

ZONING BOARD OF APPEALS

MINUTES

January 23, 2020

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORDAS, Chairman

CATHY DAWKINS, Board Member

GEORGIA RAMPE, Board Member

MATTHEW MORREALE, Board Member

KENT FINDLEY, Board Member

JON FOURNIER, Alternate Board Member

HOLLY ROCHE, Alternate Board Member

STEVEN MOGEL, ESQ., Attorney

KYRA PLATT, Building Department

JERIC CORPORATION
Court Reporting Services
P.O. Box 385
Narrowsburg, New York 12764
(845) 252-3515

Reported by: Rosemary A. Meyer

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X
Michael Knecht
Area Variance
Tax Map Section 70.A; Block 3; Lot 5.2
Mountain Greenbelt Zone
----- X

Town Hall
Town of Mamakating
January 23, 2020
7:00 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- CATHY DAWKINS, Board Member
- GEORGIA RAMPE, Board Member
- MATTHEW MORREALE, Board Member
- KENT FINDLEY, Board Member
- JON FOURNIER, Alternate Board Member
- HOLLY ROCHE, Alternate Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Michael Knecht, Applicant

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Reported by: Rosemary A. Meyer

1 - RE: MICHAEL KNECHT -

2 CHAIRMAN MORDAS: Good evening, ladies and gentlemen.
3 Welcome to the Town of Mamakating Zoning Board of Appeals
4 meeting, January 23rd, 2020.

5 I'm still your chairman, Matthew Mordas. I start the
6 meeting with a roll call.

7 We a new alternate, Holly Roche. Are you present?

8 ALTERNATE BOARD MEMBER ROCHE: Present.

9 CHAIRMAN MORDAS: Jon Fournier who has been
10 reappointed for another year as an alternate.

11 ALTERNATE BOARD MEMBER FOURNIER: Present.

12 CHAIRMAN MORDAS: Matthew Morreale.

13 BOARD MEMBER MORREALE: Present.

14 CHAIRMAN MORDAS: Kent Findley.

15 BOARD MEMBER FINDLEY: Present.

16 CHAIRMAN MORDAS: Georgia Rampe.

17 BOARD MEMBER RAMPE: Present.

18 CHAIRMAN MORDAS: And you've been appointed for
19 another term.

20 BOARD MEMBER RAMPE: Yes.

21 CHAIRMAN MORDAS: Congratulations.

22 BOARD MEMBER RAMPE: Thank you.

23 CHAIRMAN MORDAS: Cathy Dawkins.

24 BOARD MEMBER DAWKINS: I'm here.

25 CHAIRMAN MORDAS: And our counsel, Steve Mogel.

1 - RE: MICHAEL KNECHT -

2 MR. MOGEL: Here.

3 CHAIRMAN MORDAS: All right. I'd like to do the
4 Pledge of Allegiance.

5 (The Pledge of Allegiance was recited.)

6 CHAIRMAN MORDAS: First on the agenda is our public
7 hearing for Michael Knecht. Please step up to the podium
8 and refresh us as to what is going on with your situation
9 and your property, sir.

10 MR. KNECHT: Good evening. Well, I put a carport up
11 without looking into permits, and it's too close to the
12 road. I need a variance permit for it.

13 BOARD MEMBER DAWKINS: How many feet is it from the
14 road?

15 MR. KNECHT: I believe it's 18.

16 BOARD MEMBER RAMPE: He needs a 32-foot variance for
17 the front yard setback.

18 CHAIRMAN MORDAS: All right. Before we go any
19 further, do I have a motion to open the public hearing?

20 BOARD MEMBER RAMPE: I'll make a motion.

21 CHAIRMAN MORDAS: Do I have a second?

22 BOARD MEMBER DAWKINS: Second.

23 CHAIRMAN MORDAS: All in favor?

24 BOARD MEMBER DAWKINS: Aye.

25 BOARD MEMBER RAMPE: Aye.

1 - RE: MICHAEL KNECHT -

2 BOARD MEMBER MORREALE: Aye.

3 BOARD MEMBER KENT: Aye.

4 CHAIRMAN MORDAS: Aye.

5 (The motion was approved and carried.)

6 CHAIRMAN MORDAS: All right. So according to this
7 map, you're 18 feet from the edge of Hickman Terrace. The
8 carport is 26 by 22?

9 MR. KNECHT: Correct.

10 CHAIRMAN MORDAS: All right.

11 BOARD MEMBER MORREALE: Mr. Hickman, do you mind
12 approaching and pointing out approximately where on the
13 property in the satellite photo the ...

14 MR. KNECHT: It is right up here.

15 BOARD MEMBER MORREALE: Okay.

16 MR. KNECHT: There you go.

17 BOARD MEMBER MORREALE: Perfect. Thank you.

18 MR. KNECHT: No problem.

19 CHAIRMAN MORDAS: All right. Mr. Knecht, you felt you
20 couldn't move it back, even with the house, just behind the
21 front wall of the house to be a little bit further away
22 from the street than the front wall?

23 MR. KNECHT: My property won't allow me to do that.
24 It's too steep.

25 BOARD MEMBER DAWKINS: So on the map of your property

1 - RE: MICHAEL KNECHT -

2 there is a 50-foot setback around the entire property which
3 looks like some sort of a right-of-way. Is that what that
4 is?

5 MR. KNECHT: I believe so.

6 BOARD MEMBER DAWKINS: So you put your carport right
7 in the middle of the right-of-way.

8 MR. KNECHT: Yes. I was unaware of it.

9 BOARD MEMBER DAWKINS: And it sits just within feet of
10 your well.

11 MR. KNECHT: I believe it's 13 feet or so from my
12 well.

13 MR. MOGEL: Who is the owner of the right-of-way that
14 it sits in?

15 BOARD MEMBER DAWKINS: It's not clear.

16 MR. MOGEL: Do you happen to know who is the owner of
17 the right-of-way?

18 MR. KNECHT: No.

19 MR. MOGEL: Does anybody utilize that right-of-way?

20 MR. KNECHT: No.

21 MR. MOGEL: How long have you resided at the house?

22 MR. KNECHT: Thirteen years.

23 MR. MOGEL: And no one's used it during that period of
24 time?

25 MR. KNECHT: No.

1 - RE: MICHAEL KNECHT -

2 MR. MOGEL: How long has the structure been up that's
3 in the right-of-way?

4 MR. KNECHT: Last -- 2018, July, I would say.

5 MR. MOGEL: Were there any other obstructions in the
6 right-of-way during this period of time, while you resided
7 there?

