

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

TOWN OF FALLSBURG ZONING BOARD MEETING

August 20th, 2019

Steven Burke, Chairman, Thomas Little, Ellyane Hutchinson, Steve Altman, Mike Bensimone, Larry Zierler, Board Members, Melissa Melko, George Sarvis, Code Enforcement, Paula E Kay, Deputy Town Attorney

- Steven Burke called the meeting to order.
- July minutes approved.

NEW BUSINESS:

1. FALLSBURG HOLDING – SBL# 39-1-65/76/77 – Requests a 6 month extension on previously approved variances.

- Jay Zeiger represented.
- Jay Zeiger: The variance we were granted was for the caretaker house. At the time we applied for the variance this project was in its early stages. At the time part of the property had these old bungalows on it. The bungalows were in a deteriorated condition. The condition of the variance would be that we would tear down what was there and build a new caretaker at the same footprint. At the time were in front of you all the buildings were there and again they were deteriorated. Before my client purchased the property there was pressure to remove the buildings. We were in the early stages of the site plan and the Planning Board stage. Since the variance was granted the plans are now at the point where the full site plan with all the detailed engineering and drawings are in the process of being reviewed for the second or third time by the town engineer. Both of the engineerings have been done and submitted with the town engineer for review. The deteriorated buildings which we had committed to remove as a condition of the site plan approval the property owner has already removed all of them. The town was very happy that was done sooner than the obligation to do it. As part of the process it needed to be done and it has been done. I attached on the extension request a whole laundry list from a work session that we had on July 29th outlining and detailing a lot of the things that had been done since the variance was granted and the few things remaining for site plan approval. A lot has been accomplished. The conditions of the variance and the criteria be allowed to grant a variance none of that has changed. The neighborhood is the same. The site plan is the same. The proposed development is the same. I submit that all the criteria we need to establish when the variance was first granted has been established again and remains the same. And that significant work has been done both in removing the buildings and advancing the site plan.
- Steven Burke: Okay that was the significant amount of work since the last extension.
- Jay Zeiger: This is actually the first extension.

- Steven Burke: Do I have a motion to grant the extension?
 - MOTION:
 - Mike Bensimon motions to approve. Thomas Little seconds. All in favor.

2. MOUNTAIN STREAM VILLAS – SBL# 29-1-4.1 – Requests a 6 month extension on previously approved variances.

- Jay Zeiger represented.
- Jay Zeiger: The engineering is pretty far advanced. It has been reviewed by Keystone. The big hurdle we are looking to overcome is the water for the project. The original requirement from the Health Department was that there be a certain number of wells dug and a certain quantity of water. The Health Department made that calculation based on being a transient community. The Health Department has since changed their regulations and no longer classifying this as a transient community but as a full year community so their water requirements are the same as being a year round community. This requires the property owner to find significantly more water. We have outlined in a submission to the board that they dug 2 additional wells. They have permits to do that digging. The wells are now existing. They are negotiating now. The protocol with the Health Department for the testing of the wells and monitoring the impact of those wells on the neighbors well. The proposed protocols were submitted to the Health Department and they have gone back and forth on that. They have a projected yield on these wells for what they need to accomplish and if they accomplish that it will provide the additional water needed for the project. A lot of the digging and site work to get to the wells were delayed because there was no work allowed for the period from sometime in March until the reopening of the state. I don't remember when that was in May. The wells were dug. There were some roads built to provide access. They have done some hydrofracking. We have a list of what was spent from the last variance which totals \$109,000.00 so significant work was done and money was spent to get as far as we are. Again the variances were granted on this. Nothing has changed in the neighborhood. All of the conditions we needed to submit and establish to meet the requirements for a variance remain the same. Nothing has changed which would cause anybody to look at the neighborhood and the conditions for the variance. We meet the conditions for the extension and \$109,000.00 was spent since the last expansion was granted toward the site plan.
- Steven Burke: Do I have a motion to grant the extension?
- Ellyane Hutchinson: It is no longer a seasonal project?
- Jay Zeiger: In order to build anything in the last 10 or more years everything has to be built for year round occupancy. That hasn't changed. The occupancy back at the initial Health Department review was that although that the houses could be occupied all year round they would be second home community occupied from the middle of June to the middle of September and occupied limited the rest of the year. That is how the Health Department did their initial review. So nothing has changed in terms of what we are doing and what the development is doing. It is just how the Health Department views this.
 - MOTION:
 - Mike Bensimone motions to approve the extension. Steve Altman second. All in favor.

3. KEITH LAHANKO – SBL# 9-1-16.2 – Requests an area variance to allow a single family home on a parcel that is less than 10 acres and a reduction in lot width from the required 350 feet. Zone: AG. Acres: 1.7 acres. Location: 27 Rose Rd., Woodbourne.

