

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 05/28/2024

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, May 28, 2024)

Generated by Norinne McSweeney

Members Present:

Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Board Counsel:

David MacCartney. Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. Reopen Public Hearing

Action, Discussion: 2.01 Town of Monroe Planning Board

Applicant Representative:

Chairman Postiglione reviewed we have an open public hearing for the Town of Monroe Planning Board and as we left off the last time it was reopened and there was a question with the mailing, are we certain that the mailings went out this time?

Ms. Mc Sweeney - there is a copy of the letter and 12 green cards have been received back

Mr. MacCartney - the rehearing was opened last time and out of abundance of precaution we also renoticed it for tonight sending out the mailings again.

Chairman Postiglione - open the hearing to the public asking if anybody in the audience that would like to come up and speak on this project.

Tim Mitts Property Manager of LLC

Pamela Lee controlling Partner from the LLC

I head up the entire project from day one I'm the one that put the deal together, I'm the one that has done the restoring of the entire property, I'm here tonight because I've heard a lot of lies over the nine months and I've been advised it's time I come and straighten the record out for you guys. I want to first point out that two things I have four questions can

Chairman Postiglione - when you say you're the one who put the deal together what do you mean by that?

Mr. Mitts - meaning that I got the partners together I picked the deal out I put Pam with two

other people and they're the ones that purchased it and they're the owners of the LLC. Pam owns 75% of the LLC and she's the controlling partner. So anything you have anything you want to know the Planning Board does not know a thing, information that's been provided to you over 9 months and out of three Re noticing of public hearings have all been work that was given to them during the application to restore the buildings under the historical status I must submit a building permit to the Building Department, which we did to Mr. Maldonado in April of last year, we then were noticed by Mr. Maldonado that we had to go to the Planning Board for approval for the Certificate of Appropriateness, which we did it was approved in October and it was issued I think in November and the permits were issued at the end of December. The buildings have tremendously progressed in restoration, but I have four questions for this board that you need to ask yourself because it's part of what I want to give information to you tonight and I think it's going to be excessively enlightening to you when you hear what I have to say. The first question is who told Ms. Franson or suggested to Ms. Franson that one of the buildings was illegally converted, we don't have that answer she raised as a cause, but I've been dealing with Mr. Maldonado for 20 years this is not our first rodeo and we never had problems and we had to comply with stuff we go to Mr. Maldonado we comply with it, it's not a big deal, we knew what we were buying. We were buying a property that had been cited for safety issues in all the buildings that were not occupied we took care of those today. I don't like when the Chairwoman comes in here, we offered the Planning Board a visit they turned it down that's on them that's not on me. Second question she made a statement that we were not repairing the property in proper form following, Mr. MacCartney I'm sorry that what, Mr. Mitts continues she made a statement last time or time before that we're not following procedures on the repair of the property. Every project we're doing has a permit to it there was some misstep we went back to Mr. Maldonado, like where we put new boilers in we converted from Oil and Propane to Natural Gas by Orange and Rockland spent over \$300,000 doing it, putting it all under ground electrical cable all done now. We didn't know that we had to go get a permit just to change the boilers out that's it's been taken care of everything's been brought back in line. I talked with Mr. Maldonado about it, but I want to know where she's getting her information because it's not accurate?

Chairman Postiglione - is that your question, what's the question?

Mr. Mitts - to her my question is where is she getting this misinformation and then feeding it to this board. Now she presented this board with a letter, this board on June 23rd closed out the public hearing stated that in 62 days we will issue a decision. We got a copy of the letter, as we were allowed to because we're not the applicant, and I honestly going to do very little to help her application because it's all wrong in the first place she presented it the way she wanted to not the way the facts are. What is the date of that letter? That letter is not dated we want to know when the letter was dated.

Mr. MacCartney - which letter the letter what you requested the rehearing.

Mr. Mitts - Ms. Franson issued a letter somewhere between January 23rd and your February 28th I guess it was the end of the month asking you to reopen this public hearing because she

had additional information. That letter doesn't have a date on it, but what I do know based on the information in that letter on January 15th she was here it's on video she was at a Planning Board meeting on February 5th I believe it was she was at a Planning Board meeting here why didn't she notice you before the 23rd hearing that she wanted the public hearing and wait till after your meeting to do and then issue a letter with no date on it. it suspect.

Chairman Postiglione - (I think that but you get where I'm coming from I do get where you're coming from) but I just want to clear something up when she asked for the to be reopened it was because there was also a family there was a death in a family that prevented her from coming to one of the ZBA meetings. I remember that also.

Mr. Mitts - it was in December

Chairman Postiglione - but it it wasn't strictly additional information and I might be wrong, I also think that she asked for it to be reopened because she couldn't attend the ZBA meeting while it was open because the death of her mother or something like that. Does anyone else remember that?

Member Scully - that's how I remember it.

Mr. Mitts - but it was in December the death was not in January. That's my point, the other thing is I and I don't understand if you're reviewing what the Building Inspector decided why hasn't the Building Inspector been called to ask him why he came up with those grounds. I don't understand under 47-62 I believe there's a letter you have in your possession from my attorney am I correct with that

Chairman yes and the letter States under 47-62 if I'm quoting it correctly anything built before 1954 was exempt from the use or lose at the worst at the best the property was never abandoned the girls had fights with people fixing roofs I got one of the buildings on the property that literally had a stack of shingles on the ground next to it on a pallet they just didn't maintain it was two girls who couldn't do it on their own I went to Mr. Maldonado before we ever bought the property and said Mr. Maldonado what can I do with this exactly what he told the Planning Board and the information given to you is exactly what he told me I could do with the property before we got the historical status, the historical status plays a whole different role in this. We're not making an application at this point going to either be seasonal year round or anything at this point. I made it a point to her at the hearing and she kept pushing me on it we're not deciding yet till the buildings are back up again and operating meaning safely because then Mr. Maldonado got to say to me what rules because under the historical status the property can be agricultural the property can be year round boring a ZBA acceptance of the setback rules being the only exception among 20 different other things including in the first meeting one of her board members said the rec hall could possibly be a restaurant under the Historical Status. I don't know how many of you know who I am I'm sure Steve knows who I am but you know we restored Rest Haven. Rest Haven is the house up on High Street used to be owned by Ark of Orange County, we're the on that restored that house and it's in a National Registry and associated with Helen Keller. We preserve Monroe we don't kill Monroe we're not asking to tear buildings down we're asking to restore buildings. Those are some of the questions I need answered but with that said I thought I'd do a delight tonight to really set the

record.

