

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

## TOWN OF FALLSBURG ZONING BOARD MEETING

February 17th, 2022

Mike Bensimon, Chairman, Ellyane Hutchinson, Neil Sapolsky, Steve Altman, Board Members, Larry Zierler, Alternate Board Member, George Sarvis, Marisol Torrens, Code Enforcement

- Mike Bensimon called the meeting to order.
- Minutes from previous meeting accepted

### NEW BUSINESS:

1. BNOIS SPINKA – SBL# 39-1-86.1 – Requests several area variances to allow the reconstruction of 6 buildings (12 units) that have been destroyed by fire, relocate the pool and establish a master plan for the entire site. Zone: R. Acres: 16.08 acres.

Location: 5405 SR 42, South Fallsburg. Cross Roads: Gamble Road.

- Joel Kohn and Jacob Setter represented.
- Mike Bensimon: Proof of mailings?
- George Sarvis: Good.
- Joel Kohn: This has been before the Zoning Board. I will go through it. This is actually a bungalow colony. It is called camp it is a bungalow colony. It is a bungalow colony on Route 42 which is right across from the town sewer plant. 4 years ago a fire destroyed 12 of their bungalows. They wanted to replace it. They wanted to replace it with slightly larger units. An application was submitted for the 12 units. The Planning Board and Code Enforcement asked us to come back with a master plan. Some of the bungalows were dilapidated and they wanted to rebuild. We put in the time to create a master plan that fit within the duplex law. As a bungalow colony it is way more limited to what you can do. We were in front of the ZBA in January of 2020 at which time the Board was not comfortable to vote on it. They did have multiple questions on the variances. I would like to go over them 1 by 1. Let's take it 1 by 1 and see what the variances. Maybe we can reduce the number. At the time we had 9 variance requests. We made a

separate application in June of 2020. In August of 2020 the ZBA approved relocation of the pool. The pool is currently in front of the property. Under the proposal it was in the back of the property. We needed some variance for that as well. We went back for that as well. The ZBA granted that variance. The pool has not been moved yet and the variance has been expired. This is where the pool is now and this is where it is proposed to be. The site plan we are presenting tonight only requires 4 variances instead of 9. We eliminated 5. I can go through the 5 that were eliminated. If you look at the variances 3 of them are preexisting and won't change regardless if it remains a bungalow colony, whether they placed any buildings, or if they don't. The only variance that comes out because of that proposal which is going to increase anything that is preexisting is the lot coverage variance. I understand it is substantial but if you look at the grand scheme of things it is not really that substantial. It is 31% already and we are going up to 42% mostly because we are eliminating some of the variances and creating more parking space to meet the code. Creating an emergency access which the place does not have right now. So we are making it safer and adding impervious surface as well. Overall this is a better plan the way we look at it. Yes they have bigger units but they all meet the fire separation between the buildings. Currently you have 10 feet between buildings. Right now I think it is 9 feet to the property line. The minimum here will be 50 feet from the property line so that will be minimum of 30 feet from any other bungalow on the other side. We are reconfiguring the property line to the east of the property. Right now this is what the property looks like. The setback from the shul to the property line is less than a foot. This proposal will be 30 or 40 feet. There are a lot of improvements being done as part of this master plan. We were kind of forced into it. We didn't plan to do it but I think it will be a benefit. I think with that I am done and ready to answer questions.

- Larry Zierler: Where is the mikvah?
- Joel Kohn: It is in the shul building.
- Larry Zierler: There is a side to the mikvah on the road.
- Joel Kohn: Yes. That has to be eliminated. There won't be an entrance from there.
- Larry Zierler: How many entrances are there?
- Joel Kohn: 2.
- Ellyane Hutchinson: Same number of units?
- Joel Kohn: Yes. We are not increasing the units. We are changing it to duplex development because it is a permitted use in the zoning district. We need the 4 variances because we are changing it.

