

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

TOWN OF FALLSBURG ZONING BOARD MEETING

May 18th, 2017

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

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

NEW BUSINESS:

1. YELLOW SHUTTERS – SBL# 47-1-57.3 – Requests an area variance for more than a 25% increase, increase in lot coverage and an increase in height for purposes of demolishing units 15/16 and replace them with a two family house. Zone: REC-1. Acres: 14.78. Location: LaVista Dr., So. Fallsburg.
 - Joel Cohen represented.
 - Paula E Kay: They are from last month. Basically they needed to take some time to handle violations. Work with the Water and Sewer department to take care of everything. We left the public hearing open for this month. As we discussed at the work session, it sounds like the violations have been handled.
 - George Sarvis: DWP signed off on the violations and closed violations.
 - Steven Burke: Okay. Now, on my last month's paperwork it says there was a height issue.
 - Joel Cohen: There are three variances required for this. The height...
 - Steven Burke: 25% lot coverage.
 - Joel Cohen: The maximum lot coverage is 50%, we are now 20.5%, they will be at 20.8%. The height is now 16 feet plus or minus, because of the size it will be 23 feet.
 - Steven Burke: That falls within reason, right?
 - George Sarvis: 35 feet.
 - Joel Cohen: We are doing it because it is a bungalow colony.
 - George Sarvis: Bungalow colony says no increase in height. Just those words alone. You need to make that call.
 - Joel Cohen: 23 feet.

- Paula E Kay: Currently it is how tall?
- Joel Cohen: 16 feet.
- Paul Lucyk: What about elevation from the ground?
- Joel Cohen: We will have about 3 feet crawl space, the floor system is 1 feet, 9 feet ceiling, and then the roof. That is 5 and 12.
- Steven Burke: You're looking for 7 feet difference.
- Paula E Kay: The lot coverage now is?
- Joel Cohen: 20.5%, the change will be 20.8%. The third variance will be the size of the expansion, the size of the expansion will be 137%, 600 square feet a unit.
- Steven Burke: How big are they now? Those 2 units? Just 15 and 16?
- Joel Cohen: Those are 2 individual units, they will be combined as 1 building with 1,600 square feet per unit.
- Steven Burke: What are they now?
- Joel Cohen: I think 1,200.
- Steven Burke: The way he was talking, it was per unit.
- Joel Cohen: It's 1,352 square feet per both of them now, it will 3,200 square feet total. It is 137% increase.
- Steven Burke: That's a lot.
- Joel Cohen: It's not when you consider what the square footage.
- Steven Burke: It's double the square footage.
- Joel Cohen: It's an expansion, 600 feet.
- Steven Burke: You're better off saying it's double what it is now, than saying 137%.
- Paula E Kay: They are demolishing 2 existing...
- Steven Burke: But they're putting up 4, almost. You are putting in foundation?
- Joel Cohen: Yes.
- Steven Burke: Not to exceed more than 2 feet out of the ground with no entrance from the outside.
- Joel Cohen: It's about 3 feet of crawl space.
- Steven Burke: If that was one of our conditions, no more than 2 feet out of the ground with no outside entrance to the basement. Would you be willing?
- Joel Cohen: There is a slope between 2 and 3, I can't say I want to see 2 basements below 1 and 2.
- Paula E Kay: A full basement?
- Joel Cohen: It won't be a basement, it's a crawl space.
- George Sarvis: It wouldn't be finished at all, crawl space is 2 or 3 feet high.
- Steven Burke: I'm still saying no entrance from the outside.
- Neil Sapolsky: You still need an access doorway.
- Steven Burke: I'm talking about a door, to prevent you from putting up a toilet. Once that basement is closed off, you can do whatever you want down there.
- Paula E Kay: Not in the...
- Steven Burke: It won't be in the beginning, once George signs off on it. Once he signs off on it, I've seen apartments in crawl spaces. In the summertime, people put people anywhere they can.
- George Sarvis: I can say I haven't seen an apartment in a crawl space, but I have

seen a bedroom in a stairway closet.