8 MR. KNECHT: No.

9 MR. MOGEL: Do you happen to have a copy of your deed?
10 Did you submit the deed?

11 MR. KNECHT: Yes, I did.

12 MR. MOGEL: Can you show me the deed?

13 CHAIRMAN MORDAS: Kyra, do you have a copy of the
14 deed?

15 Kyra, were the mailers done to your satisfaction?

16 MS. PLATT: Yes.

17 CHAIRMAN MORDAS: And were the notifications put in
18 the newspaper in a timely fashion, the newspapers of
19 choice?

20 MS. PLATT: Yes.

21 CHAIRMAN MORDAS: Now, this situation, Counsel, can
22 you speak on this?

23 MR. MOGEL: Sure.

24 CHAIRMAN MORDAS: I know the mailers need to be sent
25 out to a radius of addresses chosen by the Building

1 - RE: MICHAEL KNECHT -

2 Department.

3 MR. MOGEL: Yes.

4 CHAIRMAN MORDAS: How does that affect an easement
5 that's on the property?

6 MR. MOGEL: Well, it doesn't. I believe, without
7 looking at the code, offhand, it's just the owners of
8 property within, what is it, a 500-foot radius? So that
9 would be a matter of public record, that the Town has to do
10 those properties, so that would be going out to everybody.

11 My assumption, and I'm just looking to see if it's set
12 forth actually in the deed itself, I don't see a Schedule A
13 with this deed. I don't know who's the beneficiary on that
14 easement.

15 Now, the property itself belongs to the Applicant.
16 That's his property. The easement just gives, in other
17 words, for a right-of-way, it just gives people to utilize
18 that right-of-way. Now, the question is who has that
19 benefit. You can decipher also from my questions, my
20 question is is anybody using it, has it been abandoned.
21 There are easements that appear as part of title, that
22 they're actually written into the title. There are
23 easements that are just simply by use. I'm not in a
24 position of sitting here as the ZBA attorney to give an
25 opinion as to whether this easement is still viable,

1 - RE: MICHAEL KNECHT -

2 whether it's been abandoned, whether it still exists.
3 These are all questions. But again, I mean if the
4 structure is situated within the easement, I think the
5 Board might have to consider that in looking through the
6 criteria for an area variance, or at least it would be
7 entitled to look at it. You, as the applicant, would have
8 to be aware that in putting the structure within an
9 easement there is always the potential that the beneficiary
10 of the easement will come and force you to remove that
11 structure from the easement. You're not permitted to block
12 an easement.

13 MS. PLATT: It's not an easement.

14 BOARD MEMBER FINDLEY: Yes, that's my question. I'm
15 not seeing where it says easement on this survey.

16 MS. PLATT: Right-of-way.

17 MR. MOGEL: In the right-of-way.

18 BOARD MEMBER DAWKINS: Right-of-way, it says.

19 BOARD MEMBER FINDLEY: Where does it say right-of-way?

20 BOARD MEMBER DAWKINS: Up here.

21 MR. KNECHT: It's a setback.

22 CHAIRMAN MORDAS: Well --

23 MR. MOGEL: Oh, it's in the setback?

24 BOARD MEMBER FINDLEY: That's a right-of-way line for
25 the road.

1 - RE: MICHAEL KNECHT -

2 MR. KNECHT: I'm not in the road.

3 BOARD MEMBER MORREALE: Kent.

4 BOARD MEMBER FINDLEY: And that, to me, it just looks
5 like that's the right-of-way for the road. But it's not
6 within the right-of-way, it's in the setback.

7 MR. MOGEL: It's in the setback of the right-of-way.

8 BOARD MEMBER FINDLEY: Yes, that's what I understand
9 from looking at it.

10 MR. MOGEL: Okay.

11 BOARD MEMBER DAWKINS: There's multiple things.
12 There's a road right-of-way.

13 MR. MOGEL: Right.

14 BOARD MEMBER DAWKINS: -- it's talks about 25 feet.
15 Then there's the 50 feet that starts at the inside of the
16 25 feet. And then there is ...

17 MR. MOGEL: So the 50-foot setback from the
18 right-of-way that's appearing on what looks like a portion
19 of the survey, do we know the 50-foot setback?

20 BOARD MEMBER DAWKINS: Yes, the 25 is the road
21 setback.

22 MR. MOGEL: Right.

23 BOARD MEMBER DAWKINS: Then there's an additional 50.

24 MR. MOGEL: Do we know where that 50-foot setback is
25 coming from?

1 - RE: MICHAEL KNECHT -

2 BOARD MEMBER DAWKINS: All we know is what's on this
3 piece of paper.

4 BOARD MEMBER FINDLEY: Right. All it says is this
5 dash line here is the road right-of-way; right? The road
6 can take that.

7 MR. MOGEL: Well, the structure is 18 feet so it's
8 actually within the 25-foot road right-of-way; right?

9 BOARD MEMBER FINDLEY: Well, I don't --

10 BOARD MEMBER RAMPE: Well, the thing says a 25-foot
11 road right-of-way here.

12 CHAIRMAN MORDAS: Does that wrap around onto Hickman
13 Terrace?

14 BOARD MEMBER DAWKINS: If it's 18 feet, and it's not
15 paved and it's a dirt road, but if it's 18 feet from the
16 edge of the dirt road then part of it is sitting in that
17 25-foot setback.

18 BOARD MEMBER FINDLEY: Well, it also says, based on
19 the sketch, it's to the left. It's to within the property
20 line of the road right-of-way according to the survey.