Chairman Postiglione - is there one more question you wanted to ask us?

Mr. Mitts - I need answer those four questions because I think Mr. Maldonado needs to explain how he made his decision.

Chairman Postiglione - I don't think and counselor tell me advise us on this. We don't have the ability to call people do we.

Mr. MacCartney - no you don't have subpoena power

Chairman Postiglione - Mr. Maldonado knows when these meetings are. We can't force anyone to come here. You asked how come we haven't had Mr. Maldonado come here. I'm telling you why, we just can't say hey you need to come here it's not the way it works.

Mr. Mitts - but you could ask him if he would to explain his position he can do it voluntarily.

Chairman Postiglione - I think there has been sidebar discussions on that, so just to be clear what you said we cannot call anyone to come to these meetings.

Mr. Mitts - so I want to do you a special treat tonight since the Planning Board couldn't take the time to come see us and I know you folks quite busy I brought with me two videos of the property one back last September that was shown to the Planning Board and one that was just filmed within the last week and I want you to see that tonight as part of the record because this way you have it that was the other problem and Norinne knows this for a fact at the Planning Board meeting in September I handed Bonnie the thumb drive to the video when she sat in front of you back in November she said she didn't know if she had it, Norinne knows she had it because I was supposed to pick up the drive but the fact is if you don't get the right information to the board then how's the board going to make the right decisions. I mean let's call it what it is so I would like you to I have some things for display tonight to explain to you what's going on and so you can get better understanding.

Chairman Postiglione - I have no issue that but I'm also going to ask and we've been asking for permission to go to the property.

Mr. Mitts - with this video you don't need to go there at this point.

Chairman Postiglione - I would still like let me, can you take a breath a minute just calm. We've asked a few times if we could walk the property and we've been told no so you could show videos and that'd be great right but I'd still like to walk the property.

Mr. Mitts - we were advised by the, so you understand, we were advised by the attorney this wasn't our application, she's made false representations. So, the question is we don't understand she said she's trying to find out procedures from you, but what she sounds like she's trying to do is trying to get you to tell me you can't use it seasonal that's what we hear. So the attorney told me be careful

Chairman Postiglione - again I'm not a mind reader Ms. Franson's here for whatever reason you're here for whatever reason I know we're up here, we're an independent board we're a bunch of independent thinkers here I still would like to have permission and I think everyone on this board would like to have permission to walk the property and I don't care what Ms. Franson wants I really don't care what you want we're going to sit here like we do with all of our projects go through everything that we have here and we're going to make a fair judgment

in what we see is correct being advised by our lawyer I still would like for us here the permission for the ZBA to walk your property and check it out. I'm very familiar with the property right you're looking at a bunch of people here at least three of us are lifelong residents of Monroe right know the property well been on that property when I was 9 years old starting right. This half down, pointing out board members, we've been around I would like to walk the property I would like to see it not to report back to Ms. Franson not to report back to anybody for us to sit there and look what's going on.

Mr. Mitts - okay I'll speak with the attorney about it. So if you don't mind I'd like to at least give you a visit by video of this and I have a few other documents to give you that are important to your need of

what you're looking at today is that acceptable sir.

Mr. MacCartney - sorry just the Chairman wanted to make sure that you received through your lawyer the submission today there was a submission today.

Mr. Mitts - The attorney is out of the state. I have not seen any submission today.

Mr. MacCartney - so there was a new submission this afternoon that went to Mr. DeJoy. I think Norinne sent it to Mr. DeJoy that's your lawyer right Jonathan DeJoy. Is that the whole thing.

Ms. McSweeney - I have an extra copy it was 45 pages or something two extra pages they should be the back two pages should be a map and another thing there were three different documents .

Chairman Postiglione - sure that you have that so you can go over it make.

Mr. Mitts - I don't have to this is my report this is my report what we hired SLR to do water feasibility on the property we've been cleaning the wells up we've been cleaning the septic systems out because

eventually I do want to put sewer system on the property and they're talking about eventually expanding to an eighth well and joining all them into one system which would give me over a 100 gallons of water per minute so I'm familiar with this is a report that we did okay so I appreciate it.

Mr. MacCartney - just while the board's looking at it just for the record this video that's being shown right now it's called Pine Crest November 2023 is that the name of the whole video that is correct and what's the total length of it?

Mr. Mitts - about five minutes

Mr. MacCartney - this is the first of 2 videos that you have (video time 20:02- 23:45)

Video 2 shows the current conditions of the buildings Pine Crest revisited May 20, 2024 length is 4 minutes & 18 sec.(video time 24:29 - 28:31)