- Mike Bensimon: Just for clarification this is not a camp. It will not be used as a camp. It is a bungalow colony. You are looking to convert it into a duplex development.
- Joel Kohn: That is correct. I've only known this as a bungalow colony for 15 years.
- Neil Sapolsky: Is it a camp or a bungalow colony on record?
- George Sarvis: The name is just for the campers right? Camp Krula?
- Joel Kohn: I don't know why they gave it that name.
- Neil Sapolsky: So it is zoned as a bungalow colony?
- George Sarvis: It is a preexisting nonconforming bungalow colony.
- Larry Zierler: What is the population change?
- Joel Kohn: Same density and some number of units.
- Discussion.
- Joel Kohn: There is more that will be on the Planning Board. This is just looking at infrastructure.
- Larry Zierler: When you're talking about access to the mikvah that is infrastructure.
- Joel Kohn: Which is part of the Planning Board review. I have no issues answering questions.
- Larry Zierler: Is that something that is off base? In terms of population density?
- Joel Kohn: We are not asking for a density or population variance.
- Mike Bensimon: Would we be able to go through the specific variances? To get an idea?
- Joel Kohn: Sure we can do that. I was just on the county website to see if there is any indication on the tax law how it is considered. This is a 470. 470 is a bungalow colony. The variances we had before that were eliminated.
- Marisol Torrens: I am waiting for Mollie to respond if it is a bungalow colony or a camp. She said it was a bungalow colony.
- Mike Bensimon: I wanted to be sure. There are a lot of restrictions on camps. I want to make sure you are not looking to build a duplex and treat it as a camp. I want to make those distinctions right now. This is a bungalow colony you are looking to turn into a duplex development. Right now as of right you can tear it all down and build it up the exact same way. You are asking to build it in a unique way in order to make it better.
- Joel Kohn: Fire separation from the buildings. Setbacks from the property line. Emergency access. All of that. Originally we did not meet the 150 setback from the road. We eliminated that and pushed back all the buildings. We were asking for a reduction of 75 feet from (inaudible). We eliminate that. We were asking for minimum separation between rear buildings. We eliminated that. We were asking

for one unit to be greater than the allowed footprint in the duplex code. We eliminated that. We were asking for a variance to keep the same number of parking spaces which is less than supplied by zoning. We eliminated that and added more parking to the main parking area and to some of the site and the shul. We eliminated those 5 variances. The variances that remain are side setbacks. They are supposed to be 50 feet. Currently they are only 8 or 9 feet. The shul is like 21 feet. On the other side the buildings are like 9 or 10 feet from the property line. Now they are all a minimum of 15 feet from the property line. The second variance is that a duplex building cannot have more than 2 units. There is an existing building called Building 501 that currently has 19 units. When we replace the building it will be 19 units and it will be pushed back from the road.

- Steve Altman: What do you mean units?
- Joel Kohn: There is 19 bungalows in it.
- Steve Altman: I went into that building. They are not apartments.
- Joel Kohn: That is how it is how it has been I don't know how many years.
- Neil Sapolsky: Those apartments will have kitchens and bathrooms?
- Joel Kohn: Yes. Those will be replaced with the same number of units in one building. The duplex law only has 1 or 2 family. This is preexisting. We are not increasing the nonconformity.
- Steve Altman: How many bedrooms in a standard unit?
- Joel Kohn: According to the duplex law it is up to 6.
- Larry Zlerler: Minimum would be?
- Joel Kohn: I don't think there is a minimum.
- Larry Zierler: They don't build less than 3 or 4.
- Joel Kohn: The next variance is maximum lot coverage. Our existing is 31% and the proposed is 42.8%. The fourth variance is about density. It is 47 units. This is existing 90 units. We are proposing to replace it with 90 units. We are not increasing the nonconformity. We will keep it as the same density as we can.
- Mike Bensimon: Some of these units will be larger but the total number will be the same.
- Joel Kohn: The maximum density from the code is the number of units and the number of bedrooms. That is in the definition.
- Mike Bensimon: Any other questions?
- Joel Kohn: The only use that goes by occupants is a camp or a retreat. Other than that I don't think there is any limitations.
- Neil Sapolsky: What's the square footage of that building? And what is it going to?

