

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

## **TOWN OF FALLSBURG ZONING BOARD MEETING**

**April 14th, 2021**

Steve Burke, Chairman, Ellyane Hutchinson, Mike Bensimon, Neil Sapolsky, , Board Members, Larry Zierler Thomas Little, Alternate Board Member, George Sarvis, Marisol Torrens, Code Enforcement, Melissa Melko.

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

### **OLD BUSINESS:**

1 CHESTNUT COURT TOWNHOUSES – SBL# 39-1-94/95 – Requests a 6 month extension on a previous approved variances. – Several variances were granted from the Townhouse law and for the location of the caretakers residence.

- Jay Zeiger represented.
- Steven Burke: This is just here for a 6 month. We believe it is the first one.
- Jay Zeiger: The project has been conditionally approved by the Planning Board. The only remaining condition is that Keystone signs off on the engineering. Everything Keystone needs to do that is with them. Keystone has gone back and forth with our engineer a couple of times. The response to Keystone’s last comments were provided to them. We are ready to start construction as soon as Keystone gives the go ahead.
- Steven Burke: What is the Board’s feelings? Everyone in favor of giving them a 6 month extension?
- Neil Sapolsky: Yes.
- Ellyane Hutchinson: Yes.
- Steve Altman: Yes.
- Mike Bensimon: Yes.
- Steven Burke: Mr. Zeiger you have your 6 month extension.

2 IRA & GITA LIPSIOUS (SHELDRAKE HILLS) – SBL# 17-1-22.3 – Requests an area variance to expand an existing unit from the allowable 25% to 39.6% (unit #13). Zone: R. Acres: 40.17. Location: CR 104, Loch Sheldrake. Cross Roads: SR 52.

- Allan Frishman, Ira and Gita Lipsius represented
- Steven Burke: I just want to explain to you I rode inside of Sheldrake Hills today. It is literally a pig sty in there. There are garbage bags opened up. Kitchen refuse. I went there about 2 PM. Disgusting. Kitchen garbages open all over. I rode extensively throughout the different buildings. I am even going to forgive what I saw behind the caretaker's house which was more like a dump. I understand he would take all the garbage and dump it all behind his house and when he has a chance he brings it to the dump. I am talking about bags of garbage all over the place. We will hear you tonight but I am not bringing this up for a vote until that place gets cleaned. Even though it has nothing to do with this one it has to do with the whole development. I am just making that clear. We will hear you out but we are not voting on this again this evening.
- Allan Frishman: I am going to say they cleaned up the violation Marisol asked them to clean them up. I have a feeling the bags of garbage are from the people coming up in the spring and think it will magically disappear.
- Steven Burke: There is a caretaker there that lives on the property.
- Ira Lipsius: I want to give a little background. I have been in Sheldrake dorms as a tenant. I own one of the homes. Ellen remembers when we bought this from Mr. Perrits and there were a lot of problems. I worked personally with Allan and the board to fix this place. We planted trees. We fixed it up. When I was on the board there and involved I put in a lot of work. It made it into a nice place. Then I bought this unit D6 and I have worked with the board a number of times where I have seen problems. I appeared before the board even when someone else was making an addition. I understand this problem. I have not been up there since the last season. I have worked tirelessly whenever the board asks. Allan can tell you. When he was working for the city he would give me a call and I would take care of it. They now have a caretaker and a person who is supposed to manage. I have raised hell with them over what has happened. My problem is I have a daughter I bought this unit for. We knocked down the unit. The unit was falling apart and was garbage. We were told by the architect and builder they had permits. We thought we were getting new buildings built and then we were learned the permit was to only knock down the building. Allan can tell you what I did to get trees planted and to keep the road open so the roads would be cleared in case emergency vehicles had to go through. Personally I don't think anybody did anymore to beautify that place. I have been living up there. I have been your neighbor for over 20 years. My unit is kept up perfectly. I have 3 units now. I have children and they have grown into it. You can see we kept all 3 units perfectly. We just knocked down this unit. I will make my commitment to you that I will go up there a week from tomorrow so we can have a place for our children to be able to bring their family. It has been a very painful