Mr. Mitts - you can now see the progress we've made in just over two years on the property. We did 2,000 feet of gas lines, electrical lines cable lines three feet down and the half of it was granite but everything that we took out of the ground is being reused on the property again. I needed you to get a better context of what is really going on not listen to somebody who's making an application to you on matters that they don't have no idea about they have no idea

about if you went to Mr. Maldonado privately and said to them how many times have you been in those buildings he'll tell you prior to me buying them never we did a parcel history check because I wanted to show the board we get permits for everything where I mess up I follow the permits we do what we have to do I have no problems with compliance we own 27 rentals in Monroe we have over 50 residents that live in these places last thing I need is to see something happen to somebody the next morning because I didn't do something correctly that's what bothers me when I'm being told whether or not I'm doing it right with that said go to Mr. Maldonado and ask him how many times you've been in, when Mr. Maldonado did the count for the Planning Board to come up with

the decision he made that's before the board he didn't go in the buildings he said he never went in the buildings if you look the parcel history which I have copies of I can give you one of those Mr. Chairman before I bought the property there was two other visits since 1950 on the property and I can give them to you there were inspections but no other history on it we sent a letter foil last year to the Town of Monroe said give us your history according to Brian Nugent there is no history so I went I didn't have to say anything but I went and searched the history out because it was important to me it's what we do in Monroe it's evident you talk to anybody that has seen Rest Haven we're committed to it we're not tearing it down we're not asking to put 491 units smack in the middle of residence we're not asking to necessarily use a commercially we're asking to give people a place to live. We got a lot of those down the road at Sergo Lane I've got four of them there my daughter's in one next door is five got one up top of the hill at Lake Region six people like those small buildings because of the cost of especially here in Monroe you you can't get anything you can't even get a one-bedroom for less than 1,800 and the problem is the reason

is because of the taxes and everything that go on here and all the administrative fees and stuff and you know then having to fight lawsuits being told you can only own three rental properties within the Town of Monroe all those costs go into people living so we try to preserve what there is things Mr. Chairman that you just admitted three of you grew up here you saw this did did you want to see it go away I don't think you do I don't think any of you guys do but we've been given a hard time and the fact is Mr. Chairman I'll tell you exactly what's going on and I have the evidence the reason Bonnie's coming to you and telling you I'm not doing things right is but Tony Cardone April 17 2023 filed an email a complaint with the Building Department telling him I did I wasn't doing what I supposed to do on the property converting units I have that email we're preparing to do on the federal charge that we're already suing the Town on we're preparing on doing a retaliation against Tony Cardone over it sending two weeks before that law landlord went matter went into effect he filed a complaint with the building department I have the email this is what Mr. Chairman just so you know this is what bothers me when Bonnie like I told Bonnie at the Planning Board meeting when we're ready if we were to use let's say use this seasonal if Mr. Maldonado said me I had to come to you or I want to do year around and I need a I'll come to you I have no problems with that but, what I have a problem with is when people are manipulating government and I don't trust anybody I can't trust anybody and apologize to this board but I don't trust the board because I don't know how

manipulated you are behind the scene, but you may not be but I'm just saying I don't know that all I know is we're trying to provide housing to people we've invested over \$10 million into this community to what to have a Town Supervisor file a complaint on a property he's never been on and then you got wait then you got Scott Fisher comes in here and speaks to you last time well let me explain about Scott Fisher he wanted me to buy his property for an absorbent amount of money he told me it had no wetlands. I ended up hiring the same guy that surveyed the 45 Acres that the Town has, it has Wetlands my point being then Bonnie comes in and she says what she said which is totally inaccurate this is the hesitation of working with the board I can't trust people I've got people I can trust and I appreciate the offer I'll talk to the lawyer again about it, but you I'm trying to get you to see where we're coming from we shouldn't have to put up with this and people should not have to fear the living in this community that they have to worry about somebody like me because I don't have issues with my tenants I got a tenant that's been there 36 years 37 years moved in 1986 with her parents she survived her parents in the building I got other tenants 10 years 15 years people like living with me they like the places I don't bother people but this is my hesitation with this board and my apologies to the board but I hope you understand why.

Chairman Postiglione - so are you done?

Mr. Mitts - yep

Chairman Postiglione - so, there's nothing this board here can do to make you trust us right. For you sit there and just give us so much information like this and and to throw in there that your problem is that you don't trust people, I don't trust this board right well trust is earned, right. But to sit here and address the board this is the first time that I've seen you in front of the board to sit here and say that I don't trust this board again that's your problem that's not this board's problem, so you're going to make a statement like that you're going to sit there and flex your muscles and make a statement that I don't trust this board again that's your problem there's nothing no one on this board can do about that. So we have a a case that has come to our board here to make a determination, I want to get back you said that you have two letters of inspection that you would share with us,

Mr. Mitts - two what?

Chairman Postiglione - did you say you have two letters of inspection that were done that if I wanted to you could share with us letters of inspection. I'm trying to because you were in the middle of just going on no so what what did you just say a couple minutes ago that you had two letters that you would share with us.

Mr. Mitts - well one letter is the Historical Designation and the other one that I have that I've turned over to my attorney is the one from Tony Cardone inducing the government to act against me.

Chairman Postiglione - I'm not interested in that I misheard I thought you said no okay

Mr. Mitts - but you you understand that I want to cooperate with you, but this isn't even our application I don't think they have a right to come to you and tell you ask you and say can he do this I think you should wait till I make the application as the owner not have the Planning Board decide we're going to go make this application after she pounded me to want to know

