

PUBLIC HEARING  
TOWN OF OSSINING ZONING BOARD OF APPEALS  
BETHANY ARTS CENTER  
40 SOMERSTOWN ROAD  
SBL 90.10-3-27

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Zoom Meeting

August 17, 2020

7:30 p.m.

PRESENT:	SALVATORE CARRERA	- Chairman
	JAMES BLAIR	- Member
	DAVID KRIEGER	- Member
	DAVID O'NEIL	- Member
	DAVID WHITLINGER	- Member
	THOMAS WILLS	- Member
ALSO PRESENT:	CHRISTIE TOMM ADDONA	- Town Attorney
	JOHN HAMILTON	- Building Inspector
	SANDY ANELLI	- Recording Secretary

**Sal Carrera:** Good evening, ladies and gentlemen, this is the August 17 meeting of the Zoning Board of Appeals for the count of Ossining. My name is Sal Carrera Chairman and joining me this evening are members of the Zoning Board of appeals Town Attorney, Building Inspector and Secretary.

**Sal Carrera:** I'd like to have members of the board introduce themselves for the record.

**Sandy Anelli:** Sandy Anelli Secretary

**David O'Neil:** David O'Neil, Member

**David Krieger:** David Krieger, Member

**James Blair:** James Blair, Member

**David Whitlinger:** David Whitlinger, Member

**Tom Wills:** Tom Wills, Alternate Member

**Christie Addona:** Christie Addona, Attorney.

**John Hamilton:** John Hamilton, Building Inspector.

**Sal Carrera:** Thank you.

**Sal Carrera:** I'll read the public notice and then request the applicant, or the representative to give a brief explanation of the relief sought. Anyone that has a comment can basically give their name and address during the public hearing part of these hearings.

Notice is hereby given that a Public Hearing of the Town of Ossining Zoning Board of Appeals will be held on **Monday, August 17, 2020** at 7:30 p.m. **THIS MEETING WILL BE HELD VIA VIDEO CONFERENCING** Pursuant to Governor's Executive Order 202.1 dated March 12, 2020 and Executive Order 202.15 dated April 9, 2020 and subsequently extended. Members of the public can join the meeting via computer or mobile app on Zoom using the link below:

**Join Zoom Meeting Monday August 17, 2020 at 7:30 p.m.**

<https://us02web.zoom.us/j/89265315738>

**Meeting ID: 892 6531 5738**

**Alternatively, you can call into the meeting from any phone by dialing the following number:**

**One tap mobile**

**+1-929-205-6099, 89265315738# US (New York)**

**Meeting ID: 892 6531 5738**

**Find your local number:** <https://us02web.zoom.us/j/kd0Bix1KC>

If you have any questions about the Zoom meeting process, please contact the Town of Ossining Building Department at 914-762-8419

The Hearing is on the application of Bethany Arts Community (BAC), 40 Somerstown Road, Ossining, NY, in accordance with the Code of the Town of Ossining, Zoning Section 200-26 A. Animals. The applicant seeking a variance to permit beekeeping and the installation of two apiaries on the grounds of the property. Currently, beekeeping is not specified in the Code of the Town of Ossining.

The property is located at 40 Somerstown Road, in the unincorporated area of The Town of Ossining, NY, owned by Bethany Arts Community, Inc. and is identified on the Tax Map of the Town of Ossining as Section 90.10, Block 3, Lot 27, located in the R-40 One-Family Residence District.

All interested persons are invited to attend the Public Hearing on video conference (Zoom), and/or send comments by email to: [www.bldgdept@townofossining.com](mailto:www.bldgdept@townofossining.com) or send comments by regular mail to Town of Ossining Zoning Board of Appeals, P.O. Box 1166, Ossining, NY 10562.

Application, Plan and additional information related to the application prepared Bethany Arts Community and by ARQ.HT LLC, 100 Executive Blvd., Suite 204, Ossining, NY, dated are available for public inspection online at:

<https://www.townofossining.com/cms/publications/all-documents/zoning-board>

BY ORDER OF THE ZONING BOARD OF APPEALS

Sal Carrera, Chairman

DATED: August 7, 2020

**Sal Carrera:** I Know there will be a couple of comments here with regards to this, we'll have the applicant or their representative give a presentation then the board will ask questions. We'll open it up for public input and comments limited to three minutes per person and then discussion by the board to see what route we will take with regards to with decisions, this evening.

Applicant, or their representative?