- Keith Lahanko represented.
- Keith Lahanko: We are looking for a variance for a piece of property I bought in 1998. 1.7 acres. When I bought it had a house trailer, well, and septic on it. A year later I sold the trailer. I kept it vacant it all these years. Come to find out the zoning laws changed. Went to build a house and the town told me I need a variance. I filled out all the paperwork and was ready in June. Couldn't make a board meeting. I had all the paperwork in set for July. 7 hours before the meeting I got a call that we need to have 350 feet road frontage. Nobody told me. They canceled my appointment for the last meeting and set me up for this meeting. I got all the paperwork done again and it is submitted. I'd like a variance to build on the property I bought 22 years ago.
- Paula E Kay: It is actually 2 variances you are applying for. One is for reduction in lot width and one is 1.7 acres instead of the 10 acre requirement.
- Ellyane Hutchinson: And the 10 acres is because it is a new AG area
- Paula E Kay: Right.
- Steven Burke: How long was it vacant?
- Keith Lahanko: I bought it in 98. It had a 14 by 70 foot trailer on it. Fairly new. I sold that and it has been vacant since. It isn't really vacant I have been using it. It borders my property here.
- Steven Burke: Mailings?
- George Sarvis: Mailing are good.
- Steven Burke: Anybody have any questions?
- Ellyane Hutchinson: You said it borders property you already have. It is all the same owner?
- Keith Lahanko: I actually own 3 separate lots. They are all in sequence.
- Paula E Kay: Have you thought about combining them? Are you thinking of building a house and selling?
- Keith Lahanko: Actually my daughter sold her condominium in Middletown and it is already in closing. We wanted this variance back in June. I have a builder all set up and he can't build until we get the variance.
- Larry Zierler: You are going to build this for the daughter?
- Keith Lahanko: We are yes. Her, her husband, myself, and my wife.
- Larry Zierler: What is on the third lot?
- Keith Lahanko: That is 3 and a half acres. I have a small stable on it.
- Steven Burke: How many acres altogether?
- Keith Lahanko: Just under 7 I believe.
- Steve Altman: So even if you combine all 3 lots which one of them has a stable it is still not 10 acres.
- Steven Burke: It's not 10 but it is not 1.7
- Paula E Kay: Right but he already has a house on one of them.
- Larry Zierler: What is the rule on guest houses?
- Keith Lahanko: This isn't a guest house.
- Larry Zierler: I know. Maybe there is a different way for you to aggregate the properties. Then put another facility on the aggregated property of 7 acres as opposed to looking it at piecemeal 3.

- Keith Lahanko: The problem with that is when I am dead and gone they might not want 7 acres. At the time if you guys lower the taxes I'll put them together but it would be a tough nut to crack with the kids and the wife.
- Steven Burke: Anybody else have any questions? No? Okay. Anybody from the public have anything to say? Wave at the camera and Melissa will mute you.
- Paula E Kay: You can also click on participants and it opens up a new screen on the right. When you do that there is a raise hands you can click on or on the bottom there is this reactions button. If you have your screen on we can see you.
- Steven Burke: So no takers? Okay so we will close the public portion. Violations?
- George Sarvis: No.
- Steven Burke: Board comments?
- Steve Altman: I have a problem with this. It is just too small compared to 10. I think the rabbi had a wise comment. If it was 7 it would be a different story. 1.7 to 10 is quite a bit different.
- Keith Lahanko: It wasn't that way in 98.
- Steven Burke: This is just for us to give you comments.
- Ellyane Hutchinson: I have no comment at the moment.
- Mike Bensimon: It is the AG district that requires 10 acres. However when you look around the area you don't see a whole lot of agricultural activity going on. It wouldn't be out of the character of the neighborhood to put a house there. It seems like a well kept stretch of area with the horse stable and the open area. The only thing I am considering is that it may be too small for the AG district but it is large enough to put a house and have a family live there. If not for the AG district issue it wouldn't be an issue. I don't see a whole lot more to do with the property there other than to put a living unit there. All in all it is an excessive ask however that is just one criteria. We have 5 and for an area variance you only need 1 out of 5 for granting or denying. In this case I would support putting a house there.
- Thomas Little: Very well said Mike. Unfortunately I am not too familiar with the territory. Just by reading the plans, the application, and knowing this property that connects and surrounds I think I would be okay with approving this. Can I ask the gentleman one more question?
- Steven Burke: Sure
- Thomas Little: Are there any neighbors close?
- Keith Lahanko: They are fairly close. I think I mailed out 7 mailings. They haven't changed since 98 when the house trailer was there. It wasn't my property when I bought it. It was fully residential housing.
- Thomas Little: Okay thank you. I think I will be okay with this. I don't think it will overly compromise the look of the property and the characteristics of the neighborhood. I would be okay with it.
- Steven Burke: I am looking through the criteria. Alright we will run down the criteria. I can read it off the application. Is that okay?
- Paula E Kay: That should be okay. Let me see if I can get the exact.
- Steven Burke: Whether an undesirable change is produced in the character of the neighborhood or nearby properties?
- All Board members vote no.
- Steven Burke: Can the benefit sought be achieved by other means feasible to the applicant?
- 3 Board members vote no, 2 Board members vote yes
- Steven Burke: Whether the request is substantial?
- All Board members say yes.