- Steven Burke: Okay, anything else? We'll open to the public portion. Anyone here from the public like to speak on the matter?
- Gary Coucher: If that one is more than double, does that mean all the others will be double as well? It sounds like the whole thing will be increased significantly over time.
- Joel Cohen: There's no plans, right now it is a co-op so everything is owned individually. All of these, they are 2 stories and they are big enough. I don't see anything happening. Maybe something small in the future
- Steven Burke: Anyone else?
- George Sarvis: We have more than 25 feet separation between there?
- Joel Cohen: We have 25 on one side, and 26.7 on the other.
- Steven Burke: Just to answer your question, down the line, if they do get the variance, they do have a better case to come in here and get it done again.
- Gary Coucher: I'm pretty much counting on it getting turned to duplexes with much larger space.
- Steven Burke: My only concern is that is doubling the building size. Would you be willing to build anything smaller?
- Joel Cohen: I don't have an answer because I have to ask the owner. A 600 square feet home is not that big of a home. He isn't building a 5,000 square foot mansion.
- Paul Lucyk: What is it 31 feet cover for spacing.
- George Sarvis: 25 in a bungalow colony.
- Steven Burke: It just looks like a monstrosity together.
- Paul Lucyk: Do you have the plans for the building?
- Joel Cohen: I don't have the plans for the building. They want to know if they have the variance.
- Steven Burke: Anyone else from the public? No, okay we'll close public. The violations were taken care of. The mailings were still good?
- George Sarvis: We did have addresses....someone came to the office and Denise verified the addresses on 4/20.
- Steven Burke: Okay. Any board comments?
- Paul Lucyk: New is new. Get rid of the old.
- Steven Burke: I'm going to make you stick to the 2 feet out of the ground. We started something and I want to keep it consistent. That will be a condition on my end.
- Joel Cohen: Okay. I don't have a choice.
- Steven Burke: You can say no, then you can go back to them and say Steve voted no. It doesn't mean you won't get it, I'm only 1 vote.
- Joel Cohen: 2 feet sometimes is difficult because if the ground elevation are 2 feet.
- Steven Burke: I understand. I'm just saying, I would like for people to stick to it. We have made mistakes in the past and I am trying to not make those mistakes. This is why I do this. This is my shtick. I am going to ask you to stick to that. If it is a problem, just tell me.
- George Sarvis: 2 feet from the bottom of the floor or 2 feet from the top?

- Steven Burke: 2 feet from...
- Neil Sapolsky: 2 feet from the space underneath the floor.
- Steven Burke: 2 feet showing outside. That's what we've been doing lately. How do you all feel about that? I am saying just sticking out of the ground. We gave them an open thing, I feel responsible with that.
- Paula E Kay: There are 2 issues, whether there is adequate space or not, which this doesn't seem to be. But there is also the appearance.
- Steven Burke: It looks like a 3 family houses, in Loch Sheldrake they are 3 family houses.
- Paul Lucyk: It's like a bi-level house.
- Steven Burke: Absolutely. It's terrible, I think. You guys with that?
- Joe Puccio: It depends on the contour of the property. It might be a big expense to move a lot of dirt to get to that way.
- Steven Burke: I understand that part too.
- Joel Cohen: What if it is 2 feet down at the one end, at the other end would be 1 feet. You could have a 2 and a half foot difference from the standard foundation.
- Steven Burke: As long as more than 2 feet is not exposed. I don't care how you do it, if it is cheaper that way, fine.
- George Sarvis: Is this on grade
- Joel Cohen: It is a little bit on grade.
- Steven Burke: I know you are saying it is costly, but he's asking for double what he has.
- Joe Puccio: I am just saying, they might look at it that way.
- Steven Burke: I agree. Is that okay with you? That is my condition that is all. Let's run down the criteria. Whether the benefit can be achieved by other means feasible to applicant?
- 2 board members say yes, 2 board members say no.
- Steven Burke: Undesirable change in neighborhood character or nearby properties?
- All board members vote no.
- Steven Burke: Whether the request is substantial?
- All board members say yes.
- Steven Burke: Whether request will have adverse physical or environmental affects?
- All board members say no.
- Steven Burke: Whether alleged difficulty is self-created?
- All board members say yes.
- Steven Burke: Lead agency?
 - MOTION:
 - Joe Puccio makes the motion for lead agency. Paul Lucyk seconds.
 - All in favor.
 - MOTION:
 - Joe Puccio makes the motion for lead agency. Paul Lucyk seconds. All in favor.