**Jorge B Hernandez:** JB Hernandez, Architect for the Bethany Arts Center. This has been approved before in front of the Board Bethany art Center's. The property has been approved as the Arts Center.

**Jorge B Hernandez:** On the original site plan, we are restoring the orchards and trying to maintain as much nature as possible in the use of Bees implementation. This is an important element and the restoration of the orchard, not to use of pesticides, which we've been is part of the natural process Bethany's trying to do with bees currently, like the chairman pointed out, is not specified as a use in the Town of Ossining in the code. However, I believe the Town of Ossining is entertaining that as bringing in as part of the regulations. Bringing that into code book.

Jorge B Hernandez: The location, appearances, are not visible from the neighbors it is over 100 feet distance from the property lines the way is located right now. It seemed to be, again from the neighbors and it's an area that seems not to be detrimental to the neighborhood and actually enhances it.

I'm not sure if the Board had any questions and I'm sure there are some Board Members from Bethany present as well. So any questions or anything else we can add to this?

**Sal Carrera:** Members of the Board, I'll let you ask the first questions and then I'll come in.

**David Lyons:** Excuse me, Mr. Chairman, I just like to point out, David Lyons, President for Bethany Arts. I just want to point out and clarify that one of the Apiaries is approximately 75 feet off of the property line. It was placed in an area that was previously a playground that was used by the missionaries. So there was already gravel on the ground, just wanted to say one of them was about 75 feet off the property line.

**Sal Carrera:** Thank you so much for clarifying that. I appreciate it. I'd like to ask a question of our building inspector. John?

**John Hamilton:** Yes.

**Sal Carrera:** So as it stands right now that we are, we understand it to be that the Town of Ossining is considering doing a new ordinance with regards to bees. That is still a ways off, but as it stands right now under both sections bees are not allowed currently in the Town of Ossining, is that correct?

**John Hamilton:** That's correct.

**Sal Carrera:** I guess my question to our Town Attorney is how does this board move forward and trying to give any type of variance for something that's not listed as something you know already approved and in place.

**Sal Carrera:** I have to assume and I hate to assume but someplace along the line, the Town of Ossining over the next month or two or three will or will not approve an ordinance that basically say these are allowed, but they, I have to again assume will have certain recommendations and qualifications of how these bees will be allowed in a specific area, whether it's on a number of acres, whether it's 75 or 100 or 200 feet away from a residence whether it has to be licensed. None of that is in play right now, so I do not know how this Board can move forward and making a decision until the town comes up with either allowing or disallowing bees. If they allow these and the applicant abides by all the rules and regulations that they put forward then there's not a problem. If the applicant basically cannot adhere to the new ordinance, then they will come to the ZBA for some type of interpretation or a structure that would allow them 100 feet, instead of 200 feet if that's what the board comes up with. So I really do not know at this juncture whether or not this board could make a decision on something that's completely already disallowed and not allowed in the Town of Ossining and whether or not you know the applicant is allowed to keep what's currently there.

The ZBA is not the enforcement arm of the town. That's the building inspector and whether or not there any violations have been issued to the applicant. I have no idea. As far as I am concerned, and I need a legal input on this is that I think you're all of these discussions have to be put on the back burner until the Town Board comes up with a decision on what they expect to do with rules and regulations. We may say yes to something like this and they may come up with a setback that you have to be 250 feet away from a residence, other than 75 or 100, so I can't see how this board could vote on something that's not already there.

**Christie Addona:** So to speak to that, in terms variances this Board is authorized to issue two types. There's an area variance, like we saw in the last application, which is from the bulk or dimensional requirements of the code. If a use is not permitted in the zoning code, which is interpreted by the Building Inspector and based upon the fact that it's not listed in the section that deals with animals and the code does say that. Anything that's not expressly permitted is deemed to be prohibited in that case the only type of approval the board can grant is a use variance and you have to satisfy four criteria in order to show your entitlements for a use variance and those criteria are, I'll just read them off for the benefit of the board of the public:

The applicant has to demonstrate an unnecessary hardship by satisfying all of the criteria.

**Christie Addona:** They cannot yield a reasonable return if only used for the permitted purposes as currently zoned.

Meaning the applicant must provide dollars and cents proof of an inability to realize a reasonable return under existing permissible uses.

The second is the hardship resulted from unique characteristics of the property.

The third is the purpose. The purpose of us would not alter the character of the neighborhood.