what I can do what I'm going to do with these buildings Mr. Chairman here's the problem with it, the big problem till the buildings are fixed I can't tell you what I can do with it because there's energy code differences from year to year there's Zoning changes all we're trying to do is get these buildings set up, get them fixed up, get the exterior done, we don't need matters like this before you like I said. I know what my thing when I talk to Mr. Maldonado and I said to Mr. Maldonado I may do this and I may do that Mr. Maldonado goes well you know if you not talking about the Historical just about rehabbing them he goes well you might have to go in front of the Planning Board I said okay no biggie it doesn't bother me I have no problem with government monitoring what's going on, I have no problem with that I have no problem with the rental laws as long as my rights aren't violated, I don't mind I understand safety I got an electrician on call, I got plumbers on, I get that but when you keep pushing and pushing and wanting to know what I'm going to do with a property and all I got is empty buildings skeleton buildings essentially, but they're all full of furniture, well they were until Mr. Maldonado wanted everything cleaned out. I'm employing this board to say no we're not going to take this up now let's see what I can do with the buildings when Mr. Maldonado tells me what I can do with the buildings that's the easiest way out of this you want to visit after that, that's fine but like I said let me talk to the lawyer too because there is other litigation going on and I want to protect our rights as well. My point being is there's no reason for us to be here because we didn't make an application to the Planning Board to be seasoned or not we made permit requirements to the Building Department we submitted as I was saying the way the rules work on the historical you submit to Mr. Maldonado who puts the building to the Planning Board approves everything which they issued the co we got the permits you see what the buildings look like in a matter of less than six months we want to focus on that. I'm just employing this board to decide to shut this down and when we come back it's an issue if I go seasonal but, I can give you right now from what we were given according to the historical use and this is where it becomes the your waste of time everybody's waste of time and taxpayers waste of time agriculture, horticulture, single family detached dwelling customary associated use and structures home occupant, gathering place associate accessory apartment dwelling membership club Child day clear, mobile home park, which I didn't opt for Bed and Breakfast, place of worship under adaptive reuse of a historical building the build property can be be an Artisan Studio Art Gallery Museum antique shop rare book coin or stamp shops, sit down restaurant, professional office special uses of low traffic volume normal associated with history. My point being that we're jumping the gun here Mr. Chairman on this matter I think I'm asking you to send this back and say listen we're not going to address this, but I know I have to address something at some point, but I don't think it's worth the taxpayers time and money to be addressing something that the landowner themselves are not asking for all. It is in my opinion is an ament by government to try and, not you because it's coming to you by the Planning Board, and as far as I'm concerned Mr. Cardone is trying to squash our use of the property and that's why I asked that this board squash this for now you know if it comes back up again fine I don't know if I like that idea seasonal I don't know what to do with those buildings the only thing different I'm told between

an old building and a new building is the energy costs from what I understand the historical throws a whole big a whole new wrench into the equation so this is why I thought it was time after nine months and going around and around and around and everything you've gotten is everything we gave them at the Planning Board the properties were built in 1930 the barns dated 1900s all we're trying to do keep in attack what's there not continue paying legal fees to come and represent us at board meetings like this on something that as owners we didn't ask for. I was told by Mr. Maldonado we could do it but I never went to Mr. Maldonado and said okay let's do it I don't know but that option be laid on left on a table because down the road maybe it's not up maybe I got to come before you Mr. Chairman and your board that's fine I have no problems with that I got enough lawyers on staff they want to work but I don't want them working on this this is ridiculous for you to put up with something that an owner is not asking you know what it makes it look like now it Mr. Chairman it makes people look like now the government's going to come in and tell us what we can do with our property because the Planning Board doesn't like what we're doing what happens with the guy that has the barn that he hasn't used or the guy that has the shed on his property hasn't used in a year does that this the way I hear Ms. Franson talking it sounds like she's saying oh well then everybody should have to tear everything down that hasn't been used because that's not in conformity anymore, but that's what building codes are for you saw the barn, that barn was in bad shape we hired an engineer it cost us over \$10,000 it's going to cost us \$1,500 to close out the inspection, but the building's back and you look at that building you see there's nothing wrong with that building now engineer is going to sign off at it what do we have to do siding on it and doors and then he's going to sign off on it but you have a chance here to preserve Monroe like we've been doing. We've been like I said in the beginning we've invested over \$10 million in this community we don't mind

doing it, I enjoy being in the community and doing it I grew up in Pearl River I believe in history I believe in preserving I grew up in although I'm not Irish I grew up in an Irish area who loves the community so again like I said I would be willing to answer things, but like you can understand where I'm coming from it's not my application and everything's not being put the way I know it is and that's what concerns us that

somebody may be trying to wave our rights to what we're entitled to and you know I've had arguments with the Village it's well known and to preserve Monroe but doesn't mean that different minds can't come to an agreement Mr. Chairman, I'm sure we can, but my answer right now is we're not asking for any of this as the owner this has just got to end and say no this is done, because nobody, the owner is not doing it that's like them coming to you because I know this happened because Mr. Nelson told me it happened everybody knows who Mr. Nelson is very honorable man came to me and told me Mr. Cardone told him on December 15, 2022 to reverse the historical status and if he didn't he would do it. The records as they stand now is what puts you guys in the middle of the line not that you even meant to be here maybe you

were played to this position and I get it, but this is what's going on we've got a long history and I don't want to be in this history I don't want to be this in this fight with you guys, it shouldn't

be, so the best I can say to you is again plead to you by saying shut this thing down let's just get it over with and say we're not going to address it for now until the owner makes a marking maybe you rule against me next time maybe you won't but it'd be on my terms based on what you I know not what somebody on the outside doesn't know mind you she's never visited the property never saw the inside of those houses I know you guys did as kids I get that and I talk to a lot of people that went to summer camp there that actually stayed there that's how I got a lot of my information about the property and how it looked if you've seen it does that look like it used to look when you were a kid, those buildings yes they do because I got pictures dating back to the 1970s, but this type of administration is not right and I do appreciate you listening to me this afternoon. I sat back for nine months and I let things happen now I think it was time to bring the truth to you and show you that what you saw as a 9-year-old kid is really looking pretty good I would say wouldn't you that's not all.

Chairman Postiglione - all the things that you're bringing up the use and seasonal and all that's not here in front of us we you did not bring this but it is in front of this board. I'm just going to make a comment to

you I think you just said you don't want to fight with this board and trust me the board doesn't want to fight with you either but if you don't want to fight with the board don't come up in front of the board and make a statement to the board that I don't trust the board so you know this trust was unwarranted right. So you're not making friends that way either. The first time you come here and you sit down and then you wrap it all up with saying I don't want to fight with this board but you're throwing hay makers saying I don't trust this board.

Mr. Mitts - I understand your point but the reality is I still don't understand just because Ms. Franson wasn't here on June 23rd you reopened something for her everybody's told me that's unusual three times you've publicize this for an open hearing three times I've asked around people said they never heard of it done three times in nine months.