- Joel Kohn: I am not sure the exact footage but the square footage is 10,000 square feet.
- Discussion.
- Mike Bensimon: You are proposing to keep it 3 floors at 10,000 square feet?
- Joel Kohn: Most likely. It will be a larger footprint.
- Mike Bensimon: I think you are less than double. Right now the only thing that makes me want to say yes wholeheartedly is you are moving it away from the road. That makes it very big. Personally I don't like to see these structures while I am driving through.
- Joel Kohn: Right. It is an old structure right on the road. The applicant has put in days and weeks of solid work to make it work. There are 2 other improvements we are doing. We are aligning the entrances to make them safer and for better sight distance.
- Ellyane Hutchinson: Overall I like what you have done. I think it is great. I am concerned about the 42. I feel like I'd be very comfortable doing the 31 since it was pre existing. That is my only challenge. Typically on these back roads they are 15 feet from the lot line.
- Mike Beinsmon: It says paved drive. Is that a road?
- Joel Kohn: Yes. To your point I understand the lot coverage is substantial. In order for us to do emergency access roads the road itself are 4,700 square feet which is 6.7% of the lot coverage of the property. Just adding the roads adds a lot.
- Mike Bensimon: Under a different design where all these properties were right up against the road where you won't need to have paved roads because they are all up against existing roads you could build more. Having buildings right up against the road is the last thing I would want. The issue with the lot coverage you say that 6% goes into infrastructure for the roads.
- Joel Kohn: There was almost no emergency access for this place.
- Ellyane Hutchinson: Is it possible to do some kind of permeable material for the parking lot? The lot coverage issue is about water being able to drain and all those kinds of things. A lot of it is the concrete put over that.
- Joel Kohn: All the parking spaces which are spread out the total parking spaces are 11.2% of the lot coverage. This is what we are proposing. We have this as gravel parking. Under the definition it is still considered lot coverage although it will be permeable. The individual unit parking places will be paved. Most of the parking will be gravel. I would say 80% of the parking. We could reduce the number of parking spaces and have less lot coverage.

- Jacob Setter: In a vacant property you can do much more since you have to demolish. It has to work on the system that can be rebuilt. The pool has to be in the space. It is not like an empty vacant land.
- Mike Bensimon: Any other questions from the Board? Anybody from the public?
- Jenn Lishansky: This has been very interesting. The volume is a little tricky to understand. I was wondering about the lot coverage. It seems to me that the request for 43% is partially due to service roads. But that only accounts for 6%? I am wondering what the difference is in percentage?
- Joel Kohn: The 6% is not 6% of the 42%. The 6.7% is the percentage of the total lot. If you take away the service roads instead of 42.8% it would be 36.3%. Furthermore the parking areas take up over 11%. If you took off all the permeable parking surfaces you would end up with under 25% of lot coverage which would be buildings and walkways. A lot of the lot coverage is driven by the fact that we are trying to meet the zoning for the number of classroom spaces. Although it is permeable surface it is still considered lot coverage by the town definition. The other increase in lot coverage is because there are no emergency accesses to the property. We are planning to add emergency access throughout the property.
- Jenn Lishansky: What was the increase in density and the number of bedrooms and number of people who might be able to occupying them?
- Joel Kohn: The questions in front of the Zoning Board tonight are on 4 variances. One of them is for the density of this project. Density is the number of dwelling units on a piece of property. In this case there are 90 units on the property. The proposal to have 90 units on the property. We have to ask for a variance because we are changing the use of the property from a bungalow colony to a duplex development to fit it better in the zoning of the town. This requires use to ask for a variance because it doesn't meet the maximum density of a duplex development. It won't change. It is all pre existing and we are not increasing the nonconformity related to density.
- Jenn Lishansky: I am getting that it is unclear how many more people can be living in the dwelling as a result of this variance. That leads me to further questions but I appreciate your clear answers.
- Mike Bensimon: Anyone else? Either way I am keeping the public portion open. We don't have the 239 open. We will give them an opportunity to speak next month as well. Let's move onto Board comments.
- Larry Zierler: Can that experts tell us about the density definition?
- Ellyane Hutchinson: It definitely did not have a number because that was a question I had a while ago for another project. It did not have any statement on the number.