And the fourth is that the alleged hardship is not self-created.

So those are the criteria that need to be satisfied in order to be entitled to a use variance. This is a somewhat different situation. So, so the fact that the town board may be considering adopting legislation that would allow it under some circumstances isn't really a factor before the board. I mean, it's in the record and it's The Town board is now is they held a work session I believe in July to have a preliminary discussion about this and staff and consultants were asked to prepare a draft local law or the board's consideration to include as the chair mentioned certain regulations to kind of control how this use is happening. And so it's not just allowed under any circumstances because of the nature of this type of use.

That that local law has not been finalized and a draft has not yet been presented to the town board. So that it's still very early on in the process. Once that happens, the board would likely have other work sessions to discuss it. Then hold public hearings and then if they decided to ultimately go forward with adopting this local law, but none of that is in place right now. So, as I understand from Mr. Hamilton, there is a violation that has been issued and the applicant was directed to resolve it or I guess would be sent to court, I guess John could speak more to that so

This board is in a little bit of a difficult position because of the circumstances and the timing. As far as what's before this board in terms of relief is a use variance and that's what the board would have to consider this application. The alternative form of relief that the applicant could seek is to affirmatively go to the town board and make a petition to request that the board move forward with considering this which hasn't happened yet and the board has indicated they were agreeable to moving forward, but there isn't something specific to this application. So if the board wanted more information about where the town board is going with this, that's something we could look at but as far as what's before this board right now is the use variance and that's the criteria that the applicant would have to satisfy in order to be entitled to that relief, which would basically be the board saying you are allowed to do something that is not permitted by the code because you satisfy these criteria.

**Sal Carrera:** Well, I find it hard and I'm speaking for myself as chairman, though, is that I know nothing about bees and even though one of our board members used to raise them, but I have no idea what guidelines are to be followed, and how this board could say yes to this application right now when there are currently no guidelines and, you know, whether it's in the Village or and any other municipalities in Westchester County or Orange or Rockland, is that there's guidelines to follow you know;

How many you know hives are you allowed to have on a certain piece of property?

How many acres of property?

How far does it have to be away from residences?

Does it have to be handled by somebody that has a license that know what they're doing?

This is just like shooting in the wind here with regards to this application. And if the applicant wants to try to get a use variance which, as we know, was very, very hard to adapt, because you have to abide by each and every one of them, you know, then we're going to have to ask, you know, how did this hardship result in the unique characteristic of the property and, you know, is this a necessity financially that they need this. Then, yeah, this board and I'm going to ask for financial statements with regards to, you know, how much you're making on this and whether or not you really need an approval with regards to this because it's a financial hardship.

And you know the hardship was created because the bees were put in against all the rules and regulations of Town of Ossining, so I understand what you're trying to say but I think it puts this board into a very precarious position of voting on air because there's no rules and regulations to follow.

**Christie Addona:** And that's the point of why it's a use variance.

**Sal Carrera:** That he didn't ask for use variance

He did not come in and ask for use variance. He came in with 200-26 Animals and bees are not allowed, pursuant to that section is a little different story when you come in and say, I want to use variance or I want area variance. That's not in front of us this evening. It is 200-26A animals and bees are not included, just like bees are not included in the ordinance that was originally given to the applicant by John that bees are not allowed. That's why the board. The Town of Ossining is undertaking this right now, whether or not they want to go do this.

**Sal Carrera:** And again, until they come up with a decision. I think that this you know application is way ahead of time and again like I

said before, if the board comes up with a local law that allows these on a piece of property they will stipulate, at least I hope they will stipulate, if they're getting educated about bees what's allowed what type of bees. How far, how many, how many acres of property and everything else. There's nothing like that in front of us.

This is not a use variance right now because they did not ask for a use variance. They specifically asked for what we discussed already

**Jorge B Hernandez:** Two things. If I just want to, if we can clarify here, one if we ask him for the application was because we, we have a use that is not delineated in the code. So, I thought that was a use variance, but I'm more interested Christie, You said there was an alternate way to go and do a petition to the Town Board. That is probably a better way than to be in front of his board?