21 MR. MOGEL: What do you mean property line?

22 BOARD MEMBER FINDLEY: Well --

23 MR. MOGEL: You mean line.

24 BOARD MEMBER FINDLEY: Well --

25 MR. MOGEL: The setback line.

1 - RE: MICHAEL KNECHT -

2 BOARD MEMBER FINDLEY: The road right-of-way line,
3 yes, because that's not actually the property line.

4 BOARD MEMBER DAWKINS: The drawing shows it inside,
5 but if it's 25 feet, then 18 feet --

6 BOARD MEMBER RAMPE: It's over.

7 BOARD MEMBER DAWKINS: Yes.

8 BOARD MEMBER FINDLEY: Well --

9 BOARD MEMBER DAWKINS: We've got 18 feet and we've got
10 25 feet drawn in here.

11 BOARD MEMBER RAMPE: But why isn't that 25 foot
12 drawing in there? It is in here.

13 BOARD MEMBER DAWKINS: It's drawn in here. It's drawn
14 here, in both roads.

15 BOARD MEMBER FINDLEY: But it does indicate that the
16 carport is within the 50 foot.

17 BOARD MEMBER DAWKINS: Right, but then there's also 18
18 foot.

19 BOARD MEMBER FINDLEY: He measured that.

20 MR. MOGEL: The 25 feet road right-of-way, is this a
21 town road?

22 MR. KNECHT: It's a private road.

23 MR. MOGEL: It's a private road.

24 BOARD MEMBER RAMPE: Hickman Terrace.

25 BOARD MEMBER DAWKINS: And Rustic Hills. So that

1 - RE: MICHAEL KNECHT -

2 house is a corner lot. But this Hickman is private.

3 MR. MOGEL: And we don't know where these setbacks ...

4 You don't have the actual survey map with you?

5 BOARD MEMBER DAWKINS: That actually may answer our
6 question.

7 MR. KNECHT: That's the only map I have for the
8 property.

9 BOARD MEMBER FINDLEY: Well, another question would be
10 have you delineated which is your -- I guess you have by
11 your address -- which is your front yard. I mean he could
12 determine this is his front yard, could he not? I'm only
13 asking.

14 BOARD MEMBER RAMPE: Well, there's a big dip here.

15 BOARD MEMBER FINDLEY: Well, it says you have to
16 determine it.

17 BOARD MEMBER RAMPE: Oh, because it's a corner lot.
18 Okay.

19 BOARD MEMBER FINDLEY: Yes.

20 What is the front yard in this case?

21 MS. PLATT: I can grab the folder and see if he's done
22 that.

23 BOARD MEMBER FINDLEY: That would be helpful. I mean
24 I believe it's Hickman just because of the address.

25 BOARD MEMBER DAWKINS: And the driveway.

1 - RE: MICHAEL KNECHT -

2 MR. MOGEL: Okay. So what I said before, I'll put an
3 asterisk next to that. It's unclear. Here, it is a
4 right-of-way for the road, so in that sense, it's unlikely,
5 I think, on the deed to show for whom the easement is for
6 the benefit of. But if there was a survey map, usually the
7 surveyor would indicate what those setbacks are for or
8 reflect.

9 BOARD MEMBER FINDLEY: Do you have a full size of
10 this? It appears this is a ...

11 MR. KNECHT: It's a copy of the full size.

12 BOARD MEMBER FINDLEY: Yes.

13 MR. KNECHT: I do not have that with me.

14 BOARD MEMBER MORREALE: Just looking at the tax map,
15 it looks as though when this was subdivided they created a
16 right-of-way for future possible expansion of the road and
17 maintenance.

18 BOARD MEMBER FINDLEY: Yes.

19 BOARD MEMBER MORREALE: So you've got --

20 BOARD MEMBER FINDLEY: I agree. I'm just saying that
21 I fully appreciate what you're saying, 25 feet. But where
22 the 18 foot measure to indicates he's putting it within the
23 setback and not within the road right-of-way. I mean it's
24 very close to the road right-of-way. It appears it's
25 almost on the line.

1 - RE: MICHAEL KNECHT -

2 I do agree with the 18 foot dimension on this. The
3 handwritten 18 foot dimension is conflicting with the
4 setback, the road right-of-way line.

5 BOARD MEMBER DAWKINS: The map is in conflict with
6 that.

7 BOARD MEMBER FINDLEY: Yes. But he also doesn't show
8 the dimension on here.

9 BOARD MEMBER RAMPE: But if this is a private road
10 maybe it isn't 25 feet. Do we know that?

11 BOARD MEMBER FINDLEY: No.

12 CHAIRMAN MORDAS: Well, it is a continuous line
13 throughout the --

14 BOARD MEMBER DAWKINS: Right, yes.

15 CHAIRMAN MORDAS: -- perimeter of the property and
16 it's listed as 25 feet from ...

17 BOARD MEMBER DAWKINS: Right.

18 CHAIRMAN MORDAS: Is that the center line of the road?

19 BOARD MEMBER FINDLEY: I actually think that's his
20 property line.

21 MR. KNECHT: That is my property line.

22 CHAIRMAN MORDAS: All right.

23 BOARD MEMBER DAWKINS: You know, actually, that's an
24 interesting point, Matt, because if you look at this and
25 you look at this right here --

1 - RE: MICHAEL KNECHT -

2 CHAIRMAN MORDAS: Yes, it goes right to the
3 intersection.

4 BOARD MEMBER DAWKINS: There are arrows coming out of
5 the 25 and it goes to the center of what looks like the
6 center of the road. That's what makes the 18 and makes
7 sense.

8 BOARD MEMBER FINDLEY: Which is also his property
9 line, and if they're on a private road that kind of makes
10 more sense, also.

