

Zoning Board of Appeals
March 15, 2018

Chair Larry Fishman call meeting to order at 7:01PM

Motion: John Kamp Second: Chris Dampman

Pledge to the Flag

Chair states the meeting is being recorded.

Attendance:	Larry Fishman – Chairman
	Chris Dampman
	John Kamp
Code Enforcement Officer	Dave Preston
Board Secretary	Monica McGill

Absent:	John Marciano
	Jim Donnelly
Town Attorney	Michael Davidoff

Application 1-2018 Zachary Klein

Hello, my name is Will Frank and this is my associate Stephanie, of Blusten, Shapiro, Rich, & Barone LLP, and we are the attorneys representing Mr. Zachary Klein.

Larry Fishman: Why don't you very briefly go over the application and summarize what you going to do.

Mr. Frank: The situation is that Mr. Klein's predecessor had built a treehouse on the property without a permit. And then there is the issue of a covered deck. So, we went to court.

Larry Fishman: Are they both located on the same property.

Mr. Frank: No, the treehouse is located on a separate property. So, Mr. Davidoff, the Building Inspector, and myself went to court to try and enter into a settlement. The agreement stated that my client would remove the treehouse within a certain period of time once the weather warmed up. After speaking with my client, he stated that a crew is scheduled to take the treehouse down on April 6, 2018.

Larry Fishman: The treehouse is the one located on 55 Woods Road, correct?

Mr. Frank: Yes. And the building inspector and I are still going back and forth on what to do with the covered deck. Being the covered deck is more important to our client, Mr. Davidoff suggested that we apply for a use variance, and that has brought us to this point.

Larry Fishman: From what I understand from what's in the stipulation and what is in the application is that there are (3) three accessory buildings on the property of 41 Schumacher Pond Road.

Mr. Frank: I believe there are only (2) two.

Larry Fishman: After speaking with our people today, the impression that I am getting is that there are (6) six to (8) accessory buildings on the property. The people in the tax and Assessors office gave me pictures of the buildings that are all on 41 Schumacher Pond Road address. Therefore, I need to know exactly what the situation is. How many accessory buildings are on that property? The treehouse is located on 55 Woods Road, so that is not included in this situation. There are additional accessory buildings, and they are all on 41 Schumacher Pond Road.

Mr. Frank: That is not my understanding.

Larry Fishman: What I would like is for the Board and I to go down to the property to see what is there. So that if we decide to schedule a Public Hearing, it would be for May and not April. I understand from Mr. Davidoff that I would need a waiver from you in order to do this.

Mr. Frank: There is a restriction on the length of time, but we will not argue on this. We want to get the matter settled.

Larry Fishman: The other part of this that I am having a problem with is twofold. Number (1) one, according to town law there are standards in obtaining a use variance. I do not see you coming close to getting this variance. I don't like to see people spending their time and money in the event it does not happen. I need to go over this with you to get additional feedback on the situation.

Mr. Frank: I appreciate your forwardness. There are some Boards that would not do the same. I have had discussions with Mr. Davidoff about obtaining a variance. He suggested that we go that route and see where it takes us.

Larry Fishman: I have seen your clients website/blog, and from what I see he has done beautiful things there, but he still has to follow the code. I have not seen an interest on your client's part that he is willing to do that. Number (2) two. What weighs heavy on my mind is if we give a use variance, it would set a precedence on the town. I don't know that I am anxious to do that. There is no financial loss here, and your client states on the application that it causes hardship. Yes, I would love to be sitting on the deck in the woods, but it still does not meet the standards. Wanting to enjoy your time in the beautiful woods isn't proof of hardship.

Larry Fishman reads standards on applying for hardships in the Town of Highland.

Larry Fishman: It was self-created. Your client knew the terms. I obtained information from his blog that he has and I am sure you are familiar with it. I feel the hardship is self-created and that is where I am at this point. We will still hold a Public Hearing and get more opinions. That doesn't mean you are not getting the variance, I am not telling you that at all. I am just giving you a heads up of where I am coming from on the matter.

Mr. Frank: As far as the structures go, would it be possible for me to get copies of the pictures to go over with my client.

Larry Fishman: Yes. I will have the secretary get them for you.

Mr. Frank: I do know the difficulty in obtaining a variance and know that it is up to us to present the matter to the Board. I will say that there is a lot of articles and discussions about my client, and I would urge people that not everything they hear or see is necessarily true. I need to say this.

Larry Fishman: I say again that what I see here is really great. It is a nice thing to be able to do these things on your property, and have friends come up. What I did hear was your client was operating his property as a campground and charging people to come.

Mr. Frank: No, that is not correct.

Larry Fishman: Good, because that would be a different issue and that would not address what we are trying to do now.

Mr. Frank: Again no, he is not operating as a campground. The question now would be do we set a date for a Public Hearing.

Larry Fishman: Let us set a date for a Public Hearing. We usually meet the third Thursday of the month, so let us set the Public Hearing date for May 17, 2018.

Mr. Frank: The date is set for May 17, 2018, and if I have any issues I will contact the Board Secretary.

Larry Fishman: Monica please put that on the calendar and (3) three weeks prior to the meeting contact Mr. Frank to verify he is able attend the Public Hearing. If he is still able to attend, then put out the notices in the newspapers (10) ten days prior May 17, 2018.

Mr. Frank: We will also need to know who takes care of the mailings to the adjoining property owners.

Larry Fishman: We take care of that.

Monica McGill: The client will be responsible for all the mailing fees.

Mr. Frank: In reference to the extra buildings on my client's property, I seem to think they may have been preexisting.

Larry Fishman: If they were there before 1984, they be able to be grandfathered in.

Larry Fishman: If there is no further business, I put forth to close the meeting.

Motion: Chris Dampman Second: John Kamp

Larry Fishman: Meeting adjourned.