**Christie Addona:** Yes, right, As the Chair mentioned the use variance standard is a very difficult standard because it's allowing something that isn't otherwise permitted in the code, the town board has taken has indicated initial steps, but hasn't moved forward with it yet. So if the applicant went to the town board and made a submission requesting that amendment, and then the board pursued it in in furtherance of the petition and then that may be something that that

The applicant could work with the Town on in the interim but that's not really, unfortunately, the way the law is written. That's not a consideration for this board and looking at whether it satisfies the criteria for a use variance and I understand from as the chair saying that wasn't what was initially submitted to this board and there wasn't really any sort of analysis of those criteria as part of the application. So that's kind of where we sit now, but that is an alternative Avenue. It's not to say that the town board has to grant it or pursue it because it's a legislative act the town board does not isn't obligated to undertake any sort of zoning or any sort of legislative amendment, but there has been an indication from the town board that they may go forward with this.

**James Blair:** Christie, If I may and Sal with your indulgence, in the application itself in the first Paragraph it says BAC is requesting a use variance. That's six lines from the top and then it says BAC is requesting a temporary variance which will allow BAC to keep beehives while the term what considers changes to zoning until a final decision is made by the town board on this issue. So I would ask that the applicant, which is it?



**Jorge B Hernandez:** I believe that it will be a temporary variance that we are seeking until the Board, the Town Board will bring this into law in as a guideline and believe Mr. Lyons can talk more about that. But I think the guidelines that we used to have this apiary is were based on the Village of Ossining code to have has a chapter for bees and apiaries. I think it's also think it's something that the Town Board is looking into as a base. So hopefully the guidelines that we used for the application.

**James Blair:** Which is for horses but can you define for me someplace in the in the ordinance, where temporary variances are authorized?

**Sal Carrera:** There isn't any.

**Jorge B Hernandez:** No.

**James Blair:** Okay.

**Sal Carrera:** We don't give temporary. We do not give temporary variances.

**James Blair:** That's my point Sal.

**Sal Carrera:** And just because the Village of Ossining has authorized it this is not in the village. We are in the Town. When the Town gets around to it, then I think we can talk professionally about this application. And maybe we will never have to talk about this if the applicant will be abiding by whatever the Town Board comes up with if like Mr. Lyons just stated, and I appreciate his honesty.

Is that, you know, one of the hives is 75 feet. What happens if the board comes up and says it's got to be 200 feet that's part of what they're working on now and that's why I come back to saying, you know, if you want to come in front of us for a use variance then come in front of us for a use variance and will be requesting everything that's a necessity to satisfy for a use variance. And like I said before, that is a very, very difficult variance to get approved because of the criteria.

**James Blair:** Sal, can I suggest that we put the matter over for, let's say, two months in order to get guidance from the Town Board?

**Sal Carrera:** Number one is that I think that's a vote that we take, you know, later on after we get some public input, unless the applicant at this time wants to withdraw and come back okay after to get additional information from either the building inspector or from our town attorney on how to move forward and or wait for the town to come up with their rules and regulations of what this local law will allow.

**Sal Carrera:** That's up to the applicant. I can't put words in the applicant's amount of what they want to go do but I'm just saying, I find it difficult, if not almost impossible for this board to vote on something that's not allowed in the Town of Ossining and we do not give temporary variances out.

**David Lyons:** May I say something, Mr. Chairman?

**Sal Carrera:** Sure.

**David Lyons:** Just to clarify, we use the Village rule in as a starting point and we most certainly are looking forward to whatever the Town comes up with and will accordingly do exactly what we have to do. It's really a situation of tell us what you want and we will do our best to complete it. If we can't do it, then we'll have to remove the apiaries. It's when I first started this process in talking about it. This was part of our previous application separated and the town board had not yet taken up the idea of legislation. That is just a new idea. And so, hoping and I did not know exactly what it couldn't be done as far as the temporary Variance, but I thought that that was a middle ground that we could work with. I certainly would like to, if our options are to get an opportunity to speak with the attorney as well and get the options that we have, but it sounds to me like I should pull this application and file for a use variance.

**Sal Carrera:** I can't tell you what to do. But I just want to make it clear to you Mr. Lyons, with regards to if you come back, you basically have a couple of choices.

You could pull this application and wait for the town board to come with the new local law for Bees. It can take a day, a week, a month. I have no idea, I am sure, or I'm hoping that they get sufficient background knowledge from those that are involved with bees in order to make a new local or an ordinance that that works for the health, safety and well-being of the residents in and around the beehives so that's number one. So you could pull this and come back and wait. Okay. Number two is that we do not, and again, I'll say this for the third time, we do not give temporary variances. And number three, I will read to you again what our town attorney told you is the criteria for use variance. Is that you, the applicant must demonstrate an unnecessary hardship.