- MOTION:
- Joe Puccio: I make a motion to approve with the 2 foot sticking out of the ground, of the foundation.
- Steven Burke: Let me go through this, you did make a motion. 15 and 16 demolished, replaced by 2 family bungalows, bungalow height is 16 feet but not to exceed 23 feet. It is a 7 foot height difference in what you are asking for, and the 137%, and no more than 2 feet of foundation sticking out of the ground.
- Joel Cohen: The lot coverage.
- Steven Burke: The lot coverage was 20.5% and it is going to 20.8%.
 - MOTION:
 - Joe Puccio motions to approve as presented with listed conditions. Paul Lucyk seconds. All in favor.

2. UTA OF KIRYAS JOEL – SBL# 36-1-52.1 – Discussion regarding non-conforming property and use of bulk table. Zone: Location: Pleasant Valley Rd., Fallsburg

- Jay Zeiger represented.
- Steven Burke: This is just a discussion?
- Jay Zeiger: It is a vote for interpretation.
- Paula E Kay: To determine the bulk table it fits in, we also wanted to determine what use you are. But we want you to explain your use.
- Steven Burke: So are we voting on this?
- Paula E Kay: You're going to vote as to what bulk table they should be off of.
- Steven Burke: So is this use or area?
- Paula E Kay: An interpretation.
- Steven Burke: No forms?
- Paula E Kay: No forms are needed.
- Jay Zeiger: I believe we classify as a summer camp.
- Paula E Kay: You are currently in an R-1 zoning district which does not allow a summer camp.
- Jay Zeiger: Pre-existing nonconforming.
- Paula E Kay: You want to expand that summer camp.
- Jay Zeiger: Correct. We've been before the Planning Board for quite some time, I have attached Rob Geneslaw's memorandum. His first conclusion is that we are a summer camp. We are not disputing. An overnight camp. I think it is referred to as camp sleep away in the bulk table.
- Paula E Kay: Yes.
- Jay Zeiger: As a pre-existing nonconforming use, we come under 310-9.3E, which says that it is allowed to be expanded up to 50% of the floor area when the zoning law was adopted. The Planning Board has asked that the map show what it was, that's been resolved by the Planning Board. The question tonight is what bulk table to use. R-1 districts don't allow sleep away camps. The Planning Board is asking us what is our setback? What is our lot coverage? Things of that nature. Bob Geneslaw's memorandum suggested that we look at REC-1 or the REC-2. In this

instance they are both the same. We don't need to decide which of those 2. Under the bulk table for a sleep away camp, the minimum lot area is 10 acres which we far exceed. The lot width is 500, the lot coverage of front is...the setbacks are 200 feet in the front. 150 in the rear.

- Paula E Kay: And 150 for each side with a combined side lot of 300, and maximum lot coverage of 10%. The maximum height is 35 feet per.
- Jay Zeiger: We're okay with that bulk table, the first question for you is do you agree that the REC-1 and or the REC-2 bulk table is agreeable? For simplicity let's say REC-1. That was Bob Geneslaw's suggestion.
- Steven Burke: He's the guy that should make the decision.
- Paula E Kay: He doesn't work for the Town anymore. We have a new planner. He can make a recommendation but you as the board need to make a determination so when they do their expansion, they know what they have to comply with.
- Steven Burke: This is a REC-1?
- Paula E Kay: No they are in an R-1 which does not allow for sleepaway camps. They want to expand it, under our code we can expand preexisting nonconforming use by a certain percentage.
- Steven Burke: They already have this sleep away camp in here.
- Paula E Kay: Yes. They are expanding.
- Jay Zeiger: Everything you see here is already here.
- Paula E Kay: In order to expand in, which they can do on a minimum basis, they have to expand it with a bulk table that fits for a camp. Since the R-1 doesn't allow for camps, we have to help them figure out which bulk table to comply with. It really doesn't matter, the bulk table for sleep away camps are the same for REC-1 and REC-2, I would say pick REC-1. Especially since we're pretty convinced that the recommendation from the Comprehensive Plan will be to unite the REC-1 and REC-2.
- Steven Burke: So REC-1 is okay?
- Jay Zeiger: The next questions is the existing buildings. The existing buildings are existing, some of these over here violate...this is already in violation of the bulk table you already adopted. That bulk table is for expansion. The existing building are an exception because they are preexisting, both in use and in bulk.
- Steven Burke: You need a variance for those too?
- Jay Zeiger: No we don't need a variance.
- Paula E Kay: No variance.
- Jay Zeiger: The question is should we want to expand one of those buildings, which we are allowed to expand up to 50%, but they are already in terms of setback, they are in violation.
- Paula E Kay: If you decide to expand one of those buildings, you can come back.
- Jay Zeiger: The question is do we have to come back, or if we have them....if we expand away
- Paula E Kay: You're increasing the nonconformity.
- Jay Zeiger: We're not increasing the nonconformity if we are building to the back and we're violating in the front.
- Paula E Kay: You still are because the nonconforming structure is being made...

