

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

TOWN OF FALLSBURG ZONING BOARD MEETING

February 18th, 2021

Steve Burke, Chairman, Ellyane Hutchinson, Mike Bensimone, Neil Sapolsky, Thomas Little, Steve Altman, Board Members, George Sarvis, Marisol Torrens, Code Enforcement, Paula E. Kay, Deputy Town Attorney, Melissa Melko.

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

NEW BUSINESS:

1. IRA & GITA LIPSIUS (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 represented.
- Steven Burke: Do you have any comments about the violations of the refuse? It will soon be a year.
- Allan Frishman: I spoke to the caretaker today and I told him that he is putting the applicant in a very bad position. My applicant is ready to spend the money to clean it up. Marisol I hope you got the call from the guy that is supposed to plow the path to the container.
- Marisol Torrens: He called but he is only in charge for the plowing. You can still go through to the other side so that is no excuse.
- Allan Frishman: He is going to plow a pathway to get to the container. If the container is not picked up after it is plowed I am calling the container company to tell them to pick it up. My client is ready to pay because it is holding him up. I am going to suggest to the Board that if you feel you want to keep the pressure on they still need the building permit to rebuild the unit. The building permit will not be issued until Code Enforcement is happy with the clean up. I would ask that because we appeared before the Board last month and we are here tonight. It should have been cleaned up months ago. I don't know why this guy didn't take care of it. We had a lengthy conversation that was not nice. Don't put the blame on anybody. You are the caretaker. You should have taken care of it. It puts me and my

applicant behind the 8 ball. I am hoping the Board will let us move ahead with no permit until it is cleaned up. They need a unit before the summer.

- Steven Burke: The Board agreed to hear you. Then we are going to open it to the public. Then we are done and we are not going to vote on this until this is resolved. That is what the members agreed upon. We are waiting for you to present your case.
- Allan Frishman: So basically no decision tonight and I have to wait the month out?
- Paula E Kay: If your client doesn't clean it up next month they probably won't act again. They can't keep it open forever. Based on what the Board has been saying your client has to clean it up.
- Allan Frishman: Unfortunately I can't remember. I think it was about 2 weeks ago Marisol contacted me and we had a mutual conversation with this guy that is the caretaker. I said you have to get this cleaned up. He said he would take care of it. I wish I had known a few days earlier or I would have taken care of it personally. I would have paid to have it plowed. I am a little disappointed that we can't move ahead with the decision tonight.
- Marisol Torrens: Aside from picking up the roll off there is still debris on the floor. They have to take the roll off and empty it. Drop it again. Fill it up with the rest of the construction debris on the ground and then ship it back out.
- Allan Frishman: I don't disagree there might be more stuff on the ground. It is a lot harder to get it in the snow. It is nobody's problem but Sheldrake Hills. I understand. I would ask the Board to please consider if the variance is received in an acceptable manner tonight to allow it to move ahead without waiting another month. If he doesn't do it I am going to take care of it.
- Paula E Kay: The Board can't make any decisions before the night of the meeting. I don't think it comes as a surprise that an existing violation would be something that this Board would very concerned about. I think what is best to do is discuss the application so the public hearing can happen. I am sure your client will do the right thing and take care of the issue.
- Allan Frishman: I think the right thing is to fire the caretaker but I am not in control.
- Steven Burke: You can present your case and we will open it to the public then we will hopefully see you in 30 days.
- Allan Frishman: You will. With a clean slate.
- Steven Burke: Okay. So you are on.
- Allan Frishman: We were in front of the Board last month with a pretty large percentage of increase which was 83%. That was including that attached porch with the roof over it. I always try to explain to my clients a deck has no roof. It has a different category than a porch. She said take the porch off if we have to. We did that at the meeting. That reduced the coverage to about 48% and the Board was still unhappy with that amount. The client had their architect put something together and when I reviewed it I said it is not going to work because they created dead space. I threw something together for the applicant and they said it will work. They

lessened the number of bedrooms. We reduced it now to 39.6%. I know it is line with an application I had presented at the end of the summer w which was about 39.5. I know there were other applications in and around that percentage. Hopefully you'll accept that amount and approve it next month. You can close the public hearing tonight correct?

- Steven Burke: We can.
- Allan Frishman: Okay so the only thing next month would be the decision. And a presentation if you need it again.
- Steven Burke: I am okay with that. Anybody have any questions? We know there are violations. Anybody from the public like to speak on this matter?
- Paula E Kay: You will need to turn your camera on so we know you want to be heard.
- Steven Burke: Okay we will see you next month if your client decides to take care of what was supposed to be taken care of months ago.
- Allan Frishman: I am assuming there is no negative feedback that was from last month.
- Paula E Kay: They are not discussing the application tonight.

2. ABRAHAM MIZRAHI – SBL# 29-1-20 - Requests an area variance to construct a single family house on a vacant lot that is not 3 acres in size as required by the bulk table for REC zone. Zone: REC. Acres: .84. Location: Dairyland Rd., Woodridge. Cross Roads: East Pond Rd.

- Applicant did not appear

3. FORMAGGIO CHEESE – SBL# 11-1-22 – Requests an area variance to reduce the required 75 foot front yard set back to 6.5 feet to construct a 50 x 124 addition to the existing building. Zone: I. Acres: 5.8. Location: 250 Hilldale Rd., Loch Sheldrake. Cross Roads: SR 52.