By satisfying all of the following criteria:

The property cannot yield a reasonable return if used only for the permitted purposes as currently zoned.

**Sal Carrera:** The applicant must provide dollars and cents proof of an inability to realize a reasonable return under existing permissible uses.

The hardship resulted from unique characteristics on the property.

The proposed use will not alter the character of the neighborhood, and the alleged hardship was not self-created

You have to satisfy each and every one of them for a use variance

**David Lyons:** And please correct me if I'm wrong. The additional option is to go into the town board and filing an application.

**Christie Addona:** If you want something to be permitted that's not currently permitted, one option is the use variance the other option is petitioning the Town Board. Yes, those are your two options.

**Sal Carrera:** But the question I would have that I'm sure Mr. Lyons, because I would want to know also is that, particularly the town board to do what?

**David Lyons:** To create legislation for

**Sal Carrera:** But they are working on that already.

**David Lyons:** Well, that was sort of my conundrum was that when we started this they hadn't started to work on it? In the meantime, they have started to work on it. And the idea of going and asking for them to change the law was an option. Then it seemed to be redundant and I would be wasting everyone's time because yes in fact they are already working on this.

**John Hamilton:** I just jump in a second, how many meetings has the board had on this and how far they progressed on the law?

**David Lyons:** I have an email from Ms Levenberg. I believe she said that they were bringing it up in the last meeting, which was previously just a short time ago but that it would be being brought up in September and then yes, there would have to be a public hearing aspect. She was not encouraging to have something too quickly, but it also did not sound like it was going to take six months. It sounded like it would could be in short order before the end of the year.

**John Hamilton:** Yeah, see what it is, though, is that there is an open violation on this that we issued I don't exactly remember it was the end of June, beginning of July and quite remember. I apologize that there is a violation on the property and unless if you choose to go to the to the town board.

**John Hamilton:** We have to get something from the board telling us to hold that in abeyance because we don't normally just issue a violation and just let it fly in the wind. There has to be a recourse to it. So I think you would have to talk or possibly our attorney would have to discuss this. And something has to come from the town board telling me that they're going to do something. Otherwise, there is a violation on this property.

**Jorge B Hernandez:** Question.

**David Lyons:** Go ahead.

**Jorge B Hernandez:** There was a violation or notice to remedy or it doesn't really make me have 30 days to do something which we did. We applied for to be in front of the Board now.

**John Hamilton:** Notice to remedy.

**Jorge B Hernandez:** Is there an option to table this for two months and see and we can go to the board and work with both the Town Board? And then in two months we'll be back with the use various if the Board doesn't progress.

**John Hamilton:** Just to clarify that what you're receiving is an order to remedy a violation, which gave you 30 days to take action, which was to go to zoning. If the Zoning Board is going to hold us in abeyance for two months, then I have to ask Christie again, I have to yield to you, then the Zoning Board is taking responsibility for this if any problems should arise.

**Christie Addona:** Well I think if the option of going before the town board would see would be to a more affirmative sense of what direction they're going in. That might give the applicant and this Board some guidance. Because they haven't had, they have no law that's been drafted so

It's a situation right now with the violation being open so I wouldn't recommend putting it over for two months. I think that's a long time, given the circumstances and that the violation is open. If you wanted to put it over to the applicant time to go to the town board and see what the town board has to say about this.

**Dave Whitlinger:** So I'd like to say a few things. I mean, I think I mean, we know that there are many, many beekeepers across the Town of Ossining that's a given. We know that there are beekeeping meetings that are held them a Town of Ossining and that are encouraging more people to keep bees.

**Dave Whitlinger:** So the fact that we're sitting here. Yes, we recognize that these are classified as animals apparently in town code and therefore we're sitting here having a conversation about a violation, but there are plenty of bees being kept in the town and the town is actually behind of the 48 municipalities in Westchester almost all of them with exception of the town of Ossining and have passed the ordinance in order to make it part of the town code. So I think it's highly unlikely. That the town is not going to pass bee ordinance code here in the next couple of months. I think that there's a lot of representative code to use from all the municipalities in the area in order for them to very quickly adopt and draft something.

It's also very clear that if you were to remove these bees are essentially destroying the hives, you're not going to be able to transplant these bees millions of these without destroying this Apiary that's there in the middle right now of hunkering down for the winters storing all the resources to be able to ride through the winter.

