

Town of Bethel
Zoning Board of Appeals

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White Lake, NY 12786
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Present: Stephen Morey, Chairman
James Crowley, Vice Chairman
Jesse Komatz
Gary Rohrs
Robert Yakin
Robert Brown

Attendees: Jannetta MacArthur
Recording Secretary
Denise Frangipagne
Councilwoman
BJ Gettel – Code Enforcement
Officer
Gregg Sementz – Code
Enforcement Officer
Jacqueline Ricciani – Attorney
Dan Sturm – Supervisor

Richard Conroy – Excused

The Town of Bethel Zoning Board of Appeals held its monthly meeting on May 17, 2010. The meeting was held at the Town of Bethel Justice Court, 3586 State Route 55, Kauneonga Lake, at 7:30 PM. On the agenda at this time are the following:

Pledge to the flag

Six members are present.

Chief of the White Lake Fire Department is present

Chairman of the Planning Board, Dan Gettel is present

Motion to approve minutes from the April 2010 meeting by Gary Rohrs, second by Jesse Komatz

All in favor -6

All opposed -0

Agreed and carried

BJ Gettel: The State 239 and County 239 both came back as local determination. With the understanding as the state put it, we know we will be reviewing this project with the Planning Board. They also stated the project needs to do a traffic study. They will have their comments at that time. They had no comments to the variances.

Motion to go into public hearing by Jim Crowley, second by Bob Yakin

All in favor – 6

All opposed –0

Agreed and carried

1. Public Hearing for Area Variances for height for a proposed Hotel/Resort Spa located on State Route 17B, known as Bethel Tax Map #:33-5-2.1, proposed by White Lake Mansion

- a. White Lake Mansion height = 67'8"**
- b. Hotel Bldg #1, 4 stories = 58'**
- c. Hotel/Spa Bldg, 3 stories =42'**
- d. Hotel Bldg, 3 stories =46'**

Steve Morey: Mr. Cosantino, are there any additions, or changes being presented tonight?

Mr. Cosantino - Architect: Yes. What we have done at this point is not change any of the heights we had asked for before. I gave you a better representation of how the buildings, even though we have the model represented in the drawings, at this time we have some changes. The buildings are represented in the model. We said we are keeping the White Lake Mansion as before. We tried to mimic that throughout the site, to keep the colonial look. The spa building, looking from the rear portion, (showing on map) this is what the top elevation would look like. You are getting an idea, if you are in the street, and you are looking at the White Lake Mansion here, the rest of the buildings, even though we are asking for the height variances, they are not over dominating the main front building. We are taking them from different parts of the site.

Jacqueline Ricciani: Can you match the numbers of the buildings that are on the first page?

Mr. Cosantino: Showing White Lake Mansion – building #1. We are taking from different parts of the site.

Steve Morey: Which is the White Lake Mansion Building?

Mr. Cosantino: Showing the same as the other proposals, as before.

Mr. Cosantino: We have a little key map.

Gary Rohrs: On your floor plan, it shows the building in the middle. That is building #1, correct?

Mr. Cosantino: Yes, correct

Gary Rohrs: It shows as a simple rectangular. Those are just architectural details. It's not like a wing

Mr. Cosantino: Correct

Steve Morey: I am a little confused. Trying to match the heights of the buildings to the site plan.

Mr. Cosantino: Inside the pamphlet I gave you, you have the individual elevations.

Steve Morey: The tallest building on this project.....

Mr. Cosantino: Is the White Lake Mansion House.

Steve Morey: Which one is that on that plan?

Mr. Cosantino: You have to understand that the grade goes down, and then moves up. So the back buildings even though are small, they are above the White Lake Mansion because of the natural grade. The grade in the back is higher than where this (White Lake Mansion House) sits.

Steve Morey: What we are trying to achieve is what the realistic view is going to be like once this project was constructed.

Mr. Cosantino: That's why we made the model.

Jacqueline Ricciani: For the parking, you have assigned certain areas as commercial uses, and some as offices

Mr. Cosantino: On the site plan? That is the commercial uses and residential use or hotel use. Commercial use is because certain square footage dictates that they have to be You have to accommodate for a certain number of parking spaces.

Jacqueline Ricciani: I understand that, but my question is, and on the current plans you handed out you don't have it, but in the prior plans you had given us potential floor layouts for the Mansion House. There are certain areas on the first floor designated as office. And you have retail. The amount of space you have assigned for office space looks like 4400 sq ft. Anything other than that would fall under the commercial?

Mr. Cosantino: Retail is commercial.

Jim Crowley: I need some clarification. The Mansion house is going to be 57' 4'?

Mr. Cosantino: It is now 67'8".

Gary Rohrs: I have some questions, in bldg #2; it is one building with three towers? That is one building, correct?

Mr. Cosantino: It is three separate buildings, it has one foundation.

Gary Rohrs: The reason I am asking you may want to ask for more of a variance..... It is just one foundation and one building, and then you would average between the slopes, and take that as your point from which you measure how high the building is. If this is officially three buildings, and you have it is one building, and that is all you are asking.