- Steven Burke: Will the proposed variance have an adverse physical or environmental affect?
- All Board members vote no.
- Steven Burke: Was the alleged difficulty self-created?
- 3 Board members vote no, 3 members vote yes.
- Steven Burke: Do I have a motion?
 - MOTION:
 - Mike Bensimon motions to approve. Ellyane Hutchinson seconds. Steve Altman denies. All others approve. Motion approved.

4. KEVIN AND AIXA GRAHAM – SBL# 20-1-29.3 – Requests several area variances for a non-conforming lot from the required 3 acres to 2.55 acres, reduction in lot width from the required 200 feet to 149 feet and a reduction in the front yard set back from the required 75' to 26', reduction in size of home from the required 1200 square feet to 833 square feet. Zone: REC. Acres: 2.55 acres. Location: 795 Rt 52, Hurleyville.

- Kevin and Aixa Graham represented.
- Kevin Graham: As I stated last month with the request we made then the lot has a couple of issues that our engineers realized it was going to be a problem to put the house further back to meet that 75 feet front setback. We got quite a bit of rocks and downslope. Some as big as my car. The real issue is we have water close to the surface. They couldn't find a suitable place to put a house and septic with leach field and meet that front setback requirement. They chose the higher parts of the land the front or the extreme back which as I said last time the property is like 600 feet long. That middle section is full of rocks and we have water pretty close to the surface. The proposal was to build closer to the road. That is why we are requesting to reduce the front setback. The other two issues in terms of lot width and the acreage I cannot help that. The lot was made before I bought it. A few years ago that wasn't an issue from what I understand. As long as it is nonconforming you didn't need a variance. In terms of the square footage for the house which we are asking to reduce that to 833 with a narrow lot we have limited room up front to jam everything in. In order to fit the septic and the leach field, the house and meet those setbacks as well as have room to come up the driveway and back up and go out we just don't have enough room. That is why we want to build a smaller house. The other option would be to go back down hill and that brings us into the problems when we want to build up front. Trying to build a basement 7 or 8 feet down is not something that is feasible considering we have water down below. When you look at our site plan where the back of the house is where the deck is that is only a 2 foot drop. Initially we thought we could do a walkout basement but we only have that 2 foot drop. I am going to have to dig quite far down below grade. In order to avoid that we are thinking just to build smaller. That is essentially the issue.
- Steven Burke: Okay.
- Ellyane Hutchinson: Do they have to get something from the county road?
- Steven Burke: They applied for a 239 review and it was local determination. They didn't have a problem with it. Do you have any engineer reports that say they have all these issues that you say you have?
- Kevin Graham: When they went over there the site plan they produced and where they put those test pits was based on them going in the fields and digging around. That is the conditions they found. That is what they told me and why they chose to place everything the way they did on the site plan.
- Steven Burke: Who is they?

- Kevin Graham: MNTM engineering.
- Aixa Graham: If you look at the site plan you see the location of the test pits and you see they go from the front of the lot all the way up to 400 feet into the lot to make the last test pit. They skipped the entire middle because they tried to dig a whole and in the first group the excavator reached water.
- Steven Burke: Welcome to Sullivan County. Anybody else have any questions? No? Okay. Proof of mailings?
- George Sarvis: Mailings are good. No violations.
- Paula E Kay: The state has issued a highway work permit for their driveway.
- Steven Burke: Okay.
- George Sarvis: If the board members got the survey map or site plan map to look at you can look at the topo lines. It does have a significant drop to the back.
- Ellyane Hutchinson: I didn't see it.
- George Sarvis: The topo lines drop down a couple feet of intervals. They have a significant drop in the back of the property. It goes down in 2 foot intervals. 2 feet at a time. Just in case you want an idea of how it goes down as Mr. Graham said.
- Steven Burke: Okay. Board comments?
- Steve Altman: I am okay with this.
- Ellyane Hutchinson: I appreciate the lot size. These regulations are based on a 1,200 square foot space. I am fine with this.
- Paula E Kay: One of the variances requested is to reduce the required 1,200 to 833.
- Thomas Little: I think it is reasonable.
- Mike Bensimon: Normally I am not a big fan of building a house so big to the road but the county has no problem with it. It is going to be a pretty small quaint house so I don't think the footprint will be that imposing. All the other issues are really not their fault considering the topography and the thin SBL. I would generally support this.
- Steven Burke: I feel exactly the way you do as far as that. The reduction in the home size will help. Let's read some of the criteria. Whether the benefit can be achieved by other means feasible to the applicant.
- All Board members vote 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 vote no.
- 3 Board members vote no, 2 Board members vote yes.
- Steven Burke: Whether the request will have adverse physical or environmental affects?
- All Board members vote no.
- Steven Burke: Whether the alleged difficulty is self-created?
- 4 Board members vote no, 1 Board member votes yes.
- Steven Burke: Anybody from the public that would like to speak?
- George Sarvis: The public is still open from last month.
- Paula E Kay: Right. Again click on reactions at the bottom if you want to speak. You have to have your camera on.
- Steven Burke: So we will close the public portion. Lead agency?
- Paula E Kay: This is a type 3. You don't need.
- Steven Burke: Motion?
 - MOTION:
 - Mike Bensimon motions to approve. Ellyane Hutchinson seconds. All in favor.