- Mike Bensimon: It is to be assumed that if you are keeping the same number of units but they will be bigger you may have an extra bedroom. I am under the impression there will be more density as far as humans involved. Usually when we look at this piecemeal and each individual bungalow colony we scrutinize the room, square footage, and whatnot. There is an element as to what these structures are going to look like and I think that is part of the conclusion as to what the density will be. Usually if you see a structure with 2 or 3 bedrooms you can infer how many people will be there. I wanted to voice that as well. It is not a make or break it but I do understand the confusion from the outside and this Board.
- Joel Kohn: I understand to the point that someone is asking for expansion beyond what the zoning permits. That is not typically in a duplex development it is in a bungalow colony. That is a little bit different. I won't disagree there is a potential there will be more human beings than before. I do want to point out another item. This was in front of the Planning Board last month. As part of submitting to the Zoning Board, the Planning Board wanted Helen Budrock to review this application and the variances from before to make sure it was covered. She reviewed it and gave her blessing on the variances before.
- Larry Zierler: Even though it is said it is not our purview there are new buildings going up and it will be a new population. That raises questions about infrastructure. I think it would be good for transparency to get a sense of what your population count is. You know who will be occupying your units. I think this is an improvement.
- Joel Kohn: We can try to put something together. I don't see the issue. We are not voting on the number of people on the property. I don't see an issue of providing. This whole master plan was not planned. We were kind of forced into it. We spent time on this to make it work. I don't think we have yet to sit down and figure out the difference in population. We can certainly do that.
- Larry Zierler: Can we get elevations of the buildings? Basement windows.
- Joel Kohn: Basements and everything you have for duplex developments not in bungalows.
- Discussion.
- Joel Kohn: This was specifically looked at to make sure it meets 15 feet. Yes the Planning Board and Keystone Engineering and Delaware Engineering will thoroughly review the site plan. Storm water management. All of it needs to be approved before the Planning Board can sign off on this.
- Mike Bensimon: There are a lot of unique circumstances here to consider. It is not like you are starting from a blank slate. You are working on the assumption that there was something existing. You can tear it all down and rebuild the exact

same way. However you are looking to change it from a bungalow colony to a duplex development. You don't want to tear things down and have less than what is currently there. You want at least what is there currently. There are some mitigating circumstances. It would be a lot easier if it was a clean piece of property and starting fresh. You kind of have a little bit of a hardship in the fact that it is existing. You have the right to build it the same way but newer. You are asking to make it in a plan that makes sense to you.

- Joel Kohn: And the town.
- Mike Bensimon: I see there are 2 or 3 different sized units. Anyway you can give us...
- Jacob Setter: To make it work we have to take it down the way it is now. I can't put back any size I want. Now I can't put the pool wherever I want.
- Mike Bensimon: I assume they have a general idea of what these 2 or 3 different types may look internally. Can you get that for us?
- Jacob Setter: Yes.
- Mike Bensimon: If you can get us an example of that it will give us an idea of the density.
- Jacob Setter: Yes.
- Mike Bensimon: I think it is important to us to have the whole picture.
- George Sarvis: We know the buildings will be at least 1,110 square feet per duplex. The maximum would be 2,750.
- Mike Bensimon: It falls under the maximum square feet. This is for the members to get an understanding of the entire development. I know individually they are not looking for a variance to go beyond the size of the house. It is another data point for us to consider when looking at the project. Are there no other comments or questions? Okay public will remain open for next month.

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