Mr. Cosantino: No, it is three separate buildings, they share one foundation. We are not calling that one parking area, what we are using underneath these buildings as one building. These buildings start where the residential portions are where I need the variance from is starting the main residential portion. Those three buildings, which are separated, they are at a certain finished floor height. It is dictated by the contours, we tried to minimize the amount of carving into the mountain, and minimize the site damage. We are allowed to do, according to your zoning code, 30%. We are only doing 16%. We tried to minimize the effect on the environment on the site itself. We consider them as three buildings.

Gary Rohrs: I really am referring to legal ease. You are asking in #1 a variance for D. A hotel building of three stories.

Mr. Cosantino: That is the rear building, yes.

Gary Rohrs: But don't you need a variance for the other two as well.

Mr. Cosantino: Only one of the them. The other one meets your height requirement of 34 ft. I need a variance for the spa, and building #1.

Gary Rohrs: On the master plan you have up here the existing zone is H17B, Gateway Commercial District. That is incorrect. We have two zones in Bethel. We have a Gateway Commercial Zone, and a Hamlet Commercial zone. We looked at the map, and you are in the Hamlet Commercial zone, which have different bulk requirements that you put in your plan. I do not believe they are in conflict. In fact, the other ones are more restrictive. For example, you do not need a 100 ft setback; you need just 50 ft in the front and in the back in the Hamlet commercial. I just want your planning documents to reflect the proper zone.

Michael Cosantino: I was unaware of that. We will make the change on the map. We made it work under the more restrictive. To our neighbors we are better off to keep as it is. I believe too, as you were developing the zoning we were going back and forth. We will abide by the more restrictive.

Jim Crowley: Your furthest back building is the hotel spa building?

Michael Cosantino: All in line. It would be hotel, 2 b, 2a, all reapportioned of the property.

Jim Crowley: At 42'?

Michael Cosantino: The spa building is at 42'. From finished floor level.

Jim Crowley: But the elevation it raises up 24 ft?

Michael Cosantino: But the property rises naturally almost 30 ft

Jim Crowley: From the road it will look 70 ft high.

Mr. Cosantino: Well the natural grade rises up that high. It is set back about 600 ft away.

Public input

Gary Takouriun – Rt 55 2032 – White Lake – NY – Own the property (showing on map) I am impacted more than anybody. Over 735 ft that I own. Kris Krekun lives next to me. Kris could not be here tonight. This is a beautiful drawing. I am looking at the Spa Building, and going over the numbers that you guys had mentioned. This building is going to be 42 ft by my house. That is a big impact. It will be higher over Kris' house. Which we are concerned about. Also we are concerned about the aquifer. Because the height of this building as you guys mentioned is pretty high, and the town does not have a ladder truck to get up there, so there is going to have to be a sprinkler system put in, for a lack of ladder height. And the closest ladder as you guys mentioned the last time is over 25 minutes away. With this going on, our wells could go dry. For both of us. Also, in the back we were thinking if this project goes through, there should be a couple of rows of trees and maybe a fence to be a sound barrier or something like that.

Steve Morey: Gary, could I just interrupt you for a second. This public hearing is specifically just for height area variances. I believe you are getting into issues of items that will come up in front of the Planning Board. Just so you understand. I don't want to take away from what you are trying to express, but we are discussing the impact of the height, and the parking spaces.

Gary Takouriun: When you have that meeting, will there be a Public Hearing for that?

BJ Gettel: Yes, there has to be.

Gary Takouriun: We are very concerned about that height. We will never see the sun again. If this is going to be clear-cut and all that height is there, it's pretty big.

Steve Morey: Gary, I didn't mean to cut you short, the public hearing is also regarding the parking spaces. I don't know if you have any concerns about that.

Gary Takouriun: Where the parking spaces are located, yes. The parking spaces come to my dining room window. That isn't 100ft away from my house. The building is, but that circle is 100ft from my house. I have an issue with it.

John Conway – Sullivan County Historian – I realize that is probably not the venue to say this, I would like to go on record so that all of you, Mr. Chairman, members of the board, and those of you in the audience are aware, fully aware and understand the historic significance of the building that stands on the site, currently under consideration, and any decision that might allow that building to be demolished, or substantially be renovated be made with the full knowledge and understanding of how significant that building is. There probably is not any more historically significant building in Sullivan County than the White Lake Mansion House. As most of you know the history of Sullivan County is the history of resorts. That is the first successful summer hotel in this county. Which at one time was world famous for it's summer hotels. I just wanted to make sure that I went on record letting you all know that that building is probably the most historic building of the County. And any decisions that are made that impact that building as it stands now are made with the knowledge and understanding of that significance. Thank you.

Gary Rohrs: Mr. Conway, as a historian, the developer feels that since they are going to be taking down the 48ft building, that they should be able to put in buildings that exceed that height, because this already is greater than the height allowed under the zoning code. Do you think that is a good justification to tear down a building, a historic building, and then be able to use that as justification for exceeding the code of the locality?

John Conway: In other words, using the fact that the existing building is already higher than the allowable. I don't know how to answer that, without at least giving approval of tearing down the building. I would say every attempt should be made to preserve the building that is there now. I don't really see the logic behind that.

Steve Morey: There is a sign on that property dating the building and the ownership. The historic marker.....