So I would like to put in a motion that we are going to table this that the town is not going to take action against this Apiary until the town has passed new code. That that either approves or denies the ability to keep bees but that we table this conversation until which time the town has made a decision as my motion.

**John Hamilton:** As long as we understand as part of that motion to town zoning board is assuming complete, total responsibility for anything that occurs with a violation that's open.

**Dave Whitlinger:** That is my recommendation.

**James Blair:** Sal, I'd like to ask John, in my experience, and I've been on board for good many years. There are numerous instances where applications have been held over either for lack of lack of information for further consideration you know all the things that might come to mind that would justify a hold over, a deferral.

Are you telling us that in a lot of those cases that the board is therefore responsible for any problems that may arise over the

The hold over in time and so your, because I've never heard that raised before and it seems to me that it's, shall we say, unusual to cast the burden on this decision to hold over onto the board. It's not like where we're dealing with, you know, wild alliance well, walking around in a neighborhood.

**John Hamilton:** All right, I think I can answer that. This is extremely unusual that the board is decided to do nothing. Each time that you mentioned the board said I need a little more information and everything was moving forward in a positive fashion. The board just said we're not going to do anything, we're just going to leave it alone and let the town board figure it out at some point in time.

You're saying maybe they'll do it next week. From what I understand, and again Christie, there was one meeting, nothing's been drafted to discuss. Nothing's been drafted and this board is saying, well, we'll just leave it.

That's why to me, this is an unusual occurrence and I want to make sure that the Board understands that if this is an open violation where people go, we're just going to leave it alone, that if something happens, is there a chance it could happen maybe one in a million, I don't know, but if something happens, the building inspector is going to say the zoning board said to leave it alone.

**Dave Whitlinger:** How many times have people reported that these have been a nuisance in the Town of Ossining?

**John Hamilton:** It's not a question of how many times people report something. It's when people report something for the first time. We have to act on all complaints. Now you've made a point that there are Bees in the town. You've not mentioned where they are, you've just made that point. You know if you know this activity that's your business. If you come forward to me, I will act on it. But when we get a complaint we act on it when there's a violation we act on it. We don't look the other way. We don't treat one person differently than the other.

**Dave Whitlinger:** I wasn't suggesting that you do.

**John Hamilton:** I'm not saying you are. I'm explaining our position. My position is if there's a violation I act on it because my duty is the responsibility of protecting the town.

**Dave Whitlinger:** I was trying to get to, John, is that you're saying that the ZBA would take responsibility and all I was trying to do is measure that liability if there's never been a nuisance. If there's never been a case of bees being a nuisance and the town, then I would say that that risk is pretty low.

**Sal Carrera:** And as Chairman and I've done this for 35 years, this board, including myself, It's not taking any responsibility for self-created hardship on a piece of property, I feel very badly about the millions of bees that are there that may or may not have to be removed, but anything could happen.

**Sal Carrera:** Anything could happen. A child could walk back there unattended. Okay, and get a million bites and die and what is John going to do, they're going to come to the Zoning Board of appeals, I say "you did nothing" and I'm saying we are not taking responsibility.

We are not taking on the job of the building inspector with regards to violations and what they do or do not do to the applicant. So as of right now, I am saying we are not taking any responsibility and David, I understand your position, I fully understand your position since you used to raise them and like John said, if there is a violation and he knows about it, it is acted upon. Two wrongs do not make a right!

So at this stage of the game there is no ordinance in front of us and the applicant as a couple of choices. Is either take this application and go back to the drawing boards or come back in two weeks for a use variance or wait and see what happens with regards to the Town board and the public hearings and John he has to go do whatever he has to go do and if there is something that can be created with regards to a fine then that's up to John and the town board okay to work on. But this is self-created this has nothing to do with anything. It's what we, the board have to work with and the Zoning Board, and whether it's an animal, bee an owl. It's not listed And until the Town of Ossining changes that code this application, basically, is, you know, null and void because there's nothing to vote on they're not allowed to have bees there let them go to the town board and tell the town board telling us what to do. There's nothing we could vote on.

**James Blair:** I would suggest that is the applicant were before us with a variance and that there is not enough information that the board currently possesses to Rule them and use variance because there are there are a great, as you point out correctly, there are a large number of criteria that need to go into a granting a use variance. If that were the case, I certainly agree that the board should not, under any circumstances place itself and in the crosshairs of responsibility on this for whatever damages might or might not occur, but I do believe that if we had more information in the context of a use variance at some point down the road we might be in a position to say yay or nay, and I would assume that the building inspector would view that to deferral as just part of the ordinary course of business, is that correct?