5. RACHVES – SBL# 14-1-31/21-1-2.1 – Requests an area variance to install a 16' high fence approximately 150 feet long to provide screening. Zone: R. Acres: 45. Location: Rt 42, Woodbourne.

- Jay Zeiger represented.
- Steven Burke: I will let you know the 239 came back and it was disapproved. If you are going to get a yes on this it has to be 4 out of 5.
- Jay Zeiger: I don't have a lot to add. When we were at the last meeting in the public hearing the Zoning Board wasn't in love with this. The purpose of the fence is to screen from the houses on the Rachves projects to the neighbors. In particular their swimming pool. The fence would provide that. One of the concerns the county raised was the fence may be at the property line. The newer cleaner map we submitted in response to that shows that the fence is not at the property line. It is kind of halfway between the parking for the houses and the property line. It will be a nice fence. We don't think it could be seen from the road. If the Planning Board determines otherwise we will screen the fence so it can't be.
- Paula E Kay: One of the things the county harped on was the plans were too clear and illegible but if the applicant resubmitted better plans that the county would look at it again. Basically because they are asking for an increase of 300% and that the application does not pass the balancing tests for granting an area variance they have concerns about the impact on community character. Visual impacts. That may be alleviated if they see the new drawings but they did not see them yet.
- Ellyane Hutchinson: Did we get them?
- Paula E Kay: That's probably what just came in. I think this was one of those applications Steve was talking about not acting on tonight because you haven't had a chance to review. Honestly I think the county should review the better plans so they can make a more accurate determination. I think that would be in the applicant's best interest too. Those are my two cents.
- Jay Zeiger: I am okay with that.
- Steven Burke: Do you want to postpone for 30 days?
- Jay Zeiger: Yes.
- Paula E Kay: I want to stress what Denise is going to start doing. It is not fair to the board and it is not fair to the public. The cutoff date for materials is the cutoff date. Anything that comes in after the cut off date you will have to wait until the next meeting. The board is not going to be put in this kind of position to have to try to scramble and review things at the last moment. Also the same for the public because the public is not getting to review the most recent documents.

6. RACHVES – SBL# 14-1-31/21-1-2.1 – Requests an area variance to allow the placement of a compactor within 50 feet of a public street. Zone: R. Acres: 45. Location: Rt 42, Woodbourne.

- Jay Zeiger represented.
- Steve Altman: Are we postponing this application too?
- Jay Zeiger: What was submitted since the last meeting was some of the Zoning Board members had suggested that instead of the compactor being to the left of the road, the driveway back to the houses which was the original proposal, that it be moved to the right side of the right. Doing that it would be in back of the caretaker house. That was the same suggestion the county had made as well. We submitted with the request to be on the agenda for this meeting the proposed map which showed that. You should have had that with your original packet. We submitted them out. It showed the compactor being entirely in between the house. The house was blocking the entire view of the compactor.

We also showed some proposed planting to surround the compactor. On this one the county determined it as local determination. The county suggested the same thing. They would prefer the compactor be moved to the back of the caretaker house which is the map we submitted. I guess what you don't have is at the last meeting the representative of the Immaculate Conception Parish was at the meeting and he expressed concern because he wanted to see how the location would impact on the church. Yesterday he submitted a letter which I forwarded to Denise where he says on behalf of it that the map he was shown would not negatively impact the church. He is withdrawing his concerns.