John Conway: The historic marker is put up by New York State at the request of the town historian usually, it marks that building as being built in 1848 by David B. Kinne. It is on record as the first successful summer hotel in the County. The first hotel was built here in White Lake in 1846, for whatever reason it wasn't successful, we have that recorded in our history. The Mansion House was built two years later, and was successful, and if you know the history of tourism here in the county, it started because of fishing. The fishing in White Lake was world famous. The largest trout in the world in 1832 was taken from White Lake. That is why people came to Sullivan County in the beginning. Most of them stayed at the Mansion House. It has a rich and colorful history, I realize this isn't the venue to plead the case to save it, but I think you need to be aware and understand how significant that building is.

Barry Schwartz – 4124 West Shore Drive – White Lake Homes – Mr. Chairman and board members, my fellow neighbors, I would like to say I do live by first “do no harm.” I think it is simple, it's brilliant, and would serve us all well. With that said, I share concerns with my neighbor, Gary Takouriun, and share with the concerns of Mr. Conway. Obviously Mr. Takouriun concerns are for his daily life. Mr. Conway is speaking for the greater community. I don't see the difference. In addition to living or

having a residence here in White Lake, I own the corner piece the blank area fronted on 55 and 17B. I, like Mr. Takouriun, have specific and selfish concerns about our neighbor and what is proposed there. I am very excited about any project that could support the economic and quality of life here in Sullivan County, what's left of the spirit here; I think it needs to be developed. I support development, if it is done properly, but I also have concerns on its impact, not only my own selfish interest, but for the community at large. I have some more notes. I am concerned about the height of the variance, of the petition for a variance, of how the height of the buildings as well as the mass, the total mass of all the buildings will have on my corner, not just for the aesthetic aspect, but also the commercial value on an investment that I have made. I am concerned about the impact on direct sunlight, also casting shadows, which could also impact snowmelt in the winter, less sun, more ice, there is risk management to be concerned about, at least from my point of view. There are fumes, noise, and also the infrastructure lighting. Basically I go back to first do no harm. I wish this project well, just as long as there is no irreparable damage, and personally I and the community at large is not left at a disadvantage. I have heard the colonial look. Going back to Mr. Conway's concerns, I have always admired and have always loved the history of the White Lake Mansion. In fact, I attempted in 2004 to reassemble the corner that I currently own and the 6.5 acres roughly of the White Lake Mansion property and to assemble it back into a 10-acre parcel. That is another story. That is a beautiful old building, it is rich in history, I think it deserves a lot of respect and protection, and I am concerned about the colonial look. That looks can be deceiving. I would like to know, even though this is going away from the height variance, I am ultimately also concerned of the materials that are going to be used.

Steve Morey: That is all that we have listed on this sign in sheet. Do we have anyone else who would like to speak at this public hearing?

No additional public input

Steve Morey: I believe we have some correspondence.

Letters from Dr. Seitelman Motion to receive and file letter from Dr. Seitelman by Gary Rohrs, second by Jim Crowley

All in favor -6

All opposed -0

Agreed and carried

Motion to close public hearing by Jim Crowley, second by Jesse Komatz

All in favor -6

All opposed -0

Agreed and carried

BJ Gettel: Did you want to do a 30-day written comment period, or did you want to make your decision this evening? After the close of the public hearing, if there are other people to make written comments regarding these proposed variances, they have a 30-day written comment period.

Jacqueline Ricciani: You don't have to make a decision tonight. You have 62 days from the close of the hearing. If other people wish to make written comments.

Steve Morey: We will have to give this some thought. Do we have the registered receipts back?

BJ Gettel: Yes we have them

Gary Rohrs: You said that the kind of technology you are going to use, which I presume is pre cast concrete, but I don't know, requires that you have these 15' high stories in the hotel areas, and 12' for residential. The story height. You also stated you were going to try to use energy efficiency green technology. It would not satisfy the requirements of a certified green project. Could you speak of the technology that requires the higher ceiling height? Which seems to be driving some of this.....

Mr. Cosantino: What we have here, to facilitate and serve the needs we proposed, the public assembly and restaurants. Although you walk into a restaurant you will see 9 ft or 10 ft ceilings, above it you have all of the mechanical stuff, so you have all of the assembly. You have the communications, ductwork and things of that nature. It takes up spaces. That is why we proposed in the White Lake Mansion and the Spa Building to have 15 ft ceilings in those commercial areas. The residential would have 12 ft; we would have room for the structure. The depth of the structure comes down, the structure come down, my structure is two feet deep, and we have 10 ft left. I have one ft left for ductwork to accommodate all of that. It is very very tight. A difference between making this a green project, which we are, and a lead project, is there is a lot of paperwork that goes along with that, a lot of certification, inspections, that of course drives the cost up quite a bit. We are going to do the same, but without all of the paperwork involved. We are going to use the same materials, same lighting, wiring, HVAC systems, water retention, using even the snowfall melting to service our green water areas in the project, for the sprinklers, the persons wells won't dry up because we will be storing the water in the building. This is part of green and lead. Buildings have become self sufficient, therefore it doesn't tax the neighborhood

Gary Rohrs: Where are you going to store this water

Mr. Cosantino: In the buildings. Probably in the basements. We don't have that all done yet; we're not there yet. The air conditioners will be split systems, that's why the roofs are as high as they are. They are not eyesores, we cover them up. Even though it is still in the colonial style, instead of just having an open attic, it will be used for the mechanical systems. We haven't gotten to that planning stage, because we are not under that review yet.