- Mike Reilly and Chris Locky represented
- Mike Reilly: This is just down from 52 on Hilldale Road right adjacent to Hilldale Pond. There is an existing 37,000 square foot facility that makes cheese and cheese related products. What they are looking to do is put an addition on the south side of the building. 6,200 square feet. 50 by 124. The issue we have here is Hilldale Road is a county road. There are county takings the county took who knows when back during the construction. We are awfully close to those taking lines according to our surveyor. As of right now we are currently as close as 11.8 feet from the taking line. Our expansion would be 6 and a half feet from the county taking line. There is some dispute over where this line lays. The county DPW claims it is further west from the building. They think we are not encroaching on their line as much as we show here. They think the corner I have shown at the southwest on their information they show that as far away as 44 or 45 feet. Our

surveyor is adamant he is correct. He claims that if he floats the county right of way then the building across the road is in the county right of way. He has a good point there. I tend to agree with him. What we would need in order to proceed is a variance for relief from the front setback. The required front setback is 75 feet in this zone. It is in the industrial zone. We are already at 11.8 feet in one spot and we are asking for 6 and a half for this extension.

- Paula E Kay: I think no matter what the Board does tonight I think your surveyor needs to have a discussion with Dermitt Doud.
- Mike Reilly: I don't know if they've discussed it. Our surveyor is Robert Lansberry of Liberty. He looked at all of this and he sent a letter indicating his position to Dermitt Doud.
- Paula E Kay: I don't know if you saw the 239 from today.
- Mike Reilly: No
- Paula E Kay: Dermitt reiterated and he is saying that they worked up another plotting which shows all the survey references and your surveyor should review this and contact them.
- Mike Reilly: Okay.
- Paula E Kay: It is not going to affect you tonight because the Board is going to go by the numbers in your application. It won't affect you tonight but I want to make sure the two of them hash it out.
- Mike Reilly: For the Planning Board we need to get it worked out. What our guy is saying it is worse than what the county is saying.
- Paula E Kay: Exactly. The Board has to work with your numbers. If it is better that is fine.
- Steven Burke: It sounds worst than it really is. I have been to the site. I had to question the 6 and a half. I knew from standing where I was standing it wasn't what it said in the paperwork. Any questions?
- Ellyane Hutchinson: The road is not going to be on the street side right?
- Mike Reilly: We are going around the building with the access road yes
- Ellyane Hutchinson: Does it go into that access road? On this it is unclear. In other words is your access road wide enough?
- Mike Reilly: We would have to widen it enough to get around the new building. The traffic pattern will still be the same.
- Steven Burke: You could probably still fit a tractor trailer from what I saw.
- Mike Reilly: Yes we think so.
- Mike Bensimone: Do you know what Formaggio is planning to do with that additional 6,200 feet? A new product line?
- Mike Reilly: Chris can probably speak to that. I know they've grown by heaps and bounds. Chris do you want to speak to that?
- Chris Lockey: It is for an expanded product line. The product has been getting bigger and bigger every year. We don't have any room to produce it now.
- Mike Bensimone: With this expansion do you expect to hire new people?

- Chris Lockey: Yes we do.
- Mike Bensimone: I pretty much made my decision but this helps solidify my position.
- Steven Burke: Any other questions for the applicant? Okay. I was out there and met with Chris. I don't have any problem with it. I am glad I went because from reading it until I went there. Then I realized the writing is worse than the visual. It is not as big as variance as I originally thought. I am glad the county straightened that out too. If nobody has any other questions we will open it to the public. Okay. Anybody from the public like to speak on this matter? No? Okay. So we will close the public portion. Any violations?
- George Sarvis: No violations.
- Steven Burke: Any Board comments?
- Thomas Little: I think the question Mike asked was the question for me. Expansion of operations, things are getting bigger. You're bringing more talent on. I think that is a great thing.
- Steven Burke: Anybody else? Nope. So we will go down the criteria for this expansion to go for an addition of 50 by 124. I am not even sure if the paperwork if the 6 and a half is correct. Is that right Paula?
- Paula E Kay: Yes. We are going to use the 6 and a half because that is what is in their application. If it turns out it is a lesser variance that is fine. They will work that out before they get to the Planning Board because then their plans will have to be exact.
- Steven Burke: I believe it is lesser. Let's see the first question. Whether the benefits can be achieved by other means feasible to the applicant.
- 3 Board members vote yes, 2 vote no.
- Steven Burke: Undesirable change in neighborhood character or nearby properties?
- All Board members vote no.
- Steven Burke: Whether the request is substantial?
- 4 Board members vote yes, 1 votes no.
- 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 Bensimone motions for lead agency. Neil Sapolsky seconds. All in favor.
 - MOTION:
 - Mike Bensimone motions for negative dec. Steve Altman seconds. All in favor.

- Steven Burke: Do I have a motion to approve or deny?
 - MOTION:
 - Neil Sapolsky motions to approve. Ellyane Hutchinson seconds. All in favor.

4. HARMONY HILLS – SBL# 36-1-28.17 – Requests several area variances to reduce the required front yard set back from the required 175 feet to 35 feet, side yard set back from the required 50 feet to 20 feet, to increases the density from 25 units to 31 units, and to increase the lot coverage from 25% to 27.6% to build a caretakers house. Zone: R & PRD. Acres: 8.36. Location: 404 Laurel Ave., South Fallsburg. Cross Roads: Brickman Rd.

- Applicant did not appear.

Ellyane Hutchinson motions to adjourn. Neil Sapolsky seconds. All in favor.