- Steve Altman: Jay are you aware there is a later letter where someone from the church objects?
Jay Zeiger: I was not seeing that letter. I have a subsequent let of August 19th.
- Steve Altman: The father states Mr. Scagnelli has no authorization to speak for the Immaculate Conception Church on these matters.
- Jay Zeiger: I did not see that letter. Nobody sent it to me.
- Steve Altman: It is some kind of conflict going on over there. Maybe that isn't the correct word.
- Steven Burke: Maybe he doesn't represent the church but he may still have an opinion and can certainly voice it.
- Jay Zeiger: Michael Scagnelli in his letter says he is chairman of the Parish council.
- Steve Altman: This says in reference to the two variance applications above please accept this letter as our concern and consideration over both requests. First the 16 foot fence bordering the property of our neighbor is totally unacceptable and unnecessary. It is currently bordered halfway down the driveway with beautiful evergreens. This is a far better solution for consideration to be planted and maintained by the developer in accordance with the guidance and oversight of the owner of the seasonal bungalow colony. Then he goes on about the trash compactor. We were provided with a map that was not to scale. We were provided with a map that was not to scale. The location is totally incorrect and not behind the caretaker. The construction is too close to the directory. There are concerns about rodent infestations and noxious odors. Will trash be imported for the development only? On behalf of the Parishioners of the Immaculate Conception Church we ask you to deny the variance for the location of the compactor and the planted evergreens versus fences on the opposite border. Provide us a map that is to scale so it can be reviewed appropriately by the real estate division of the Archdiocese of New York. We thank you in advance for this consideration on this matter. Please note Mr. Scagnelli has no authorization to speak for the Immaculate Conception Church on these matters.
- Larry Zierler: You have to make a determination as to who the stakeholders are. That is a very interesting thing in terms of who speaks in a synagogue. Every member is basically a shareholder. He is speaking for the shareholders.
- Steven Burke: He has a right to his opinion. He may not represent.
- Paula E Kay: He is signing it as administrator.
- Steven Burke: Do we have any proof that he is administrator?
- Larry Zierler: What does the letterhead say?
- Paula E Kay: The letterhead is Church of the Immaculate Conception.
- Larry Zierler: It doesn't list any of the professionals?
- Paula E Kay: I don't think any of that is necessary but I think there is a phone number on here and we could ask George or Marisol to make a phone call.
- Larry Zierler: Do they have a website they could list?
- Paula E Kay: They may.
- Steven Burke: I can get you a letterhead with Vatican city as my office.

- Larry Zierler: I'd like that.
- Steven Burke: Okay. That letter is part of the public as far as I look at it.
- Paula E Kay: They do have a website with all of the same information. They have staff listed. Reverend Dhas. Barbara Dubark and Ada Cole as the Parish secretary. I think Ada Cole is on here tonight. Maybe when we get to the public she can shed some light on this.
- Larry Zierler: What denomination is this? Apiscopal?
- Paula E Kay: I am thinking it is Catholic.
- Steven Burke: Yes.
- Larry Zierler: Then they have their own property committee.
- Steven Burke: Anybody have any questions?
- Steve Altman: Are we to be investigations or should Jay go back and find out who speaks for them?
- Paula E Kay: Well we have somebody here on the Zoom meeting who is I believe wanting to speak and she is the secretary.
- Steven Burke: Jay is not going to go back because he is not representing the church he is representing his client. Proof of mailings?
- George Sarvis: Yes
- Steven Burke: Any other questions from the board? Let's open it to the public.
- Ada Cole: I am only speaking for edification. When it says administrator it is because father Dhas has not been designated as the pastor. It is usually a transitional period of time. He is father Ignas Dhas and he is the one that makes the decision with the church. They Archdiocese of New York had requested that I send the letter indicating the Scagnelli letter. It is not approved in the minutes and it is also not a decision at this moment. If you could give us a 30 day delay we would appreciate it.
- Jay Zeiger: I am okay with that.
- Steven Burke: You have to come back in 30 days for the other one. Same property.
- Jay Zeiger: Yep.
- Steven Burke: The public is still open. Anybody else?
- Robert Tempest: I am with River Haven. I am pleased the church and the congregation has had their voice heard. I am pleased they have chosen to be supportive of River Haven. I was wondering why when the fence issue came up there was not a public portion. Is that because you chose to postpone this?
- Paula E Kay: Correct.
- Steven Burke: Yes. We are not even dealing with the fence now. Do you have anything to say on the compactor?
- Robert Tempest: I hope it gets more improved and the barriers and screened are detailed by scaled drawings and dimension drawings. That is the principal issue with the fence.
- Steven Burke: We are talking about the trash compactor.
- Robert Tempest: I understand. I think there should be a presentation of all dimensions, setbacks, materials and heights for the trash compactor area.
- Steven Burke: Anything else?
- Robert Tempest: Apparently that's all I am allowed to say so that is it.
- Steven Burke: Anybody else? No? Okay. We will close the public portion and postpone this for 30 days.
- Paula E Kay: You will leave the public open.
- Steven Burke: Right I will leave the public open.
- Jay Zeiger: Thank you. The letter Steve read can someone send that to me?
- Paula E Kay: Yes.