matter for us that this happened. I have called and screamed and written letters before the violation. We even offered to pay to chop the snow and get the stuff buried under the ice and snow. I am blaming the management of the facility but I feel we are victims to other people's lack of diligence I can't prevent. I feel bad you had to go there and see this. I was guaranteed this was fixed up. It is possible what Mr. Frishman said that people came up from this week or last week. As the weather gets warmer people come up for the season. In fact we plan to be there next weekend. I will make the commitment to go up next weekend to make sure this is done. I would really appreciate if you would grant us that ability to be able to build a home for our children. I know Allan can tell you what I did years ago when that place was a terrible eye sore. That place looked like a wreck. Excuse the garbage there. I would appreciate at least some consideration that I am victim of this. I will go up there and do something next week. Even if I have to pay someone myself to clear the garbage.

- Allan Frishman: I want to add that last month I was quite disappointed myself that the garbage in the snow wasn't cleaned up. Marisol said they can't vote on it tonight. I said okay somebody messed up. I said to the caretaker what is the matter with you? These people are held up again. I am going to ask the Board that this is a new violation. It's not something that Marisol had said there is garage all over the place.
- Steven Burke: I don't think there is any violation.
- Marisol Torrens: It is not my responsibility to call you and say you have to clean this up. Part of the first trash was part of the demo.. When you do a demo you are supposed to have a container to put that in. Part of that garbage was part of the demo.
- Gita Lipsius: I asked our contractor and he claimed he brought all of the garbage to a dump. I was doing this all long distance but I can only do what I can do.
- Ira Lipsius: My wife texted the manager. The manager says can't believe they checked it before. After we cleaned the dumpster I sent them pictures and they checked it since then. They didn't know me of any problem. First of all Marisol we worked very hard. We got a contractor who was licensed and highly recommended. They worked in the area. We had asked about him. He told us he was removing it. We have already paid to knock down the place and the garbage removal. We have paid him \$25,000.00. We paid for that to be done. We expected it to be done. You are right. Nobody should have to give a violation to keep the place clean. It is really making our lives difficult. I will give you that commitment. I will come to you next Friday if you vote on this. I will come to you with a picture to verify to you that this place has been cleaned up. I would really appreciate if you consider the hardship to us and our family.
- Allan Frishman: I understand Steve that you went today and saw the mess. Bad timing. I guarantee if I had gone there earlier or Marisol went earlier and I told Mr. Lipsius about this I would have taken care of it. It is true. It shouldn't be there. It

shouldn't be there in any place. I am pretty sure my answer about people coming up to visit their place and dropping stuff off, had lunch, and they throw stuff outside. It may be stuff where they came up in the fall, it was under the snow and nobody looked at it.

- Steven Burke: There is a caretaker.
- Allan Frishman: I've had caretakers live in their own garbage. I don't know why. I think it is an internal problem that the people in the place have to get someone responsible.
- Steven Burke: The only way that happens is when a gentleman and lady like Ira and Gita Lipsius get so angry that they say to management that this has stalled my project so long that unless you get rid of this person or shape this person up it won't happen again. Unfortunately if that doesn't happen it doesn't get taken care of. I don't like doing this. It was disgusting when I rode in there. I live in Loch Sheldrake. Think of how I feel.
- Allan Frishman: Luckily you didn't have to see it from the road otherwise you would have told Code Enforcement and we would have had cleaned up. I am sorry I didn't drive in. To my knowledge everything was cleaned up down below where the problem was. I am going to ask the Board some lenience on one thing tonight. You could vote on this because I think it is on the same request. Hold off on the building permit until it is cleaned up and spotless. Otherwise I have to wait another month. They are trying to get something together for this season and the clock is ticking. Last month I understood we were held up. I am asking the Board's grace to vote tonight. Whether it is yes or no so I know where we stand. They've made a big investment coming back to you. Last month it was held up because of the stuff below. I don't wanna know the conversation I had with Gizzy. Finally he got his act together and cleaned it up. It is an internal problem they have with their caretaker and their management is not doing the right job. I think you need to let go. All I am asking is that the Zoning Board makes a condition to say yes or no and if it is yes the condition is that the permit will not be issued until that place is spotless.
- Steven Burke: The entire place. Not that just one unit.
- Allan Frishman: I'll go around and tell the guy. I'll hire somebody I know who will clean.
- Steven Burke: Before you go through with your presentation I will poll the Board.
- Thomas Little: I would prefer it to be cleaned up prior to voting.
- Mike Bensimon: I don't mind discussing the merits of the case itself and discuss what the application is. I will defer to the rest of the Board as far as waiting to vote on it due to the garbage issue. I see them as two different issues. It is not what is at hand right now but I do understand the concern. I am voting that we can hear to vote on it but I understand the rest of the Board. We can wait on this. I am just saying I have no issues discussing the merits of the case and making a decision or making alterations.
- Steven Burke: You are okay with going forward with the vote and hold off the