Gary Rohrs: In regard to parking. You said you were committed to using a porous type paving stone.

Mr. Cosantino: In the open areas.

Gary Rohrs: When you say open, do you mean the actual parking spaces, not the roads?

Mr. Cosantino: The roads. The open area spaces. The open area, we will not just lay down asphalt, because that is 100% runoff. When it rains, that parking lot - all the water runs off. 100%. That's how you design that. When you have a porous type pavement, it is not 100% runoff.

Gary Rohrs: In dealing with the parking variance that you want, would you accept a condition that you do use that?

Mr. Cosantino: We planned on using that anyway. You can say that you are demanding us to use it. We already are. Not the whole area, especially in the rear portions.

Gary Rohrs: It is it significantly more expensive?

Mr. Cosantino: It depends on what you are doing. Depends how much it is.

Gary Rohrs: What is it that gives us the 206 spaces. Is that a State Code? You are asking for a variance?

Mr. Cosantino: At 100%. I believe 2/3 is what is in the code. According to your town engineer we are going with the most restricted, that is why we are asking for a variance. We meet the 2/3 requirements.

Gary Rohrs: So, the state does not require the higher number, the 278.

Mr. Cosantino: No, because realistically 100%

Gary Rohrs: You don't foresee a time when the hotel and the restaurant.....

Mr. Cosantino: The people using the hotel or using the assembly space are probably already in the hotel. That is why it is a 2/3 capacity, the same people who are using the hotel or using the catering hall are already in the hotel, you're not going to have double cars, so therefore 2/3 capacity would be 184, we are giving you 206. We have exceeded the 2/3.

Gary Rohrs: In terms of the parking, you stated it would be a gated community.

Mr. Cosantino: I never said it was gated. It is not a gated community. I think the neighbor wanted us to put a fence by his pond

Gary Rohrs: It is for the general public?

Mr. Cosantino: Of course. That is how we do business. 100% open to the public

Gary Rohrs: There are going to be timeshares.....

Mr. Cosantino: No timeshares. Just a hotel.

Jesse Komatz: I have a problem with hotel building #1. You say it is 58'. When I look at that grade there, it is well above the mansion in height. You are taking that height of 58' from a courtyard elevation. You are showing a lower grade in the parking lot here. In actuality you are looking more at probably 68' in elevation from that particular point

Mr. Cosantino: From that area, because the natural grade. We tried not to manipulate.....I can make that area flat, and then we put more impact on the neighbor.

Jesse Komatz: You are now making that building taller. If you have to fight a fire from that point you are looking at a structure well above what you are stating here.

Mr. Cosantino: No, it's not above what I stated.

Jesse Komatz: You stated 58'

Mr. Cosantino: It is really 48' to the top of the ceiling.

Jesse Komatz: You are showing from the peak to 58 ft. You are not accounting when you go down to the actual grade. You are taking a court yard elevation, that is on one side of the building, but the other side of the building has a lower grade, that is the side somebody would have to fight a fire from if they came up on that building. Am I correct?

Mr. Cosantino: No, you are not correct. You have landscaping.

Jesse Komatz: But you are not showing it on this plan

Mr. Cosantino: I will have to adjust it. What is happening here..... (showing on map) We bermed this up and the grade goes up.

Jesse Komatz: Why are showing windows? You would not see that whole level that is what I'm saying.

Steve Morey: BJ gave you our reference sheet, our checklist. On there it refers to the benefits. If you can explain to me what your benefit is in both the height variance and the parking. What is the actual benefit you are requesting?

Mr. Cosantino: The benefit to me?

Steve Morey: By receiving these variances.

Mr. Cosantino: The benefit not just to us, but also to the site and the community. We are taking up less lot coverage by doing it this way. Therefore giving it less of an environmental impact on this site, and our neighbors, and because of that it is also a

business. He has to have a certain number of rooms to make money. We cut it down from our original plan from a year and a half ago. We have reduced the size of lot coverage from our first presentation. The benefit is we have become more site sensitive, not just to us but the neighbors.

Steve Morey: Getting back to what you stated about cutting it down from 2 or 3 years ago, we had that question come up in our previous meeting, and it was requested in percentages. I have something here that was stated on April 19th it was stated the original project 11/2007 and stating that you were scaling it back or redesigning your project to more meet the new code for the Town of Bethel. I guess my question is, you are scaled back by 33% less than what you were looking back at 2007. Is that specifically what we are talking about, lot coverage in terms of trying to better meet the new zoning for the Town of Bethel.

Mr. Cosantino: No, we met that part of the code of Bethel before. That was never an issue. What we did was scaled it back because of the site. Because of it's impact. It was too monstrous. Even though we were allowed to do it that way. We chose to be site sensitive. We chose to say we need a better presentation. A better impact to the site, to our neighbors and to the community. It doesn't mean just because you are allowed to do something, doesn't mean you just do it.