**John Hamilton:** Just for the record with that when I received the application, none of that was on there and I returned it to them and told them that you need to be more specific and we received this back. So we did make them aware of that and the four criteria are included in the application.

**Sal Carrera:** Part of the problem, as I see it even going for a use variance, is that I have no guidelines to follow with regards to a criteria of what bees, how far away, how many, how many acres of property do you have to have?

I mean, we have nothing to work with. So even if he came in for a use variance and I'd be shocked if they succeeded and satisfying each and every one of them. But then again, you never know.

I would still say so give me something to work with, you know, one beehive is 75 feet and other one is 125 feet away. Maybe it has to be 200 feet. I do not know and until somebody tells me what the town board is working on and they need input from educated people when it comes to bees and I'm the first one to say I know nothing about bees, other than them being in every one of my bushes and plants in my backyard is that the bottom line is, is that they have to come up with something that works for the town if they mirror image The village, great, but I don't know what the village is because I haven't looked it up and I don't live in the village. I live in the town. So at this stage of the game Mr. Lyons, I think that he's, I think it should withdraw and come back with, you know, a different way different approach to this and deal with John and Town Board on this.

**Jorge B Hernandez:** John, I had a question if we go to the Town Board now so was suggested make a petition to the Town Board or actively petition to the Town Board we're trying to approach this. So it is in a faster try will that count words you know as trying to remedy this or.

**John Hamilton:** You know what I, what I would like to see happen JB is we get together and figure this out, what I'm thinking is you go to as Christie said you put a petition before the town board if the town board tells me we think this is viable and we're going to look into it and hold off until we make our decision. I'm more than happy to do that. Nobody's trying to punish him nobody's trying to take, we have to make sure that they follow code. We can't go on opinion. We can't go on feelings. A law, is a law, is a law, and that's what it is. If I start enforcing audiences based on my opinion. Then we're going to have problems. So I think you're good. I, whatever. If you decide to do something different.

We should get together. Maybe talk with Christie and see what step we could take to move forward.

**Jorge B Hernandez:** Unless Bethany, you know, unless Mr. Lyons says otherwise. I think then we probably will opt for that to withdraw the application and have a meeting with Christie and yourself John and put a petition to go in front of the Town Board and try to make sure that the Town Board acts promptly on this new law being into place.



**Tom Wills:** I'd like to just make a point information, I believe we have a motion on the floor, and that is to John.

For the record, how many other bee hives have been but given Your notice of not being compliant? It would be good to have in our record.

**Sal Carrera:** I asked that question a couple of weeks ago, I asked John

On the record how many other people have requested to put bees and there was none other than Bethany Arts. Whether or not, as Dave said, there are numerous, numerous people including himself that used to raise bees is that we're not aware of it.

And John is not aware of it. If he was they would give a citation. But, you know, at this stage of the game we can't go police every piece of property, you know, within the Town of Ossining and whether or not you know basically going to be allowed on, you know, a minimum of two acres or five acres or 10 acres. Yeah, there's no information here.

**Tom Wills:** Sal, all I'm asking for is a point of information.

**John Hamilton:** Tom, the first time I found out that there were a lot of beehives and when Dave mentioned it here because we've never had talk about beehives ever. Dave's the one who told us that there's a lot of beehives in the Town, otherwise we wouldn't even know it. Okay.

**Tom Wills:** I hear from you. So you have only one citation for a bee problem. I think that's what I'm hearing

**John Hamilton:** The violation there.

**Tom Wills:** Okay, I understand.

**Margaret Vondermeden:** Okay, may I say something. My name is Margaret and I'm the beekeeper at Bethany. And I just want to point out and speak a little bit for the bees.

If you have bees in your backyard currently, you will have a beehive. In a props of roughly about a mile around your house. So if you have bees in your bushes, you have a beehive nearby. We eat food every third by to that we consume all of us is because of the honeybee. Honeybees are not animals. They're insects and I and I'm only here to speak for the bees. It takes 500 stings a Bee does not sting unless she really has to and because she dies, it takes 500 stings to kill a child.

**Margaret Vondermeden** It takes 1200 stings to kill a human, this has never happened and it will never happen. So I just wanted to point that out that we need to know kind of that that honey bees also will go dormant in about two months, they will not fly in the winter. I don't see and I have not heard of anyone ever you know, getting in trouble with honeybees. These are not killer bees. These are not wasps. These are honeybees. And we need them badly.