Member Seeley - hold on someone comes to us with a death in the family we're going to do.

Mr. Mitts - I know I get that she knew in December

Member Seeley - we don't know that that comes to the trust that comes to the trust. You and the distrust with us was unwarranted you don't question our ethics you don't question our ethics you don't even know us you know what well you don't even know us.

Mr. Mitts - all I have to say is I understand where you're coming from but you got to understand where I'm coming from somebody's attacking me and the foxes in the hen house. Now that I'm running for New York State Senator because I will straighten this up we I did file a law AG report on Tony Cardone this afternoon over this email. My problem Mr. Chairman which bothers me is that you may have been manipulated by Ms. Franson by making statements that Mr. Cardone concocted through an email to the Building Department and that's where the lack of trust comes.

Chairman Postiglione - do you hear the words coming out of your mouth that you don't know me you don't know the board but you're going to sit there and say I might have been manipulated right like are you the only perfect person here like so say no but so again after we talk to you about how you're addressing the board and you say I see what you're saying you

still come out and slap the give us the back of the hand you're still making those comments
Mr. Mitts - you know I apologize

Chairman Postiglione - it's like I could go there and punch someone in the face and say you know I didn't really mean it I'm sorry and then I step back and hit him again. You keep making these comments attacking the ethics of this board I heard what you said we we appreciate the the videos I would like and I know other members of this board would like to walk the property if you could make that happen

talk to your attorney let Norinne know and we will go there.

Mr. Mitts - let me ask this question to the board what's the purpose of walking the property see the purpose of showing us the video so we know what we're dealing with was because we offered the Planning Board to come and see it and they turned us down three times.

Member Scully - what was the purpose of the first video?

Mr. Mitts - to show you the difference and improvements that we made to the property.

Member Scully - it was a great video of trees and the road and then in the second video you showed the old houses so I don't understand what the first video was for.

Mr. Mitts - how would visiting Pine Crest how would that impact your decision?

Chairman Postiglione - we often take looks to drive by and things like that we go to all or a lot of the properties that come in front of us.

Mr. Mitts - but how would it impact this application

Member Scully - putting eyes on something that helps us make a better decision.

Chairman Postiglione - there's nothing beats a just a walk in there and say oh I didn't realize this or I didn't realize that or wow this looks great or this looks like crap okay. Just let us walk the property if you will find if you don't find too we're just asking for it because we've been asking for a few months if we could walk the property and we're told no this is nothing new to your property we go we get permission to everything that comes here if they give us permission we go out there and we check it out that's all right. If you can grant that fine if you can't.

Member Scully - you were talking earlier about what's unusual. I've been on this board almost four years three and a half years nobody has ever said no to us walking a property not once well not once.

Mr. Mitts - think about it you own a property and somebody else brings an application in front of the ZBA they don't even own but that's the issue here that's the only issue here that's where the fight begins and ends that somebody who has no authority to buy the property in any way shape or form except for in front of her own committee by the law brings you something and then you say let me walk the property you know I got beat up when I was in just let you I got beat up when I was in Monroe over Rest Haven because they all swore I was a front for other people. I'm getting the same thing here not necessarily from you but I went through three meetings with Ms. Franson and it said in the application all I had to do was explain what I'm doing not the use of the property but she still pounded me on when I didn't give her the answer what we're going I'm not giving you an answer now either she then comes to you wanting to know about Mr. Maldonado decision to use it for seasonal that's a decision she

wants you to make and say what I can do with my property.

Mr. MacCartney - can I interrupt for one second there's no question that you don't have to grant permission you're not the applicant you're the property owner but you're not the applicant and the usually before the board it's the applicant so there's no there's no question you don't have to grant the permission I'll just finish second right so the board just ask permission you can ask your lawyer you can consider it and if the answer is yes great communicate that to Norinne if the answer is no the answer is no that's simple but back to just the the legal point that you're bringing up I'm the lawyer for the board

Mr. Mitts I figured that I see says attorney

Mr. MacCartney - I don't know what's up there but your attorney had said that he considered Mr. Maldonado's determination like why are we here why are we here your big point tonight is it shouldn't be here right but the reason we're here is because Mr. Maldonado issued a document regarding the use and the Planning Board has the right under the law to appeal that if it's a determination if it's binding. On the first hearing I asked your lawyer do you consider Mr. Maldonado's letter or his written findings a determination do you find that binding and he said yes. So that it's properly before the board just so you know in terms of the legality because of that if you and your lawyer were taking the position that whatever Mr. Maldonado put in that letter is of no moment at all then I you know I'd have to take a look at the law and see what does that mean but it's because your position like explained by your lawyer is that no we're going to hold the Town to what Mr. Maldonado said the Planning Board has the right as do other people and other agencies to appeal that to this board. This board sits as in an appellate role

Mr. Mitts - I get that but the problem is we didn't ask for a decision from Mr. Maldonado to determine the Planning Board Chairwoman did we never asked for that decision and when she kept pushing me what are you going to do what are you going to do what are you going to do we never asked for that decision it is binding at some point but we never at that point said we this we want to know what we get I told her at the time go back and listen to videos June July August August 29th I said no we're not answering that question we don't care about what the use is her response is why do you want to spend so much money on this property if you don't know what you're going to use it for. The answer is because I can't tell you what I can use it for until the buildings are done. One building that's not subject to any of this is laying on the ground Mr. Maldonado says I can rebuild it but here's the problem it's a lot more involved so we have it recorded off it stays in a corner by itself because it is in a in a section by itself and we don't but we never answer that determination Ms. Franson did and then she used it she jumped on the back of that to come here which is not in my opinion legal because we never as land owner never made a representation for use check the records she made the reputation for use how can the Planning Board Chairwoman go to Mr. Maldonado and say well we want to know what he can do with the property but on the other hand the applicant isn't even asking for that. Read the Historical Law. The Historical Law says the only reason I had to go in front of them was to make sure the exterior of the building remains the