11 Who maintains the roads? Who plows?

12 MR. KNECHT: I do.

13 BOARD MEMBER FINDLEY: All the roads, like from -- who
14 plows Rustic Hills Road?

15 CHAIRMAN MORDAS: I mean Rustic Hills --

16 MR. KNECHT: That's the Town.

17 BOARD MEMBER FINDLEY: That's the Town.

18 CHAIRMAN MORDAS: -- is plowed by the Town.

19 MR. KNECHT: Yeah.

20 CHAIRMAN MORDAS: Hickman Road, that's you?

21 MR. KNECHT: Hickman I plow.

22 BOARD MEMBER FINDLEY: Okay.

23 BOARD MEMBER DAWKINS: And there are other properties
24 beyond you on Hickman, am I correct?

25 MR. KNECHT: Yes.

1 - RE: MICHAEL KNECHT -

2 BOARD MEMBER DAWKINS: There's a house directly
3 across.

4 MR. KNECHT: Yep.

5 BOARD MEMBER DAWKINS: But there is at least one
6 further down?

7 MR. KNECHT: Three, I believe.

8 MR. MOGEL: Is there a plowing agreement?

9 MR. KNECHT: No.

10 MR. MOGEL: There's no road maintenance agreement?
11 You've just take this upon yourself?

12 MR. KNECHT: Yes.

13 MR. MOGEL: Okay.

14 MR. KNECHT: There's primary, two of us,
15 Mr. Greenberg and myself.

16 BOARD MEMBER DAWKINS: My concern, Steve, is that the
17 deed for those other properties on Hickman could
18 conceivably cite a right-of-way.

19 MR. MOGEL: I mean, yes, I suppose that's possible. I
20 can't imagine, though, a road, the road right-of-way. It
21 might be -- no, I take it back. It may, in fact, be on a
22 Schedule A.

23 I mean from my perspective, I think the Board can
24 really do as it chooses at this point. You could leave the
25 public hearing open, you could close the public hearing.

1 - RE: MICHAEL KNECHT -

2 You've got 62 days to make a decision. You may want to see
3 the Schedule A that's on this deed. That may assist you in
4 figuring that out.

5 Sir, you don't have the full size? You said you don't
6 have it with you, but do you have the full size survey map?

7 MR. KNECHT: At home I do.

8 MR. MOGEL: You do have one.

9 MR. KNECHT: Uh-huh.

10 MR. MOGEL: I mean the Board can do as it choose. If
11 the Board doesn't feel that it has adequate material at
12 this point, you can either leave the hearing open or close
13 the hearing subject to additional submissions from the
14 Applicant to assist you.

15 BOARD MEMBER DAWKINS: My inclination is to leave it
16 open to get more information. The structure is already up.
17 It's not like we're holding him back --

18 MR. MOGEL: Right.

19 BOARD MEMBER DAWKINS: -- from doing construction.

20 MR. MOGEL: Right.

21 CHAIRMAN MORDAS: My concerns are, well, of course,
22 the code. But we're approving something where other people
23 might have rights to, so I do have that concern. I really
24 feel I would like the Schedule A and the full survey to
25 look at.

1 - RE: MICHAEL KNECHT -

2 MR. MOGEL: Just keep in mind, as well, though, that
3 anybody who likely has any right has been served with the
4 notice, so there is a that. It's not that they're without
5 any opportunity to be heard. That, you should keep in
6 mind.

7 CHAIRMAN MORDAS: All right.

8 MR. MOGEL: Are there any other violations?

9 BOARD MEMBER FINDLEY: I have another question. This
10 kind of looks like it's a subdivision.

11 BOARD MEMBER MORREALE: Yes.

12 BOARD MEMBER FINDLEY: Do we have a subdivision
13 approval for that that would maybe outline some of this?

14 MS. PLATT: I don't have anything in our records that
15 says that it was subdivided. It is part of 5.2 and 5.1.
16 Those are two separate lots. But it's highly likely that
17 it was done prior. I don't have anything in the SBL folder
18 for it. Like, I didn't have anything determining which was
19 the front yard in it.

20 BOARD MEMBER DAWKINS: The property card doesn't
21 identify when Lot 5 was subdivided?

22 MS. PLATT: You should have a copy of the property
23 card in there.

24 BOARD MEMBER DAWKINS: I see this, but not the
25 property card that we --

1 - RE: MICHAEL KNECHT -

2 MS. PLATT: Not the --

3 BOARD MEMBER FINDLEY: When was this house built?

4 MR. KNECHT: 2007.

5 MS. PLATT: 2007.

6 BOARD MEMBER MORREALE: Are the utility lines all
7 buried throughout the neighborhood?

8 MR. KNECHT: No.

9 BOARD MEMBER MORREALE: Just in your property.

10 MR. KNECHT: No, they're not buried.

11 BOARD MEMBER FINDLEY: There's a note that says buried
12 utility services. It says on the map buried utility
13 service lines exist.

14 BOARD MEMBER MORREALE: That could be another reason
15 for the easement.

16 BOARD MEMBER FINDLEY: It doesn't say that, though.

17 BOARD MEMBER MORREALE: No.

18 BOARD MEMBER FINDLEY: Are you the first owner?

19 MR. KNECHT: Yes.

20 BOARD MEMBER FINDLEY: Was it a subdivision at the
21 time?

22 MR. KNECHT: I do not know.

23 BOARD MEMBER FINDLEY: I think we should look further,
24 any subdivision information. The house was built in 2007.
25 That doesn't mean it was subdivided then, but the house was

1 - RE: MICHAEL KNECHT -

2 built. It's not that old.

3 MS. PLATT: Yes.

4 BOARD MEMBER FINDLEY: There should be records
5 somewhere.

6 MS. PLATT: If it was subdivided early on, yes.
7 Otherwise, no.

8 BOARD MEMBER MORREALE: We could also find it through
9 ownership records when it was subdivided.

10 CHAIRMAN MORDAS: Anybody signed up to speak on this?

11 MS. PLATT: Nobody has signed up.

12 CHAIRMAN MORDAS: All right. How does the Board feel?
13 Any more information that we need? Do you believe we
14 should close the public hearing or keep it open?

15 BOARD MEMBER FINDLEY: I'd close it.

16 CHAIRMAN MORDAS: All right.

17 BOARD MEMBER FINDLEY: I wouldn't rule today. I would
18 close it. I would like to see if there's any subdivision
19 records and I'd like to see the entire map.