- Jay Zeiger: Even though the addition to the nonconforming structure..
- Paula E Kay: Yep.
- Steven Burke: In other words, be grateful we are grandfathering those buildings in.
- Paula E Kay: You will need to come back.
- Paul Lucyk: How far is the separation between the buildings?
- Jay Zeiger: It's not on this map, in some cases it is significant and in some cases it is not.
- Paula E Kay: On each one, you are going to have to determine what you want to do. If it is a building that is preexisting nonconforming and you are adding to it, you have to come back.
- Jay Zeiger: Right now the only building pending is the dormitory which it doesn't apply to. This question is academic for tonight, what I am hoping to accomplish is we get the ground rules so we don't have to come back and ask the same questions.
- Paula E Kay: I think we established that then.
- Steven Burke: You're going to have to.
- Paul Lucyk: What's your long term plan?
- Jay Zeiger: There is no long term plan but the camp is substantial in size. There's probably 2,000 or more occupants, and the plan is to continue to expand subject to their limitations.
- Paula E Kay: I think that the board in the work session was discussing, in this application, there is a lot of land in the back and they would love to see expansion in that direction.
- Jay Zeiger: That's probably the logical place to do it anyway, except if you have....I don't know if this building over here is a dorm building, they may add bathrooms to it.
- Paula E Kay: Nothing will stop you from coming back.
- Jay Zeiger: The conclusion is the bulk table is REC-1. Is that voted on? Steve was that a vote?
- Steven Burke: It was a mutual agreement between all of the brains.
- Audience: Just for future reference, any building that they're not prepared to, in the future, preexisting building, if it is within a property and not within the setback, do they have to come back to this board as long as they don't increase by 50%?
- Paula E Kay: Any building that does not comply with the REC setback that they want to expand.
- Paul Lucyk: What happens if you have 2 bungalows 10 feet apart and you want to add to it, you're going to have a situation with fire.
- Steven Burke: You're going to lose 2 bungalows.
- Jay Zeiger: If they are 10 feet apart and they are preexisting, they stay. If we wanted to expand those, George was right, they don't meet the separation. Then we would come back for a variance or go with a different plan.
- Steven Burke: Okay? I make a motion to close.
- Jay Zeiger: Paula we will come back next month on that. This is a variance for the Yeshiva Gadova. We got a variance, the variance expires in 6 months. More than

3 weeks ago, I wrote to Mollie and asked to be added to the agenda. We got the agenda. Randy responded and said we were not on the agenda. I sent Mollie and Denise a copy asking to be. If you want to....I would hope you would hear tonight, based on what I just described, we would prefer not to come back, it's not a public hearing. If we do come back, I want it on the record that we made our request for the extension in a timely manner, and administrative reasons are why we are not on the agenda.

- Paula E Kay: I think that's what we have to do because it is not publicly noticed anywhere. Even though it's just an extension, the board doesn't have it, the public doesn't have it. I have no issue with the applied timeline. Your extension would run from...
- Jay Zeiger: If we get it next month it would be retroactive.
- Paula E Kay: Right, I was not aware of this at all. I don't know what happened.
- Jay Zeiger: I don't remember hearing from Mollie or Denise. I have my email from Mollie from 3 weeks ago.
- Paula E Kay: Why don't you forward that to me and Mollie again, you will not be adversely impacted at all. We'll know next month, that it was noticed.

Joe Puccio motions to close. Paul Lucyk seconds. All in favor.