same nothing about interior ever mentions in the law but she came to you on her own premonition of going to Mr. Maldonado and saying what can he do with this. We made no representation either under normal circumstances I agree with you if we went to Mr. Maldonado or went to the Planning Board and said we're going to do seasonal and she said well I got to go to Mr. Maldonado to see it and she wants to appeal with Mr. Maldonado I get that but we never made that request go listen to the tapes we never made that and she tried she hogwash us into a position in front of you guys that shouldn't even going on because nobody made the request. What if somebody went to your home and made a request that we don't want to use it as a single family anymore oh we want you to split it up now into five acres five parcels or whatever this is

what's going on nobody asked her to make the determination and when I wouldn't make the determination she gave us the C/O and then appealed to you on a determination never requested by the applicant. check the application that's got to make it illegal because we never raised a question you go into court if you don't raise the question you lose it I mean I've been in enough court cases too I've been around the block a lot of times but she made the application not us but under normal circumstances if I went to them and said I wanted to do it's like when I said to Mr. Maldonado says well you got to go in front of the Planning Board okay I get it I made the step to do something you got to go do this or if we want to make them single families and God willing you guys say yeah okay you can make them all single family or you can use the rec hall as a restaurant now I come before you that's my application that's me coming to you saying please give us this but I didn't ask for the fight I didn't ask for the argument but I've paid enough at attorney fees to have to be here for something I didn't even ask. Go back to the records so how can that be legal we didn't make it we're the owners. Then she wants to talk about the barn the barn's been there for over a hundred years.

Mr. MacCartney - so what you're saying is because Ms. Franson asked for a determination and got it she's and the town are stuck with it?

Mr. Mitts - no I didn't say that

Mr. MacCartney - but that's effectively what you're saying?

Mr. Mitts - not effectively what I'm saying is if I was to go to Ms. Franson and say I want to use a seasonal and it's the Planning Board she evaluates and say no I don't think you can and she then wants to come to you guys I get it. I never went to Ms. Franson and asked her for anything I never asked for a determination Mr. Maldonado already told me the unit of the year round can be year round everything else can be seasonal but we weren't even going there I was trying to fix these buildings up that's all I'm trying to do.

Mr. MacCartney - it's your position that you hadn't applied for any relief in that regard.

Mr. Mitts - never applied never applied for

Mr. MacCartney - I understand your position

Mr. Mitts - I would agree with you. If we made an application then we should be before you if she denied it assuming she denied it but this isn't what's going on she made an she made her own application.

Mr. MacCartney - there's no jurisdiction I don't want to get into a legal argument with you but

nobody can appeal a Planning Board's decision to the Zoning Board you can only appeal the decision and determination of a Building Inspector or Zoning Code Enforcement Officer. So once the Zoning Code Officer Mr. Maldonado made a determination no matter whose request it was at I'm just saying in terms of

jurisdiction you might be making a different argument the board has jurisdiction over it I think you're I can't tell if you're arguing the board shouldn't have jurisdiction or the board in fairness should decline to exercise jurisdiction or something else.

Mr. Mitts - I'm saying is if I make application to the board to do something and they go to Mr. Maldonado and say can he do this and the board says no. Like if I went to them and said I want to make it seasonal I can understand in the Planning Board saying we don't think so we're going to go to ZBA on his decision.

Mr. MacCartney - what I'm saying is that never comes before the Zoning Board. The Zoning Board does not have jurisdiction to hear an appeal of a determination made by a Planning Board the remedy if a Planning Board makes a determination that somebody's not happy with is to file an article 78 in the state supreme court.

Mr. Mitts - the Planning Board asked for determination not the applicant not the landowner property right issues that's all I'm saying that if I made the application to her then I can see her saying whatever she wants to say but she specifically put the issue on the table when I refused to answer the question because I can't and like Mr. Maldonado said to me there's a hell lot even if I wanted to make it Bungalows there's still a lot of things you got to do to the property and giving Historical you must make sure that the exterior resemblance the existing of what was when you guys were kids and you saw it but until that's done there is no issues and she goes out and she says oh I'm going to ask Mr. Maldonado to give a determination on this even though the applicant hasn't said anything about it and then she doesn't like his decision so she comes here to you guys and says I want to appeal this decision. It's on her papers and she's never been to the property she's never been in the buildings even when you guys were kids I'm sure you remember but you got to look at those videos and say it's a lot what it you like used to be when you were kids we tried to preserve it we're not cutting anything down we're doing minimum of what we're told by the Building Department but my whole problem here is we didn't make an application for it we didn't ask for determination Ms. Franson did and she turned around and used it with you guys to create nine months of constant public hearings and giving you information that was only given to her through the Planning Board rebuild these buildings. Mr. Chairman that's all she's giving you she's not giving you history she's not giving you inside Scott Fisher came up here last he doesn't know a damn thing about the property if he was didn't know anything then he was on the property illegally because the property has no trespass signs on it even the tax assessor doesn't go on it but that's another problem I can't give you what the tax assessor has because in October 22 he took all the pictures off there was a picture there they took the diagrams of the house and redated them with October 22's date so they're manipulating with govern but then it comes before you Mr. Chairman and it's a problem.

Chairman Postiglione - did you say you invited the Planning Board out there three times?

Mr. Mitts - yes they did they had an as part of the Planning Board thing

Chairman Postiglione - as the attorney said if you don't have to grant us to go out there but you invited the Planning Board out there you could at least invite us if you don't that's fine if you do that'd be great that's all we're asking for. I'm going to ask you another question right because I'm having a hard time with the way you addressed here so do you not trust boards do you not trust individuals or is it just is it just because we're a board because it seems to me that you throw the Building Inspector's name around a lot so you have trust for him?

Mr. Mitts - I've been dealing with Mr. Maldonado for 20 years

Chairman Postiglione - it's a yes or no question but I just want to know if you don't trust us because we're a board or if we were individuals would you trust us or is it anyone that works for the Town.