20 BOARD MEMBER RAMPE: And also, Schedule A attached to
21 the deed.

22 BOARD MEMBER DAWKINS: I think I would prefer to leave
23 it open only because as Steve said, because of this setback
24 issue. I mean obviously, neighboring homeowners who are
25 most likely to have been affected by a right-of-way or

1 - RE: MICHAEL KNECHT -

2 easement were notified, but I just think given the
3 situation, it would be more prudent to leave it open. If
4 someone has a comment, if we discover something, I
5 personally would like to leave it open. But that's my
6 preference

7 CHAIRMAN MORDAS: All right.

8 Do I have a motion to keep the public hearing open?

9 BOARD MEMBER DAWKINS: So moved.

10 BOARD MEMBER MORREALE: Second.

11 CHAIRMAN MORDAS: All in favor?

12 BOARD MEMBER DAWKINS: Aye.

13 BOARD MEMBER RAMPE: Aye.

14 BOARD MEMBER MORREALE: Aye.

15 CHAIRMAN MORDAS: Aye.

16 CHAIRMAN MORDAS: Any opposed?

17 BOARD MEMBER FINDLEY: Nay.

18 (The motion was approved and carried.)

19 BOARD MEMBER RAMPE: So we're going to get a big
20 survey? You're going to bring back the big survey map?

21 MR. KNECHT: Yes.

22 BOARD MEMBER DAWKINS: And Kyra, you're going to look
23 for anything on the subdivision and anything you find ...

24 BOARD MEMBER FINDLEY: It's his responsibility to get
25 the deed; no?

1 - RE: MICHAEL KNECHT -

2 MS. PLATT: It's right here.

3 BOARD MEMBER FINDLEY: Oh, do we have it here?

4 MS. PLATT: Yes, the assessor's office.

5 BOARD MEMBER FINDLEY: Oh, okay.

6 BOARD MEMBER DAWKINS: So you'll have to --

7 BOARD MEMBER FINDLEY: I thought that would be
8 Sullivan County.

9 MS. PLATT: We should. We should have it.

10 BOARD MEMBER RAMPE: Okay, perfect. All right.

11 MR. KNECHT: Thank you.

12 (Time noted: 7:27 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Michael Knecht, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.



ROSEMARY A. MEYER

Date Transcribed: February 23, 2020

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X
Unified Buddhist Church
Interpretation and Area Variance
Public Hearing
Tax Map Section 5; Block 1; Lot 4.10
Burlingham Residential Zone
----- X

Town Hall
Town of Mamakating
January 23, 2020
7:27 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- CATHY DAWKINS, Board Member
- GEORGIA RAMPE, Board Member
- MATTHEW MORREALE, Board Member
- KENT FINDLEY, Board Member
- JON FOURNIER, Alternate Board Member
- HOLLY ROCHE, Alternate Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Jay Zeiger, Esq.,
on Behalf of Applicant

JERIC CORPORATION
Court Reporting Services
P.O. Box 385
Narrowsburg, New York 12764
(845) 252-3515

Reported by: Rosemary A. Meyer

1 - RE: UNIFIED BUDDHIST CHURCH -

2 CHAIRMAN MORDAS: All right. Next on the agenda is
3 the public hearing for the Unified Buddhist Church.

4 MR. ZEIGER: Good evening. My name is Jay Zeiger.
5 I'm with the law firm, Kalter, Kaplan, Zeiger and Forman.
6 This is Peter Reynolds. He is the architect on the project
7 with North River Architecture. We are here on behalf of
8 the Applicant.

9 There's a few things we're asking for today. I think
10 we should start with this, showing you what the project is.
11 This property, currently, this has been in use and
12 operation for the use currently as a retreat and Buddhist
13 religious organization. They've been operating it for many
14 years. What they're proposing now, currently, this
15 building over here is a shared building. It's the
16 administration office and also the dining hall. The
17 proposal is to construct this building which would be a new
18 dining hall and then the administration would take over
19 the --

20 BOARD MEMBER DAWKINS: So the original administration
21 building was built when?

22 MR. REYNOLDS: From the 50s, I believe. The name of
23 the previous owner was -- I forgot the name of the resort.

24 BOARD MEMBER DAWKINS: So it preexisted the ownership.

25 MR. REYNOLDS: Yes, the entire camp. They built a

1 - RE: UNIFIED BUDDHIST CHURCH -

2 couple buildings themselves when they purchased the
3 property.

4 MR. ZEIGER: But mostly, it was there when they
5 purchased it.

6 So currently, this is a community, a communal
7 organization. The objective is for the meals in the dining
8 to be all in one sitting. Currently, that's not feasible
9 because of the limited size of the dining hall now. They
10 eat now in two or three shifts daily. So that is to
11 replace that building.

12 When the use first started the property was zoned for
13 the use and they were in total compliance and they had all
14 their permits. They were totally okay operating.

15 In 2014, '15, '16, the Town changed the zoning
16 district. Don't hold me to the date. If you need the date
17 I'll give to you. But --

18 CHAIRMAN MORDAS: It was 2015?

19 MR. ZEIGER: Yes.

20 The Town changed the zoning district to Burlington ...

21 CHAIRMAN MORDAS: Burlingham Residential.

22 MR. ZEIGER: The use now is not a permitted use. So
23 they're a preexisting nonconforming use and they're here to
24 discuss the dining hall.

25 I think the first question is what type of variance we

1 - RE: UNIFIED BUDDHIST CHURCH -

2 need. That's going to go to interpretation of your zoning
3 code. When we were here last time there was discussion
4 whether it was a use variance or an area variance. Your
5 attorney indicated he wanted an opportunity to take a look
6 at it. He and I are of the same conclusion, that this is
7 an area variance because the use is already permitted.
8 We're not asking you to permit the use, we're asking you to
9 expand the existing permitted use already. There's factors
10 that you have to show for a use variance that are just
11 totally irrelevant because we're already operating. We're
12 already operating as a preexisting nonconforming use. The
13 first question we are asking is an interpretation of your
14 zoning code, and in particular, Section --

15 CHAIRMAN MORDAS: 199-51

16 MR. ZEIGER: -- 199.51.A, as to whether this is an
17 area variance or a use variance. We're submitting that
18 it's an area variance. And then assuming that's your
19 interpretation, then the next question would be is should
20 you grant the area variance.