Steve Morey: Okay, I guess I would apologize, my reading of this letter lead me to believe that you were making an attempt to better meet the Town of Bethel Code.

Mr. Cosantino: We had to meet the Town of Bethel Code, because you changed it, for site coverage. We had already met site coverage the last time. We had met the setbacks last time. That had all been changed during your zoning change process. We configured the site also again to meet these demands, and also too in meeting that, we also said wait a minute, it is too much of an impact environmentally for the site. We wanted to minimize that the best we could.

BJ Gettel: Steve, if I may, when they originally presented the project in front of the Planning Board in 2007 they had 24% lot coverage. Now they are down to 16%.

Steve Morey: I am not convinced that you scaled back your project to better meet the Town of Bethel Zoning. That's why I think the message that we are trying to say to you, by that checklist that we are using, you need to convince us why this board should grant these area variances. I think it is as simple as that. That is my feeling.

Mr. Cosantino: Your old code said three stories if not sprinkled, four stories if sprinkled. We cut that back quite a bit.

Gary Rohrs: You exceed the height by 100%.

Mr. Cosantino: On the main building only. It is 67'.

Jesse Komatz: The prior height on the Mansion Building was 59'8. These heights were much higher. Not according to hotel 1.

Mr. Cosantino: The other buildings are all cut down tremendously.

Jacqueline Ricciani: Can you please identify for the record the plans that are being passed around?

BJ Gettel: The plans are the original plans from 2007 submitted to the Planning Board.

Steve Morey: The only reason I brought that into reference that is because it was stated that you were redesigning your project to better meet the new zoning.

Mr. Cosantino: You asked about one aspect about lot coverage. You were specific to lot coverage.

Steve Morey: My question was what we were discussing was pertinent to lot coverage, which meant that your percentage scale back was strictly based on lot coverage.

Mr. Cosantino: It wasn't strictly on that. I'm confused too; I thought you were asking strictly on lot coverage. On our new present design, we scaled back the number of rooms. Because we scaled back the rooms, we scaled back the lot coverage to 178. We knew the cars we would have had been significantly reduced. Minimizing rooms, the type of material we are going to be using, the type of pavement that we are going to use. It has less impact on the site. These are things that we had made changes to, not only meet your code, but also to better service the site. Because of our original plan, it ate up a lot of the site even though it was at 35%. We reduced that and also became more site sensitive, instead of just carving out the whole side of that mountain, we are working with the mountain; we are working with the terrain. Where before we did not. We are being more sensitive not just to the site, you have new zoning and beyond your zoning. Zoning requirements and building codes are minimums, it's not just what you should do, that is the minimum you should do. We are exceeding what you are asking for. What we are asking for in return for this change is that we need more than 35ft. Because terrain is up and down, creating a medium in where you wanted me to consider that to be one building. Then you are asking me to create a datum. Where does that datum start? Does it start where the cars come in, does it start where the people actual live? We chose where the hotel rooms start. These are things that would be recreated, to understand the site, to present to you. We know that it is only at 35ft. 35 ft was there, we are using 15ft height, and it is only 2 stories. If we use 12 or 10, we could possibly squeeze 3. That portion of the building we are asking for is the roof building. There is no living space up there. The only thing that is there are mechanical systems. That big peak is mechanical. No living up there, no people up in that attic space. That is more of an architectural ornament. We are asking that the building have that look. We are trying to have it look historical. In so we are asking for this variance. Not just be an eye sore. That is what we are looking for.

Steve Morey: I'm sorry, Mr. Schwartz, the public hearing is closed.

Pawel Efrimov: Mr. Gary – When I looked at his house, it is not shown.

Steve Morey: What we are working on is we are making a decision on what the applicant is proposing.

Tests for an **Area Variance**:

When considering an Area Variance, Boards should understand that they are primarily engaged in a balancing act, weighing public and private benefits. In making determinations whether area variances ought to be granted, ZBA's are now instructed by the statute to **“take into consideration the benefit of the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or the community by such grant”**. Note the complete omission of the term “practical difficulties”.

To be sure, it is up to Board members to apply this general language, but the statute provides additional help. It suggests that the Board, in making its determination, also consider whether:

- 1) an undesirable change in the character of the neighborhood or a detriment to nearby properties will be produced by the granting of the variance;*

Jacqueline Ricciani: You need to have a discussion in favor or against. You need to set forth your factual basis for why you think that way in favor or against. If it is yes or no, you need a reason.

Gary Rohrs: In terms of the height variance I would think that granting this.....

Steve Morey: Let me just repeat this statement, so everyone has a chance to think about their response.

an undesirable change in the character of the neighborhood or a detriment to nearby properties will be produced by the granting of the variance;

we are working on the height variance at this point.

Gary Rohrs: If we granted the petition, we are creating a new zoning height for the zone, which is something only the Town Board can do.

Steve Morey: Gary, what we are doing is granting an appeal to a variance of what the zoning now is.