Mr. Mitts - I trust a lot of people but the bureaucracy that Ms. Franson has put me in I can't I have trouble trusting people with things right now you got to understand you know she brought this application that our rights are being violated as property owner and that's the problem. I was hoping when it was brought for you would say you know what I don't know if we really should be hearing this because does it really matter because the applicant nowhere in her papers does she say the applicant the property owner made an application to use the property some way and I was hoping you say you know as a board say you know what until the applicant says he's going to do something with the property we're not getting involved.

Chairman Postiglione - I think we did do that you were asking did you get the answer.

Mr. Mitts - maybe I misunderstood his question.

Chairman Postiglione - no because it was he asked the question and you didn't answer it you went in a totally different direction.

Mr. Mitts - well then re oppose it to me so I can answer it.

Mr. MacCartney - I put it plainly before which is you know are you saying that because it wasn't you that asked Mr. Maldonado for the determination but instead it was the Planning Board that asked him for the determination that whatever his determination is then because it was them that asked that it shouldn't then come before this board? Ms. Franson or whoever or the or the Planning Board because they're the ones that asked Mr. Maldonado to opine that they're stuck with it they shouldn't be able to have the rights to come to appeal what his opinion what his determination was.

Mr. Mitts - I don't think they had a right to even answer for a determination because during the application period and if you look at the application it doesn't require determination of use so we never put that in table when somebody goes out of their way to do something that's not part of the application I become distrustful of government.

Mr. MacCartney - to my memory the issue came up because of the historical designation that had been requested didn't you or the property owner Representatives request an Historical Designation and then that brought up the issue of the use.

Mr. Mitts - I requested Historical Designation July 22 Mr. Nelson awarded it October 4 2022 December 15th Mr. Cardone met with Mr. Nelson and told him he wanted It reversed then we

the new law came into

effect restricting to three owners which we're in federal court over right now. All this stuff now I find out that Mr. Cardone filed a letter with the Building Department claiming that we did something that we didn't do now I come in front of Ms. Franson and all of a sudden I'm in front of you guys and I know what she was doing at the time she was trying to push me at the meetings watch the video to tell her what we going to do with the building I kept telling no I can't tell you. She goes well we're going to ask for a determination on it but that's not your right because I'm not asking you you're supposed to be impartial why are you going and that's our problem.

Mr. MacCartney - but what wasn't the Planning Board looking at what is the Historical use to be able to determine what parameters to apply to its determination on the Historical aspects of what of the restoration and that was the context in which it came up.

Mr. Mitts - if you would please read the Historical law. I know it's new nobody's really used it in this community it should be used a lot more but look at the law you when you go in front of them it's not about the use it's about maintaining the exterior of the building and reduplicating it which means I had to go through and we've got plenty of pictures of all angles of the house and we did what we had to do check the law. The law does not address uses whatsoever but Ms. Franson tried to tell me during a board meeting that she's entitled to know use even though the law doesn't say it.

Chairman Postiglione - time out a second I still don't think I heard an answer. I would like for you to help us help you right. I don't want to hear any more about Ms. Franson I don't want to hear any more about the Planning Board I don't want to hear any more about Mr. Cardone I don't want to hear it. We're asking the lawyer here is asking you a question to help us the ZBA a path forward okay whatever that path may be that's what we're looking for. So I don't want to hear anymore about he said she said all this stuff because that's not helping us okay it's just really clouding the room and I don't think we got an answer

because the answer to this question is going to help us going forward I believe okay. I hear the importance of what you're saying and every time he ask the question it goes into a speech about Mr. Cardone Ms. Franson the Planning Board all this stuff that just Hazen our view and you should be worried right now just about our view on what's in front of us now I think what you're saying and correct me if I'm wrong you came up here asking us you explained everything you showed us what's going on and you were asking us kind of just to swipe this off the table and not now type of deal and I think what the lawyer is asking you right now is a question that's going to help us determine if that's an option for us.

Mr. MacCartney - so I guess what I'm trying to understand is your argument that the board doesn't have jurisdiction over it because of the party that asked for the determination or are you is it your position that in fairness all things you know in in the totality of circumstances you're asking the board not to decide it right now are you saying that the board has no jurisdiction because Ms. Franson or the Planning Board was the one that requested it.

Mr. Mitts - that's exactly what I'm saying because if you again go back and I know it's difficult because they didn't understand it if you go back and read the Historical rules for getting

approval with the Planning Board to rebuild those buildings out it says you have to deal with texture but it does not and we argued this with Ms. Franson too it does not require us to give Ms. Franson a use or even address the use in the restoration. Restoration is about the siding being the way it is the colors of the buildings and everything else staying within the footprints Mr. MacCartney - would you mind if I interrupt you for a second. So you're saying the board doesn't have jurisdiction because the Planning Board ask for the determination right but you're saying the Town is then Bound by that determination.

Mr. Mitts - I didn't say that either

Mr. MacCartney - I was trying to get at this before you're attorney the very first hearing I asked him that question because I identified this issue is he's saying that the determination is an actual determination that binds the Town and he said yes to my memory he said yes. Are you saying no?

Mr. Mitts - I'm saying if I asked for it and it was no or whatever determination was I'm bound by it I asked for it as a landowner. But according to the rules when I went in front of the Planning Board

Chairman Postiglione - time out time out a second I don't want it I you're going to hit just answer the question because what you no you're not because what your lawyers said put us on a path that we had to recognize and take under consideration he did say that but you know what so words have consequences but so asking you a question just give us the answer. It's yes or no because you answer part of it and it's just or no just answer his question to help us out because it's something that we're going to have to consider either way is the Town is it your position that the town is bound by Mr. Maldonado's determination. What does it depend on?

Mr. Mitts - not necessarily if me as a property owner came and asked for it then I'd be bound by what's going on.