21 I don't know, Mr. Chairman, whether you want to do
22 this in two stages and discuss that issue first and
23 then ...

24 CHAIRMAN MORDAS: Well, I was looking over 199-51 and
25 I do ask Counsel to keep me on a short leash here. I'm not

1 - RE: UNIFIED BUDDHIST CHURCH -
2 a lawyer. I'm looking at A.1, shall not be -- it's
3 basically talking a nonconforming use --

4 MR. ZEIGER: Right.

5 CHAIRMAN MORDAS: -- shall not be enlarged. I do want
6 to look at it in these terms as how it affects A.1. I need
7 some more background information before I go into these
8 regulations.

9 With the construction of this new dining hall, are you
10 enlarging the capacity of the resort? Will you be
11 attracting more -- how shall I say? Are you --

12 MR. ZEIGER: We're not proposing to increase the
13 population of the community.

14 CHAIRMAN MORDAS: Are you adding any parking spaces?

15 MR. REYNOLDS: Only to suit the immediate building
16 needs. We're not -- it's really for life safety, for
17 delivery and so forth. They haven't improved parking
18 capacity for the --

19 BOARD MEMBER DAWKINS: So --

20 MR. REYNOLDS: -- for the size of the community and
21 there's no --

22 BOARD MEMBER DAWKINS: So is it fair to say that the
23 parking spaces that were associated with the original
24 building are being moved to the new building and will that
25 original building be demolished?

1 - RE: UNIFIED BUDDHIST CHURCH -

2 MR. ZEIGER: No.

3 MR. REYNOLDS: No.

4 BOARD MEMBER DAWKINS: So the original building will
5 stay in place.

6 MR. REYNOLDS: The original building will stay in
7 place in the same footprint. They'll hope to do some
8 refurb. They'll need to come back to the Town for proper
9 permitting, obviously, at that time, at some future date.
10 But the existing building will stay.

11 BOARD MEMBER DAWKINS: And its use will remain the
12 same? It will continue to be dining hall, as well as --

13 MR. REYNOLDS: No.

14 MR. ZEIGER: No. The dining hall, that would be
15 eliminated.

16 BOARD MEMBER DAWKINS: Eliminated?

17 MR. REYNOLDS: Eliminated.

18 MR. ZEIGER: And the dining portion will be converted
19 to administrative space.

20 We're not proposing additional parking. We believe
21 the parking, as the community currently operates, is
22 adequate and we're not proposing an increase in population.

23 MR. MOGEL: Can you do a site plan approval?

24 MR. ZEIGER: Yes, we will go to the Planning Board
25 once we finish up here.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 CHAIRMAN MORDAS: All right. So you're actually not
3 enlarging the capacity of the resort.

4 MR. REYNOLDS: Right.

5 MR. ZEIGER: Correct.

6 CHAIRMAN MORDAS: You're not altering its mission.

7 MR. ZEIGER: Correct.

8 CHAIRMAN MORDAS: All right. You're not extending it,
9 in my interpretation. That means adding extra features, to
10 wit, an amusement park or anything like that.

11 MR. REYNOLDS: Right.

12 MR. ZEIGER: No.

13 CHAIRMAN MORDAS: All right. You're not
14 reconstructing or restoring; is that correct?

15 MR. REYNOLDS: Correct.

16 MR. ZEIGER: Correct.

17 CHAIRMAN MORDAS: But you're placing it on a different
18 portion of the lot or parcel of land occupied such uses on
19 the effective date of this chapter. So that's where we run
20 into kind of a roadblock --

21 MR. ZEIGER: Right.

22 CHAIRMAN MORDAS: -- as far as I'm concerned, where
23 you are requesting relief from the Zoning Board from that
24 provision.

25 BOARD MEMBER DAWKINS: Yes.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 MR. ZEIGER: Yes.

3 CHAIRMAN MORDAS: Steve?

4 MR. MOGEL: Yep, that's what you're going to vote.

5 CHAIRMAN MORDAS: Are there any parts that are missing
6 on 199-51.A.1 through 4 that maybe I missed that anybody
7 else on the Board sees?

8 BOARD MEMBER DAWKINS: I just want to confirm. On the
9 map that we're looking at, it's not clear to me where the
10 property line is. So the --

11 MR. ZEIGER: The road actually -- the property is on
12 both sides of the road.

13 BOARD MEMBER DAWKINS: So the new structure will be a
14 hundred feet from the road?

15 MR. ZEIGER: Well, that's one of the questions that we
16 will discuss with you. Because there's no setback
17 requirements in your bulk table for this use, once we get
18 to the request for a variance, and let's assume we're
19 asking for an area variance, you're going to have to
20 establish the bulk table for the setback that works for
21 you.

22 BOARD MEMBER DAWKINS: And what is the setback of the
23 building from the road?

24 MR. ZEIGER: Well, on this map we're showing a
25 hundred. I've looked at the bulk table for this district

1 - RE: UNIFIED BUDDHIST CHURCH -

2 and the closest item that I can see is a restaurant which
3 is permitted in this district. That has a 50-foot setback
4 and that's what I would propose for this building.

5 BOARD MEMBER DAWKINS: And what about side and back
6 yard? I don't see side and back yard lot lines shown on
7 this map.

8 MR. REYNOLDS: That is the lot line, actually.

9 BOARD MEMBER DAWKINS: So we have no issue --

10 MR. REYNOLDS: No issue.

11 MR. ZEIGER: So the question which we will answer, we
12 can discuss it now or afterwards, is we would be asking for
13 a 50-foot setback similar to what is in the zoning district
14 for restaurants.

15 BOARD MEMBER RAMPE: But this says a hundred.

16 BOARD MEMBER DAWKINS: This says you're planning on a
17 a hundred.

18 CHAIRMAN MORDAS: Yes, so it doesn't seem like at this
19 point you need it.

20 MR. ZEIGER: Well, we can live with the hundred and
21 that's where we would fit in. Peter, the architect, and
22 our engineer have both said that if they had less than that
23 what they would do is -- Peter.