building permit?

- Mike Bensimon: Correct.
- Neil Sapolsky: I just feel that unless we come down hard and we don't take the vote it will keep happening. I am not for the vote.
- Ellyane Hutchinson: I don't mind voting. My issue with it was more about the percentage increase above the allowable. I do agree it should be conditional on getting things cleaned up.
- Steven Burke: I am the deciding vote on this. Even though I am very conservative I will be progressive tonight. I will give the applicant a break. I am flip flopping. I am going to say let's vote tonight. Did the 239 come through?
- Allan Frishman: I didn't see one. George? Marisol?
- Marisol Torrens: I didn't see anything from Denise.
- Allan Frishman: There was one initially when it was turned down.
- Marisol Torrens: Let me look.
- Steven Burke: Don't make me sorry that I went ahead and went against my better judgement.
- Ira Lipsius: I will be up there. I will make that commitment. We plan to be up there weather permitting on Friday. I will not go back on Sunday until I know that place will make you happy. In fact I will deliver pictures to you home in Loch Sheldrake if you'd like on Sunday morning.
- Steven Burke: Okay that is all I ask.
- Marisol Torrens: 239 came local determination. It had some notes on it but I do not have it with me now.
- Steven Burke: Do you have any idea what those were?
- Allan Frishman: I don't think it was anything serious or we would have to take care of it before we proceeded last time. You would have made it conditional.
- Marisol Torrens: Let me look at my email.
- Steven Burke: While we wait go ahead with the presentation. Is it still 25 to 39.6?
- Allan Frishman: As you recall the original application was about 89%. That was a very big increase. At the meeting where we were turned down I said we would take off the porch. That was reduced to 49% and you still felt that was too high. I went back and said we have to cut down the drawings. They were waiting for the architect to do something and he was taking too much time. When he finally produced something it was inadequate. I took it upon myself to do a design. Everything was squeezed into the unit. We have reduced it to 39.6%. If you look at the sketch showing the additions the A and B portions is 173 square feet and that equals 27.1%. By adding C and D which is part of the floor plan and an important part the increase is only 80 square feet which is 12.5%. Your total increase is only 39.6%. I think it is more in line with what has been approved before. I believe it is what you guys would consider not extravagant. Something they could live with and get what they need. The balance between the town zoning and what you would allow. I am hoping we can get a positive vote tonight because

we reduced it twice. Definitely make it a condition that the permit will not be issued until Code Enforcement is happy or you drive through and say it is finally clean. Mr. Lipsius if you want me to go to your board meeting to fire this guy because he isn't doing squat. If he is getting paid to live there he isn't doing anything. I have to tell you that garbage makes me very upset. George knows that. I am very upset that I have to hear from Steve that the place is messy. Melissa has a copy of the floor plan. I don't know if you need to see it.