Mr. MacCartney - no I'm talking about that. In these circumstances where we know that your position is that it was the Planning Board that asked for the determination and Mr. Maldonado gave a determination of sorts he issued that sheet with what the table of uses for the 18 units are. Your saying under these circumstances since the Planning Board requested it and Mr. Maldonado issued that the Town is then Bound by that.

Mr. Mitts - I think the Town is bound by whatever the non-conforming rules are and conforming rules are under the charts yes on the Zoning Charts I'm talking about.

Mr. MacCartney - is a Town Bound by Mr. Maldonado's determination.

Mr. Mitts - my understanding they are

Chairman Postiglione - hence why we're here. It's not cut and dry hence why we're here you can't have a both ways that's why we just need yes or no. You can't have it both ways and the whole song and dance is not going to get you both ways we're trying to cut through the bull crap to just help us with what we had in front of us right and of the most important things you said tonight were in the last two minutes they answer that question. Does anyone else on the board have any other questions?

Member Seeley - I want an apology for your statement that you don't trust us? We haven't

made a decision here.

Mr. Mitts - I'm sorry you feel that way.

Chairman Postiglione - sorry doesn't fix the lamp.

Mr. Mitts - Mr. Chairman we're trying to protect our property and we feel like we're being invaded by the Planning Board.

Chairman Postiglione - so again that's your issues.

Mr. Mitts - no it starts with me then it goes to you and it goes to you and it goes to you where government starts telling you what you can and cannot do with your property.

Member Seeley - you determined something before this board even made a decision

Mr. Mitts - well apparently Ms. Franson came in here with a lot of false lies to you.

Member Seeley - you predetermined

Mr. Mitts - well I know the lie she told you she told you she didn't have the video she did I gave it to Norinne she knew it at the time when she said it wasn't true. How am I supposed to feel Marine (Norinne) knew that day when she told you she didn't know.

Member Seeley - and we know you've been 100% truthful right.

Mr. Mitts - listen I've giving you every facts everything in writing because I can't fight the facts I've got the reports here.

Chairman Postiglione - now you understand why here it's in front of us and why we just can't ignore it. It's your words and your lawyer's words have put us on this path.

Mr. Mitts - that's your choice

Chairman Postiglione - it's really that simple and again is there any other any other questions here and and if you would just either yes or no let Norinne know if we could walk the property either way it's your call and just let them know.

Mr. Mitts - all right well like I said we're on the path of violating our property rights at this point.

Mr. MacCartney - so the videos Sir that you submitted do we the videos that you showed the two videos do we did you submit that on a thumb drive do we have that submitted drive so we should for the

record I it's just that we want to make sure that we have an accurate record of.

Mr. MacCartney - since you're not on the mic I'll try to repeat what you said so you're going to Norinne the actual thumb drive and it's going to have videos and you're having Norinne delete some things that are on there that are irrelevant that have nothing to do with why we're here and the only two things that would be left on the thumb drive that you're giving to Norinne are the two videos that you showed okay the record will reflect that. okay so that's been accomplished we have that very good.

Chairman Postiglione - is there anyone else in the audience that has any comments or questions on what's going on here? Just state your name and speak into mic please.

Scott Fisher Monroe New York good evening just to put it back on record I did state at the last meeting that I had plenty of opportunities to walk the property prior to Mr. Mitts owning the property and number two I don't think I've spouted any lies where he accused me.

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to continue the public hearing until next months meeting June 25 2024.

Motion by Kevin Scully second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully Chip Postiglione Steven Thau John Seeley Zachary Murphy

Nay: None

Abstain: None

3. Returning Projects

Action Discussion: 3.01 **Nelson Luciano** (Z079-2023) SBL # 15-4-30 78 Cromwell Hill Rd Monroe NY

received an email unable to attend tonight's meeting

work in progress being done at the house

Mr. MacCartney due to ongoing Justice Court proceedings I would recommend that you affirmatively put it on the agenda for next month one way or another.

Action Discussion: 3.02 **Remmy Burdiez & Yolyn Almonte** (Z086-2024) SBL # 15-4-29 234 Park Terrace Monroe NY

Applicant Representative:

Remmy Burdiez & Yolyn Almonte

Ms. Almonte - the recent photos are of us taking out the driveway removing the patios the walkway the gravel around the pool. total removal is 1022 s/f if we include the deck which we were trying to propose last time 50% of the deck since we just show you that there is a gap and the water does seep through that would be 1275.4 s/f for a total of 32% lot coverage

Chairman Postiglione - I was speaking with Norinne earlier today and yesterday we were talking a lot about this project and I understand correctly you were hesitant to come tonight because you were waiting for the survey and you knew you wouldn't have it and you didn't want to waste our time and uh I do appreciate it we don't want to waste your time either so we do appreciate it. I do appreciate all the effort and how you've kept this board and Norinne updated with everything that you are doing.

moved forward setting the public hearing for June 25th

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule June 25 2024.

Motion by Chip Postiglione second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Kevin Scully Chip Postiglione Steven Thau John Seeley Zachary Murphy

Nay: None

Abstain: None

Action Discussion: 3.03 **Yirmiyahu Weiss** (Z082-2023) SBL # 7-3-2 210 High St Monroe NY 10950

applicant didn't attend. Called office earlier in the day to see what was expected for the Public hearing and said they needed to be rescheduled as they didn't do the mailings that were sent out.

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule a public hearing for June 25 2024.

Motion by Chip Postiglione second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Kevin Scully Chip Postiglione Steven Thau John Seeley Zachary Murphy

Nay: None

Abstain: None

4. Minutes

Action Discussion: 4.01 November 28 2023

held over

Action Discussion: 4.02 January 21 2024

held over

5. Adjournment of Meeting

Action: 5.01 **Adjournment of Meeting**

BE IT RESOLVED the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting.

Motion by Chip Postiglione second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully Chip Postiglione Steven Thau John Seeley Zachary Murphy

Nay: None

Abstain: None

"