24 MR. REYNOLDS: What we did is establish. We wanted to
25 establish for this meeting was we can fit the building

1 - RE: UNIFIED BUDDHIST CHURCH -

2 there. I can explain where you can see we're 30 feet from
3 the nearest adjacent building, which is the minimum for
4 life safety. Certainly, it would be a better building if
5 we could, you know, be 40 or 50 feet away. We don't want
6 the 50 feet. That's too close to the road. The civil
7 engineer has site drainage requirements. So if we would be
8 allowed to move a little bit closer to the existing dining
9 hall, if you will, we can get a little farther away.

10 BOARD MEMBER RAMPE: This way?

11 BOARD MEMBER DAWKINS: I think they want to --

12 MR. ZEIGER: Why don't you just show them.

13 MR. REYNOLDS: Sure.

14 CHAIRMAN MORDAS: Maybe that conversation is
15 premature.

16 BOARD MEMBER DAWKINS: But I still want to know what
17 they have in mind.

18 MR. REYNOLDS: Sure, sure.

19 You see, we're a hundred feet here and 30 feet here
20 and we're right back on an existing road here. The
21 building is just squeezed in. What we would do is move it
22 this way, closer to the heart of the campus and up onto
23 this grade with a little less fill and it would be more
24 natural. That would get us nominally closer to the road.

25 CHAIRMAN MORDAS: Somewhere between 50 and 100 feet.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 MR. MOGEL: I think the ZBA wouldn't really even have
3 jurisdiction in talking about that, necessarily. I don't
4 think we could affix, create a variance.

5 BOARD MEMBER DAWKINS: A stipulation?

6 MR. MOGEL: Well, what I think is that this would
7 really be a Planning Board issue. The only issue would be
8 if somebody, like the Building Department is going to cite,
9 it's going to say that a variance is required there.

10 MR. ZEIGER: Steve, the reason why I'm bringing it up
11 today is because when we get to the Planning Board, when
12 the Planning Board is going to look for a setback, they're
13 not going to find it in the bulk table. So what we would
14 ask in the variance is yes, once we get there, yes, we will
15 allow the variance, but we want the building at least 50 to
16 100 feet.

17 MR. MOGEL: Okay. So it would be a condition --

18 MR. ZEIGER: Yes.

19 MR. MOGEL: -- attached to the area variance.

20 BOARD MEMBER DAWKINS: Do we know --

21 MR. ZEIGER: Yes. And that would be what the Planning
22 Board would then use when they consider the site plan.

23 BOARD MEMBER DAWKINS: I don't disagree with any of
24 the logic here. However, the first question in our mind is
25 what was the setback associated with the property when this

1 - RE: UNIFIED BUDDHIST CHURCH -

2 all started. So you're a preexisting nonconforming because
3 when you came in you were in a different zone. To me, the
4 setback that was in force at that time is a logical
5 starting place, so I would be curious about that as we move
6 forward. That's a reasonable place to start, is it not?

7 MR. ZEIGER: I don't know that information. I have
8 your current zoning. I don't have the ...

9 BOARD MEMBER DAWKINS: Can I ask one more question
10 with respect to that? We were provided a copy of the
11 minutes from the Planning Board which looks like the site
12 plan and special use permit, and arguably, they are
13 remarkably vague, from 2007. Can you give me some
14 background on the 2007 activity?

15 MR. REYNOLDS: Sure. It's prior to our working for
16 the community. But they put in a prayer hall, a meditation
17 hall.

18 BOARD MEMBER DAWKINS: So this is not related.

19 MR. REYNOLDS: This is unrelated. It's across the
20 street, and they were fully permitted for that.

21 BOARD MEMBER DAWKINS: Okay.

22 MR. REYNOLDS: And at that point, their SPDES and the
23 all the stormwater was done.

24 BOARD MEMBER DAWKINS: Okay.

25 MR. ZEIGER: So coming back, the first question is

1 - RE: UNIFIED BUDDHIST CHURCH -

2 under the interpretation of 199-51, we're asking that this
3 be considered an area variance.

4 CHAIRMAN MORDAS: Is this really an area variance or
5 is it just relief from this provision?

6 MR. MOGEL: It's got to be characterized as either an
7 area variance or a use variance because that's the only
8 thing you guys can do in terms of variances. If you saw
9 from my letter, that that was my opinion because what we
10 were really talking about here is, it has nothing to do --
11 I mean, again, look at the definition under state law under
12 use variance: Authorization by the ZBA for the use of
13 land, for the use of land for a purpose which is not
14 otherwise allowed or is prohibited by the applicable, and
15 that goes on.

16 BOARD MEMBER DAWKINS: It's clear to me that we're not
17 changing the use of the property.

18 MR. MOGEL: Correct.

19 BOARD MEMBER DAWKINS: It's clear to me that we are
20 changing --

21 MR. MOGEL: A dimensional or physical requirement.

22 BOARD MEMBER DAWKINS: -- where and how they --

23 MR. MOGEL: Correct. So that would be dimensional.

24 MR. ZEIGER: A dimensional or physical.

25 MR. MOGEL: Right.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 That is my opinion which doesn't mean anything because
3 you guys are the ones that decide and interpret the code.
4 But that's my opinion.

5 BOARD MEMBER DAWKINS: So did we set up a public
6 hearing for this?

7 CHAIRMAN MORDAS: This is the public hearing.

8 BOARD MEMBER DAWKINS: Oh.

9 CHAIRMAN MORDAS: I have to make a motion to open the
10 public hearing.

11 BOARD MEMBER RAMPE: I'll make the motion.

12 CHAIRMAN MORDAS: Do I have a second?

13 BOARD MEMBER DAWKINS: Second.

14 CHAIRMAN MORDAS: All in favor?

15 BOARD MEMBER DAWKINS: Aye.

16 BOARD MEMBER RAMPE: Aye.

17 BOARD MEMBER MORREALE: Aye.

18 BOARD MEMBER KENT: Aye.

19 CHAIRMAN MORDAS: Aye.

20 (The motion was approved and carried.)

