have to say is I agree with everything said here tonight. If you wouldn't have done things a little differently, this may have gone a little smoother for you. Obviously you didn't, for whatever reasons they were, the only thing I have to say is when you spoke I gave you respect, I didn't look at the ceiling when you were speaking to me. Let's go through the criteria real quick.
- Paula E Kay: This is for the use variance.
- Steven Burke: Cannot realize a return substantial as shown competent financial evidence?
- 5 board members say cannot, 1 says can.
- Steven Burke: Alleged hardship is unique and does not apply to substantial portion of the district or neighborhood?
- Paul Lucyk: It is not up to code, so it is unique that it is a downgrade.
- 5 board members say it is not unique, 1 says it is.
- Steven Burke: Requested variance will not alter essential character of the neighborhood?
- All board members say it will.
- Steven Burke: Alleged hardship has not been self-created?
- All board members say it has been self-created.
- Steven Burke: Lead agency?
 - MOTION:
 - Richard Levine motions for lead agency. Jason Pantel seconds. All in favor.
 - MOTION:
 - Richard Levine motions for negative dec. Jason Pantel seconds. All in favor.
- Steven Burke: Do I have a motion to go forward with this property for the use variance?
- Paula E Kay: How about a motion to deny?
 - MOTION:
 - Jason Pantel motions to deny. Paul Lucyk seconds. All in favor.
- Steven Burke: Okay. This motion was denied for the use of the property, if you don't have permission to use the property you cannot put the trailer in that does

not conform. I would check in with Code Enforcement.

- Robert Coleman: So now I have to sell my trailer?
- Steven Burke: You have to conform to the laws.

Jason Pantel motions to adjourn. Paul Lucyk seconds. All in favor.