Gary Rohrs: Then the next applicant that comes along, will say, my motel I want it to be three stories rather than two

Steve Morey: It is a case by case; we would take that into consideration, when that

application was made

Jacqueline Ricciani: What you are being asked to consider is specific to this plan and this project. If you grant this variance, that doesn't mean that other developers in the zone automatically now have a new height requirement. That is not the case. If the variance is granted, it is granted for the purposes of this project that is before you. Not for any other building taking place anywhere else in the Town. You are not changing the zoning requirements

Jesse Komatz: On the height variance, you have four buildings; they were put in under one variance. They all have to be agreed upon on that height, or disagreed upon that height. You cannot break down?

Steve Morey: We did offer that possibility at the last meeting; the developer asked that it be one item

Jesse Komatz: As far as the parking spaces, did you attempt to buy adjacent properties?

Steve Morey: I would like to deal with the height variances, and get that part settled, and then the parking space variance. We are going to confuse the issues.

Gary Rohrs: Actually, the 6 acre almost 7 acre plot of ground is very germane to the discussion about height, because the reason they are going high is because they can't fit all of the activities they want to include in a the building that would conform to the zoning requirement. So we are creating an island of very high-density usage in White Lake, the exiting buildings are two stories with a third in the gable, but they are not over 35 ft high. I think it would be a negative influence on the community.

Steve Morey: We are going to go down the line here, and get answers to this question. Jim you are first.

Jim Crowley: No, because the architecture of the houses are the same kind that he is proposing. The building has been there since 1852. It was a high building. The buildings down there are fairly tall. I don't think they are over 35 ft., I don't think it is going to be a negative impact on the neighborhood.

Gary Rohrs: I believe it creates an unfavorable impact on the neighborhood, substantially altering the landscape because of the building height, not just the one building but also all of the buildings. I can see if we could talk about them individually. I am somewhat persuaded by the Mansion House itself, but I think the others are trying to cram too much business in to small an area. 7 acres should be, there wouldn't be a problem with parking or with height if they had more land on which to do it, and fit within the zoning requirements.

Jesse Komatz: I agree with Gary. The aesthetics are nice. I don't think the designs are to bad, I think the heights are a little high. I kind of think the heights would be detriment

to the area. The rest I don't have a problem with.

Steve Morey: I agree also. The heights are just too high. It's not the architecture, and the Mansion building is trying to stimulate that high construction

Bob Yakin: I don't think it is going to cause a negative impact. The history of White Lake is hotel and resorts. The needs of the developer to make money. I can remember when there were several high buildings on Rt 17B in White Lake. We are returning the White Lake to the resort that it used to be. I can't deny that there isn't going to be negative impacts on the neighbors. That should be worked out with the neighbors and the developer

Bob Brown: I feel that this project is what the Town of Bethel needs. I don't think this board should stand in the way.

2) the benefit sought by the applicant can be achieved by some method feasible by the applicant to pursue other than an area variance;

Jim Crowley: He could. He could have gone back to his original plan and went wider, rather taller. He could see if he could purchase the undeveloped site to see if he could go wider rather of taller. Did you look into any of those avenues?

Pawel Efrimov: No, we can't. We waited for the change of the zoning. We cannot go lower in rooms. We have a very nice design. I am 30 years as a developer. I am many years in hotels. I have a vision; it will look very nice in the neighborhood.

Jim Crowley: I guess not.

Gary Rohrs: I don't think there is an alternative. If he wants to go ahead, without getting the variance he can't proceed. He has already stated that.

Steve Morey: The question is the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than an area variance.

Jacqueline Ricciani: This is not a situation where you count up all of the yes' and all the no's. And you figure which side it comes down on. These are just factors to think about when determining, after each of you go through and give your feelings on each of these factors, they we should go through one more time and each person can say either yes or no to grant or not, but these are the things that everyone should be thinking about.

Gary Rohrs: I think they demonstrated consideration of alternatives in that they detailed the economic and feasibility with compliance with the applicable regulations. That what they want to do they can't do by having a 35 ft height limit. My answer is there is no alternative

Jesse Komatz: The only alternative was to go back to the old plan. Looking at the two different plans, the new one aesthetically is better. In this case what he has here is much better than before, so no.

Steve Morey: When I look at this question, thinking about if there is some other method, I guess the only other method that comes to my mind would be to build longer rather than higher. I think there are other methods.

Mr. Cosantino: You have more positive water impacts, not only for this site, but also for the neighboring sites. We try to minimize the environmental impact. This minimizes the most.

Steve Morey: That may be, but it doesn't come..... the variance you are asking for, is a variance from our new zoning code, although you may have those other impacts, it still does not impact the zoning code. It still makes your variance request for a zoning variance, and by making the buildings longer rather than wider, you would meet code.

Mr. Cosantino: Then you would have your building codes

Bob Yakin: Whether or not there is another method, I would have to say yes there is. I can appreciate the plan you have because they are using the existing landscape. You are trying to change the contours that much. The alternative would be bigger fingerprint, but it is an alternative

Bob Brown: I don't think there is any other alternative

Jim Crowley: The only alternative would be shorter and wider.

3) *the required area variance is substantial;*

Jim Crowley: It is substantial. It's 100%

Steve Morey: Not quite, about 98%

Jim Crowley: This is an all or nothing deal, correct?