21 CHAIRMAN MORDAS: Are the mailers done correctly?

22 MS. PLATT: No. Actually, you guys missed a whole
23 sheet.

24 BOARD MEMBER DAWKINS: Oh, no.

25 MS. PLATT: And you even labeled it on the back of

1 - RE: UNIFIED BUDDHIST CHURCH -

2 your sheet. You counted the first half and not the back
3 half. So they weren't done properly. And I don't have the
4 white slips for them, either. I'm not sure what happened
5 with that.

6 MR. REYNOLDS: That's Probably our office. I'm sorry.

7 MS. PLATT: No, that's okay.

8 CHAIRMAN MORDAS: All right. Do I have a motion to
9 keep the public hearing open or do I have a motion to
10 rescind the previous motion?

11 BOARD MEMBER DAWKINS: I'd like to rescind it.

12 BOARD MEMBER FINDLEY: I don't have any issue with
13 leaving open.

14 BOARD MEMBER DAWKINS: Well, the clock starts.

15 BOARD MEMBER FINDLEY: No, there is no clock as long
16 as the public hearing is open. The clock only starts once
17 you close the public hearing.

18 BOARD MEMBER DAWKINS: Okay, leave it open.

19 BOARD MEMBER FINDLEY: But the only question I have
20 would be about our notice to the public. Would we
21 renotice?

22 CHAIRMAN MORDAS: Our notice was done in a timely
23 fashion?

24 MS. PLATT: Our notices were A-okay.

25 BOARD MEMBER FINDLEY: Will we renotice?

1 - RE: UNIFIED BUDDHIST CHURCH -

2 MS. PLATT: I can, yes.

3 MR. ZEIGER: We're going to have.

4 CHAIRMAN MORDAS: I would feel better if you did that.

5 MS. PLATT: Yes.

6 MR. ZEIGER: The only thing I would suggest is if
7 there anybody here tonight that got the notice and was told
8 to be here, out of courtesy I would allow them to speak
9 even though it's not part of the official.

10 But Steve, I'll throw that back to you.

11 CHAIRMAN MORDAS: Did anybody sign up?

12 MS. PLATT: Nobody signed up.

13 CHAIRMAN MORDAS: Okay.

14 BOARD MEMBER DAWKINS: When this first came up,
15 whenever it first came up, did we ask if it's okay if we
16 visit the property?

17 MR. REYNOLDS: I think you did. I'm sure we said yes.

18 BOARD MEMBER DAWKINS: So ...

19 MR. REYNOLDS: Absolutely.

20 BOARD MEMBER FINDLEY: Just so I'm clear, if we did do
21 an area variance what would we say? Because that will give
22 me time to think about it. I mean it looks like we would
23 be --

24 BOARD MEMBER DAWKINS: I think we would cite
25 199-51.A.1.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 BOARD MEMBER FINDLEY: A.1.

3 BOARD MEMBER DAWKINS: And in accordance with that, we
4 would give them --

5 CHAIRMAN MORDAS: Actually, you know, I don't want to
6 talk anymore. Let's move on from this. I'd really feel
7 better that we had all the mailers in place and that we try
8 to reduce the amount of choreography that's going to be
9 involved with this thing because of the mistake that I made
10 by not double-checking with Kyra on the mailers earlier. I
11 feel really uncomfortable going forward.

12 MR. MOGEL: This is a public meeting, though, so
13 there's no violation of the open meetings law.

14 CHAIRMAN MORDAS: But I don't want to deprive anybody
15 that potentially could have been on that list from hearing
16 what we're saying. I don't want to go any further.

17 BOARD MEMBER DAWKINS: I think he's right. I think
18 he's right.

19 CHAIRMAN MORDAS: Sorry, gentlemen, that's ...

20 MR. ZEIGER: I don't have an objection. I understand.
21 It was an error on our side.

22 CHAIRMAN MORDAS: All right. Do I have a motion to
23 adjourn the meeting?

24 MR. ZEIGER: Well ...

25 CHAIRMAN MORDAS: Did we make the motion to keep the

1 - RE: UNIFIED BUDDHIST CHURCH -

2 public hearing open?

3 MR. ZEIGER: I don't think you did.

4 BOARD MEMBER RAMPE: We didn't do that.

5 CHAIRMAN MORDAS: Do I have a motion to keep the
6 public hearing open?

7 BOARD MEMBER FINDLEY: I'll make the motion.

8 CHAIRMAN MORDAS: Second?

9 BOARD MEMBER MORREALE: Second.

10 CHAIRMAN MORDAS: All in favor?

11 BOARD MEMBER DAWKINS: Aye.

12 BOARD MEMBER RAMPE: Aye.

13 BOARD MEMBER MORREALE: Aye.

14 BOARD MEMBER KENT: Aye.

15 CHAIRMAN MORDAS: Aye.

16 (The motion was approved and carried.)

17 CHAIRMAN MORDAS: Do I have a motion to adjourn the
18 meeting?

19 BOARD MEMBER DAWKINS: So moved.

20 BOARD MEMBER RAMPE: I'll make the motion.

21 CHAIRMAN MORDAS: All in favor?

22 BOARD MEMBER DAWKINS: Aye.

23 BOARD MEMBER RAMPE: Aye.

24 BOARD MEMBER MORREALE: Aye.

25 BOARD MEMBER KENT: Aye.

1 - RE: UNIFIED BUDDHIST CHURCH -

2 CHAIRMAN MORDAS: Aye.

3 (The motion was approved and carried.)

4 CHAIRMAN MORDAS I just want to apologize to everybody
5 out there.

6 MR. REYNOLDS: It's our mistake. We apologize. Thank
7 you for your time.

8 CHAIRMAN MORDAS: We try to do our when mistakes are
9 made.

10 MR. REYNOLDS: Thank you.

11 (Time noted: 7:48 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Unified Buddhist Church, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.



ROSEMARY A. MEYER

Date Transcribed: February 23, 2020

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