7. SKOPPS COTTAGES – SBL# 27-1-17.2 – Requests several area variances to demolish a 750SF unit and replace it with a 3000 SF unit. Variances to exceed 25% expansion, exceed 15% lot coverage, height increase. Zone: R. Acres: 16.99 acres. Location: 305 Murphy Rd., Fallsburg.

- Joel Kohn and Yitzchok Brown represented.
- Joel Kohn: We were in front of the board to ask for this variance. There were several variances for this. There was several variances for this. It was to replace a 750 square feet with a 3,000 square feet unit. The board was not too in favor of it. We needed to wait for the 239. I saw a copy of the 239 review which they recommend disapproval. We understand we need a supermajority to vote otherwise. The owner has proposed to reduce the size of the variance and ask for 2,000 square feet instead of 3,000. We would like to discuss that.
- Paula E Kay: What does that do to lot coverage?
- Joel Kohn: It will be less lot coverage.
- Paula E Kay: Do you have the dimensions?
- Joel Kohn: I do not have the dimensions. I guess a reduced variance can always be done over time on an application. The existing lot coverage is 23.66%. We are asking for 24%. I can get back to you with exact lot coverage but it is going to be less than the 24 that was proposed.
- Steven Burke: They don't have to submit a new application?
- Paula E Kay: They don't need a new application for less.
- Steven Burke: But the 239 may not have been denied.
- Paula E Kay: True. If he reduces it now and you vote on it then he would still need a supermajority. If Joel decides his best route is to make the change and go back to the county maybe the county will change its mind and make it a local determination and then you won't need a supermajority. I don't know what you are thinking.
- Joel Kohn: I understand it was the same as you just said. I was going to basically see how the board goes by it. If we don't have a supermajority I will do that. Revise the site plan and go back to the county.
- Paula E Kay: So you're not looking for them to actually vote on it but get a sense of what they are thinking?
- Joel Kohn: If we get a supermajority to vote then we are looking for that. If not then we will send a revised copy to the county.
- Steven Burke: But if it gets denied Paula then it has to be resubmitted. It also still has to go back to the county. You may want to think about that. You want to just get an opinion?
- Joel Kohn: Yes.
- Larry Zierler: This is highly nonspecific. An absolute is 2,000. We're talking very generally right now. Is that protocol?
- Paula E Kay: Yes it is fine. He is saying they are thinking of reducing the size of the building.
- Larry Zierler: I understand. It is just ideas right now we have no specifics.
- Paula E Kay: Correct but what I think Joel is asking if they go in that direction would you be more comfortable.
- Steven Burke: Because last month we let him know it was a little bit much what he was doing. That is why he came back asking for 1,000 square foot less.
- Larry Zierler: You also did suggest build 2 units and get your 3,000 that way.
- Steven Burke: What's your thought Steve?

- Steve Altman: I think Joel has a lot of work to do.
- Ellyane Hutchinson: I would lean toward half which is still quite a bit over the current zoning. Like a 1,500 square foot building for a single family.
- Steven Burke: So you wouldn't be in favor of 2,000?
- Ellyane Hutchinson: I would consider it. It is still well outside the current zoning.
- Thomas Little: 2,000 sounds much better than 3,000. My first thought was they would be condensing space which is interesting. I would consider but I think it is a little excessive.
- Steven Burke: Ellyane would you feel more comfortable with 1,500?
- Ellyane Hutchinson: Yeah that is the half.
- Steven Burke: You said 1,500. How about you Thomas?
- Thomas Little: I'd like to see more solid plans.
- Joel Kohn: Like more solid building plans?
- Thomas Little: You said you are just getting a feel for how we feel about 2,000. Just a little more definitive plans with what you are looking to do.
- Larry Zierler: The objective was for him to bring the whole family up. That is not going to happen with 1,500. Can it happen with 2,000? It seemed like quite a big family. That's why I am saying build 2 units.
- Joel Kohn: He would want to build 2 units probably but it would be another variance.
- Larry Zierler: As a duplex. Build a duplex like the other properties. The map shows duplexes.
- Joel Kohn: Would the board be in favor of granting a variance to add another unit to the property being that the nonconforming bungalow colony law does not permit adding other units?
- Steven Burke: Let's just get through the 2,000 instead of 3,000. The maybe 1,500.
- Mike Bensimon: I think the number was definitely excessive especially considering the number of units on the property and the density. The town requires a minimum of 1,200 but 2,000 is the size of a normal house. I think that is a lot more reasonable and I would be open minded to look at plans of a house that is 2,000 square feet. I am definitely more open to 2,000 than 3,000.
- Steven Burke: I am as well. 2,000 is not that much of a difference. You have an idea. Most board members would consider. Now you would like another consideration? So far you are looking good with the 2,000.
- Paula E Kay: Better.
- Larry Zierler: Your client thinks he can accommodate his objective with that?
- Joel Kohn: If he has no choice he will get a smaller unit.
- Steve Altman: Aren't there duplexes on that property now?
- Joel Kohn: Yes there are.
- Steve Altman: Paula why couldn't he build another duplex? Joel is saying he can't.
- Paula E Kay: It is currently not allowed in that zone.
- Larry Zierler: How did the other ones get built?
- Paula E Kay: Zoning changes. It is fluid.
- Steven Burke: He would need a variance.
- Ellyane Hutchinson: The whole point is we have new zoning. What existed is irrelevant to what is currently allowed.
- Paula E Kay: I know there is not a lot of county staff but you may want to informally talk to the county to see if you can get a feeling from them. So you are not wasting your time.
- Joel Kohn: If the board would like to see another duplex the applicant would be willing to go with that.