Steve Morey: Yes

Jim Crowley: I would say it is very substantial on all those buildings

Gary Rohrs: Yes

Jesse Komatz: Yes

Steve Morey: Yes

Bob Yakin: Yes

Bob Brown : Yes

4) *the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district;*

Jim Crowley: I don't think architectural wise there would be a problem. Environmental, like the man said, they are going green; they are going to have ponds put in. The runoff should be minimal. I would say that it's not going to have that much on a visual impact

Gary Rohrs: There will be an impact. I don't know if it would be to the same extent. We are talking about drainage, flooding, and runoff, and other topographical changes like changing the grade

Steve Morey: We are specifically looking at is whether the proposed variance, which is the area variance for height will have an adverse effect or impact on the physical environmental conditions in the neighborhood.

Gary Rohrs: No, the height itself will I don't think would cause the environmental impact

Jesse Komatz: It would be minimal with this construction as opposed to previous plans

Steve Morey: My answer is no, I don't think this variance would have an adverse effect

Bob Yakin: No, the variance would not have adverse

Bob Brown: No

5) *the difficulty was self-created, which shall be relevant but not necessarily preclude the granting of the variance.*

Jim Crowley: It is self-created you could go wider, and bring height down. There are other options

Gary Rohrs: I think it is self-created. The man purchased this land. He knew they would not raise the zoning to 70ft. He knew what the limitations would be. He is just trying to cram too much on there. He created his own hardship by purchasing this parcel.

Jesse Komatz: Yes, self created. He has other alternatives

Steve Morey: Yes, it is self-created. That is why I brought up the previous plan from 2007. As I said I'm reading something by you to the town stating that you were revising your project more closely to conform to the new zoning code

Michael Cosantino: Because the original plan did not conform to the new zoning. The new zoning changed all the side yards, the heights and everything else. We had to change.

Steve Morey: The new zoning did not change any of the heights. That is the reason why I am responding yes

Bob Yakin: Yes, it is self-created. There is an alternative, even though it might not be as desirable.

Bob Brown: Yes, it is self-created. They have the plans here to make it more feasible and to make a profitable business.

Steve Morey: The other half of the question, no matter what your response is the consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance, so everyone understands. We also have the board of Appeals shall grant the minimum variance that it shall be necessary adequate and at the same time reserve the character of the neighborhood and the health, safety, and welfare of the community. That concludes our checklist. As Jacy had mentioned, we can go through this again, and get a response to each of these items, and try to decide whether or not we want to approve this area variance request or deny the request, or we can simply table this to another meeting if you think more thought or research is necessary. Any thoughts?

Gary Rohrs: I think there was indication at our last meeting that the developer wanted to proceed as quickly as possible. That is why we arranged to have the 239 to the County on time and to get everything ready for this meeting, so I don't think we should postpone the decision.

Steve Morey: The 239 reviews have been responded by the County and the State? And what was the determination?

BJ Gettel: Yes

Steve Morey: Long form seqra. Just respect to the height

- Does action exceed any type one threshold in 6NYCRR Part 617-4 *No*
- Will action receive coordinated review as provided for unlisted actions in 6NYCRR Part 617-6 *Yes*
- Could action result in any adverse effects associated with the following: existing air quality, surface or ground water quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage, or flooding problems *No*
- Atheistic agricultural, archeological, historic, or other natural or cultural resources Community or neighborhood character

Roll call vote

Jim Crowley – Y – they are digging down 30 ft

Gary Rohrs – N

Jesse Komatz – N

Steve Morey – Y – Reference to character to neighborhood and height

Bob Yakin – N

Bob Brown – N

- Vegetation or fish, shellfish, or wildlife specifies significant habitats or threatened or endangered species ***No***
- A community existing plans or goals as officially adopted or change in use or intensity of use of land or other natural resources

Jacqueline Ricciani: Any other project that would come would have to be on it's own merits. Just because a variance might be granted here, is not an automatic for anybody who comes. You have to consider each individually.

Roll call vote

Jim Crowley – N

Jesse Komatz – N

Steve Morey – N

Bob Yakin – N

Bob Brown – N

Gary Rohrs – Y – Sets the town up for higher buildings

- Growth, subsequent development or related activities likely to be induced by the proposed action.

Roll call vote

Jim Crowley – N

Jesse Komatz – N

Steve Morey – N

Bob Yakin – N

Bob Brown – N

Gary Rohrs – Y – I think the height of the buildings could determine future development in people's minds. It might lead to higher density

- Adverse impacts, long term, short term, cumulative, or other effects not identified in the previously asked five questions

Gary Rohrs: What about the safety issue in terms of the fire companies being on the third floor, a bar and a dance hall. I think that would be possible effects on public safety.

BJ Gettel: This is environmental.

Steve Morey: This is State Environmental Quality Review application form that we are

doing. I understand what you are saying, but I don't know if it is relevant to

Jim Crowley: We are dealing with the height of the structure is the variance of what it has to deal with environmental effect, and that's it. We are just talking about height.