- Steven Burke: Why not.
- Melissa Melko: I can share screen. I just emailed Marisol the 239.
- Marisol Torrens: Let me see what it says.
- Allan Frishman: Okay you are looking at the floor plan with a little bit of a kitchen bump out. 2 bathrooms 3 bedrooms. Very simple. You have the dining room and great room in the middle. It is a very simple floor plan. It eliminates the covered porch and some of the square footage we cut off to keep it in line with the 39.6%.
- Steven Burke: I am glad you cut the porch off.
- Allan Frishman: This is just the structural work and I went over it with my engineer. I didn't want to push anymore unless there was some decision by the Board that I had to slice anything else off. He has already invested money in me to work on the plans. The plans from the original architect are a loss. This is an interesting project to backtrack and see how they should have hired me from the beginning.
- Steven Burke: Joe Gottlieb is a good engineer.
- Allan Frishman: Yes he is. That is basically the plans. Just to show the Board. We can go back and discuss the 239.
- Melissa Melko: Basically it says local determination but I will put it on the screen.
- Steven Burke: Okay so no big deal. Are you done Allan?
- Allan Frishman: I think Mr. Lipsius would like to add a note.
- Ira Lipsius: I just received a text message that the caretaker was fired last week and a new caretaker has been retained and will be here this week.
- Allan Frishman: That could be why the garbage is everywhere.
- Ira Lipsius: I thank you very much. That will mean this garbage will be clean and I won't have to schlep it myself next Friday.
- Steven Burke: Are you all done Allan?
- Allan Frishman: I think that is about it.
- Steven Burke: On my notes it says we closed the public portion.
- Marisol Torrens: Yes my notes too.
- Steven Burke: Any Board comments?
- Mike Bensimon: The changes in the plans is much much better. I am still on the fence with the parts that are jutting out. Especially where the kitchen is. The bedroom that comes out to where the porch used to be is kind of an improvement compared to the footprint of the porch. I am not upset about the bedroom being extended out. It still fits the uniformity of the house. The only part that rubs me the wrong way is the kitchen that sticks out there. I don't know if it possible to bring

that in and just extend that countertop out closer toward the window in the living room area. That's only my opinion.

- Allan Frishman: What we did design is that the roof line will go down the center of the roof. That little portion in the front is going to be a little bump out with a gable. It won't have that straight box look. Architecturally it works out better with the bump out. That way it won't look like a straight rectangle.
- Mike Bensimon: I am just going based on the plans. I am not really visualizing what you are trying to explain.
- Allan Frishman: I can just hold up a photo. You can keep going.
- Thomas Little: I don't really have any questions. I think this is more reasonable than the prior askings. If work was done twice to mitigate the extensive asks of this. Looking at the plans it looks more reasonable. As long as the trash is cleaned I am okay with it.
- Neil Sapolsky: I am 100% on board.
- Steve Altman: I am very negative about this.
- Steven Burke: We will wait for you Allan before we go any further.
- Allan Frishman: It has a little bump out. It gives it some character. It was part of the original plan the original architect put together. Instead of just putting a shed roof on for a bungalow look it will have some flavor. Just to answer the question Mike brought up.
- Steven Burke: So we will go further. Violations were taken care of as far as the old violations?
- George Sarvis: Yes.
- Steven Burke: So we will go down some of the criteria. Rabbi the only reason I didn't invite you is because you are still an alternate. Thomas are you still an alternate? I think you are.
- Thomas Little: I am not sure.
- Steven Burke: Whether the benefit can be achieved by other means feasible to the applicant?
- All Board members vote yes.
- 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 vote yes.
- Steven Burke: Whether the request will have adverse physical or environmental effects?
- All Board members vote no.
- Steven Burke: Whether the alleged difficulty is self-created?
- All Board members vote yes.
- Steven Burke: Lead agency?
  - MOTION:

- Mike Bensimon motions for lead agency. Ellyane Hutchinson seconds. All in favor.
- MOTION:
- Mike Bensimon motions for negative dec. Ellyane Hutchinson seconds. All in favor.
- Steven Burke: So with the permit not to be issued until complete development is cleaned from refuse all over the development. The 239 came back with local determination with very minor stipulations. I don't think anyone had any problems with that. Previous violations were removed. Do I have a motion to vote for or against?
  - MOTION:
  - Neil Sapolsky motions to approve. Ellyane Huthinson seconds. Mike Bensimon votes to approve. Steve Altman votes to deny. Steven Burke votes to approve.
- Ellyane Hutchinson: I want to note that 39% is still significant and given there were several large structures on there I am willing to say yes.
- Steven Burke: You have your variance. I hope you keep to your word. I hope in the future I don't have to make any trips and feel embarrassed. Have a great evening.

Steve Altman motions to adjourn. Ellyane Hutchinson seconds. All in favor.