- Larry Zierler: I mentioned that so that we don't go around in circles so that a month or two the person has regret and says this won't cut it. I think about the outward appearance of something.
- Paula E Kay: You would need a use variance which is the issue. That would be much more difficult to overcome.
- Larry Zierler: In order to build a duplex?
- Steven Burke: Are we okay with Joel coming back in 30 days?
- Joel Kohn: Yes.
- George Sarvis: Joel does your current house design incorporate a finished basement?
- Joel Kohn: No.
- Paula E Kay: I believe you have a member of the public who may want to speak.
- Steven Burke: I wasn't planning on opening to the public because we are hearing it next month.
- Joel Kohn: The public hearing is still open from last month I believe.
- Steven Burke: Any comments from the board? Violations?
- George Sarvis: None.
- Steven Burke: Mailings?
- Marisol Williams: Beautiful.
- Steven Burke: Okay so the public session.
- Steven Arvey: I have a property on the opposite side of Brickman Road on Skopps on 381 Laurel Avenue. I do support the board upholding the guidelines rather than accommodate usage that I don't think fits for the location being requested. I think it creates a precedent then maybe other people that have cottages there will want to grow and expand. Doesn't that create a precedent? You are going from 750 all the way to 2,000. It just seems like a huge increase and way above what the standards are. I notice there is a lot of traffic on that road. People walking. The cottages are close together. I don't know if they are far apart as far as fire regulations. I think there is a lot of different things to consider before approving something that would expand so large. 3,000 was huge but 2,000 is still quite large.
- Steven Burke: Anybody else?
- James Legari: Mr. Arvey brought up some interesting points. When we continue making this many variances as we make in this town at some point in time someone is going to come back with a whole set of paperwork stating you can't deny me what I want to do because you approved this, this, this, and this on these dates for these people. We went through a lot of trouble when we created a new set of zoning laws. I think a lot of time and effort and money was spent by the town to come up with the zoning laws they came up with. I think this board needs to look at that real hard before they make some of these decisions. In case like this where you start out asking for 3,000 square feet and then right away coming back well 2,000 is okay just give me that. It started out at 750 and it is almost 3 times as big even with their agreement to cut it by 1,000.
- Steven Burke: Thank you. Anybody else? We will leave it open correct?
- Paula E Kay: Yes.
- Steven Burke: See you next moment.

8 . BNOIS SPINKA (CAMP KRULA) – SBL# 39-1-86.1 – Requests several area variances to exceed lot coverage and to reduce the rear set back to demolish the existing pool and replace it at the rear of the property. Zone: R. Acres: 16.08. Location: 5405 SR 42, South Fallsburg.

- Joel Kohn represented.