Gary Rohrs: Yes, but if it reaches a certain height it effects the people that use the place. The community that uses it in terms of public safety

Jacqueline Ricciani: But the question is whether there is an impact on the environment, not whether there is an impact on people

Gary Rohrs: But people are a part of the environment

Jacqueline Ricciani: That's true, but I don't think that is really what this form is directed at. There are other things that address those concerns without a doubt. Not this portion of the form.

Roll call vote:

Jim Crowley: No

Gary Rohrs: Yes

Jesse Komatz: No

Steve Morey: No

Bob Yakin: No

Bob Brown: No

- Other impacts including changes in use of either quantity or type of energy

Steve Morey: Understand that the project may be using different technologies for energy, but we are specifically talking about the area variance for height. ***No***

- Will the project have an impact on the environmental characteristic that cause the establishment of a critical environmental area ***No***
- Is there or is there likely to be controversial related to potential adverse environmental impact ***No***

Motion for declare a negative declaration for seqra for height variance by Jesse Komatz, second by Jim Crowley

All in favor -5

All opposed -1

Agreed and carried

Motion to grant area variance for height by Jim Crowley, second by Bob Brown

Roll call

Jim Crowley – Yes

Gary Rohrs – No
Jesse Komatz – Yes
Steve Morey – No
Bob Yakin – Yes
Bob Brown – Yes

In favor – 4

Opposed – 2

Agreed and carried

Motion approved

Recess for 5 minutes

2) Public Hearing for Area Variance for parking spaces for a proposed Hotel/Resort Spa located on State Route 17B, known as Bethel Tax Map #: 33-5-2.1, proposed White Lake Mansion.

a. 100% parking = 278 spaces, at 2/3 capacity =184 spaces, proposed =206 spaces

When considering an Area Variance, Boards should understand that they are primarily engaged in a balancing act, weighing public and private benefits. In making determinations whether area variances ought to be granted, ZBA's are now instructed by the statute to "**take into consideration the benefit of the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or the community by such grant**". Note the complete omission of the term "practical difficulties".

To be sure, it is up to Board members to apply this general language, but the statute provides additional help. It suggests that the Board, in making its determination, also consider whether:

- 1) an undesirable change in the character of the neighborhood or a detriment to nearby properties will be produced by the granting of the variance; *No*
- 2) the benefit to the applicant can be achieved in some other way;

Roll call vote:

Jim Crowley –No

Gary Rohrs – No

Jesse Komatz –No

Steve Morey – Yes- because alternate parking on other sites is a possibility, I don't know if you looked into that – purchasing other property

Bob Yakin – Yes – Same reason as Steve Morey

Bob Brown – No

- 3) the required area variance is substantial; *No*
- 4) the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district; *No*

5) the difficulty was self-created, which shall be relevant but not necessarily preclude the granting of the variance. **Yes**

Seqra Review for Parking

- Does action exceed any type one threshold in 6NYCRR Part 617-4 **No**
- Will action receive coordinated review as provided for unlisted actions in 6NYCRR Part 617.6 **Yes**
- Could action result in any adverse effects associated with the following: existing air quality, surface or ground water quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage, or flooding problems **Yes**

Jim Crowley: You could have potential for runoff

Gary Rohrs: My reason is traffic

Jesse Komatz: runoff – oil from the cars

- Atheistic agricultural, archeological, historic, or other natural or cultural resources Community or neighborhood character **No**

Roll call vote:

Jim Crowley – No

Gary Rohrs – No

Jesse Komatz - No

Steve Morey – Yes – because the number of parking in that particular portion of the neighborhood

Bob Yakin – No

Bob Brown – No

- Vegetation or fish, shellfish, or wildlife specifies significant habitats or threatened or endangered species **No**
- A communities existing plans or goals as officially adopted or change in use or intensity of use of land or other natural resources **No**

Roll call vote:

Jim Crowley – No

Gary Rohrs – No

Jesse Komatz - No

Steve Morey – Yes, because the intensity use of that land as it stands now

Jacqueline Ricciani: It's not parking yes or no, it's the parking is permitted. The question is whether granting the variance

Bob Yakin – No

Bob Brown – No

- Growth, subsequent development or related activities likely to be induced by the proposed action. ***No***
- Other impacts including changes in use of either quantity or type of energy ***No***
- Will the project have an impact on the environmental characteristic that cause the establishment of a critical environmental area ***No***
- Is there or is there likely to be controversial related to potential adverse environmental impact ***No***

Motion to declare negative declaration by Jesse Komatz second by Gary Rohrs

All in favor – 6

All opposed –0

Agreed and carried

Motion to grant area variance to 206 spaces by Jesse Komatz, second by Jim Crowley

Roll call vote

Jim Crowley –Yes

Gary Rohrs – Yes

Jesse Komatz –Yes

Steve Morey – Yes

Bob Yakin – Yes

Bob Brown - Yes

All in favor – Yes

Opposed – No

All in favor

Motion passed

Steve Morey: Denise, do you have anything before we adjourn?

Denise Frangipagne: No, just about the upcoming training. I would like to say thank you. You guys had a real thorough discussion.

Motion to adjourn Jim Crowley, second by Jesse Komatz

All in favor – 6

All opposed –0

Agreed and carried

9:50 pm

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur
Recording Secretary