- Joel Kohn: This is for a variance. I can show the site plan.
- Paula E Kay: Yes we had some questions.
- Joel Kohn: Krula is an existing bungalow colony on Route 42. The application is to relocate the existing swimming pool in the front of the property. This is 42. This is the existing pool is to be removed and replaced on the right of the property. That will require some variances as far as the separation from the pool to the property line. Basically the lot coverage will increase by .03%. The existing lot coverage is 19.9%. The new coverage is 19.93.
- Paula E Kay: That is the only variance requested?
- Joel Kohn: There are 2. If you look at the screen there is only 30 feet from the pool fence to the property line. Required is 50 feet.
- Paula E Kay: Okay. That is the rear setback.
- Joel Kohn: Then second variance would be the lot coverage from 50% lot coverage. The proposal is 19.93%
- Steve Altman: Who is your neighbor?
- Joel Kohn: Elm Shade Estates.
- Steve Altman: Is there a fence there?
- Joel Kohn: There is a fence. You can see it on the map. There is a road right after that.
- Thomas Little: That road is a paved driveway right?
- Joel Kohn: Correct.
- Steve Altman: Did we hear from the neighbors?
- Paula E Kay: We didn't hear from the public year.
- Elyane Hutchinson: What is in front of the pool?
- Joel Kohn: You have the dining room building in front of that.
- Ellyane Hutchinson: Then in front of that is empty?
- Joel Kohn: Here is empty. It is going to be too close to any of the bungalows and the shul. They want to leave a little open to play.
- Steve Altman: Is the pool fenced in?
- Joel Kohn: Yes.
- Steve Altman: For safety?
- Joel Kohn: Yes. This is the pool. This is the edge. This is the deck. You see the x's? This is the fence line around the pool.
- Steve Altman: There are 2 pools.
- Joel Kohn: Yes. It is approximately the same size as the existing pool. They have 1 bigger pool. They are going to have 2 smaller pools.
- Steven Burke: Okay.
- Joel Kohn: The pool itself will be 50 feet from the property line.
- Steven Burke: But the decking around is what you are looking at.
- Joel Kohn: The deck, the fence, and the filter room.
- Ellyane Hutchinson: The filter couldn't be moved to the other side?
- Joel Kohn: If a truck needs to come in and fill chlorine or anything else it will be hard to get from the other side.
- Steven Burke: With the pools on each side it is the best to be in the middle.
- Ellyane Hutchinson: What is the little circle?
- Joel Kohn: That is a little proposed jacuzzi.
- Steve Altman: What are the square things between the two pools?
- Joel Kohn: They are like a kiddie pool.
- Ellyane Hutchinson: So it is 4 pools?
- Joel Kohn: It is a wading pool for the men and then one for the women.
- Thomas Little: Is that considered in the coverage?

- Joel Kohn: It is considered.
- Steve Altman: On the left side if you didn't have deck you are saying it is 75 feet.
- Joel Kohn: 50 feet.
- Steve Altman: It says 50. Where do you get 70?
- Steven Burke: That is what he said.
- Joel Kohn: I said 50.
- Steve Altman: It looks like the deck is 35 feet from the property line.
- Joel Kohn: The fenceline is 30 feet from the property line.
- Ellyane Hutchinson: I am still a little access for the chlorine. It is a removable fence and a truck can squeeze between the property line and the pool?
- Joel Kohn: Yes. There is a door here. There will be a gate. There won't be a fence at this portion. It will go to that filter room and then stop on both sides of the filter room. There will be a door so they can go in and out in here.
- Ellyane Hutchinson: These roadways are just walking paths?
- Joel Kohn: Yes.
- Steven Burke: Any other questions? Give me those lot coverage setbacks again.
- Joel Kohn: The lot coverage right now is 19.9%. With the proposed relocation it will be 19.93%. It is a .03% increase.
- Steven Burke: Any other questions for Joel? No? Okay. Mailings? Violations? No, all good. Okay. We will open the public portion. Anyone want to speak? No? Okay we will close the public portion. Board comments?
- Steve Altman: Fanciest pool I have ever seen.
- Ellyane Hutchinson: It still seems like you could move the second pool so it is within that 50. That's my only comment.
- Mike Bensimon: The current pool is in front of the property can be seen off the street. If they're not looking to do anything with where the pool is now except turn it into an open play area I think that is a plus aesthetically. They will move the pools to the back of the property. They will upgrade the pool or two pools. They can't be seen from the street so it doesn't affect the public. As it stands they can keep the current pool without having to do anything. I think it would be a benefit to the neighborhood to move this pool to the back of the property.
- Joel Kohn: I forgot to mention. The existing pool is only 18.3 feet from the property line. Anything we do with this pool will be more in conformance.
- Steven Burke: Let's run down some criteria. Whether the benefits 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 request is substantial?
- All Board members vote yes.
- Steven Burke: Whether 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: Reduced the rear setback to demolish the pool and replace it at the rear of the property from 50 to 30 in that one corner which is the smallest part. The lot coverage from 19.9 to 19.93. Motion to approve or deny?
 - MOTION:
 - Thomas Little motions to approve. Mike Bensimon seconds. All in favor

9. MOUNTAIN HILL VILLAS, LLC – SBL# 42-1-11.1 – Requests an interpretation of the law (310-5.32) in regards to secondary kitchens.

Zone: 73.35. Location: 1523 CR 56, Mountaindale

- Applicant not heard.

Ellyane Hutchinson motions to adjourn. Thomas Little seconds. All in favor.