**Sal Carrera:** Thank you for that little bit of education is always appreciated. Knowledge is power, as I always say. Thank you.

**Margaret Vondermeden:** Thank you.

**Sal Carrera:** You're very welcome.

So David, what do you want to do?

**David Lyons:** I would like to, as Mr. Hernandez said meet with Mr. Hamilton and the town lawyer and present a petition to the town board. Hopefully we can expedite matters, and they will be helpful in directing Mr. Hamilton.

**Sal Carrera:** Okay, Christie, do we have to do anything on our end that they're withdrawing their application now to the near future.

**Christie Addona:** Well, technically, this is a public hearing. If you're not going to be voting on their application, you don't have to open it up to the public. But if there's public here wanted to speak on this. I don't know if you want to. As far as them withdrawing their application, I think you could just do it by motion. Say we accept the withdrawal of the application.

**Sal Carrera:** I like to make a motion that we accept the withdrawal of the application.

**James Blair:** Second,

**Sal Carrera:** All in favor?

**David O'Neil:** Aye.

**James Blair:** Aye.

**David Krieger:** Aye.

**Dave Whitlinger:** Aye.

**Sal Carrera:** Aye. Show it unanimous that the applicant hopefully will either come back or not have to come back because it meets all the criteria for new beehives in the Town of Ossining. Again, thank you everybody for tuning in.

**John Hamilton:** Hold it, JB, are you going to be around tomorrow?

**Jorge B Hernandez:** Yes. Oh, in the morning. Yes.

**John Hamilton:** All right. You think you could stop in my office around 9:30 a.m.

**Jorge B Hernandez:** Oh, yes.

**John Hamilton:** Talk to me about 9:30 a.m. tomorrow. Let's see, we can do.

**Jorge B Hernandez:** okay.

**John Hamilton:** Okay. All right, thanks.

**James Blair:** Thank you, John.

**Time Noted:** 8:40 p.m.

**Bethany Amended Special Permit Resolution Discussion August 17, 2020**

**Christie Addona:** So we actually have the resolution also from last time for the board to consider.

**John Hamilton:** What you need me for that Christie.

**Christie Addona:** I incorporated your comments John.

**Christie Addona:** So just by way of background, the board was considering an application applicant for a special permit and was before the board to prior occasions. At the last meeting the board discussed, closed the public hearing deliberated discussed the various proposed uses that were part of the special permit took oral votes and directed me to prepare a solution based upon those votes. That has been prepared and circulated board for its review in advance of the meeting.

It's just for the board to consider formal adoption of this resolution and for the board to provide their input and any changes that they may want to make to the resolution. So I what I can do is I could share my screen. So that everyone can see it and then that the board can give me their comments as they deem appropriate in the board can discuss those changes.

**Sal Carrera:** Now let's take a look at your screen in the future. I'd like to have this before meeting so that we're able to read it and make additional comments.

**Christie Addona:** It was provided to the board last week.

**Sal Carrera:** Yeah, I know but then there were changes made, and we just got them.

**Christie Addona:** Yes, there were there were two changes and I can, I can bring those to the board's attention. One was with respect to the site plan.

**Sal Carrera:** Did we receive anything with regards to that?

**Christie Addona:** That was actually a question that is for the applicant. The board requested at the last meeting that the site plan be revised to show the actual dimensions of as opposed to just the tree line of those areas where the outdoor uses we're going to be, I believe, Sandy had reached out about revising.

**Sal Carrera:** Mr. Lyons, can you follow up with your architect, is he still on?

**Jorge B Hernandez:** I'm here in and I believe we do have that on the drawing, but I will double check.

**Jorge B Hernandez:** We do have dimensions provided for the site plan, but it does not the one the record. We can provide again, that's not an issue.

**Sal Carrera:** Alright, can you do that tomorrow.

**Jorge B Hernandez:** Yes. When I go me with John I can bring that with, know, those dimensions.

**Sal Carrera:** Okay, Christie, what was the other items that Jim and John questions with regards to the original resolution.

**Christie Addona:** There was one thing that John brought up that is if the applicant, if it's determined that the applicant does have to go to the planning board and the planning board makes any changes, that wouldn't invalidate the Board's approval. So I just included some things that it's based upon the site plan, except to the extent that if it is amended by the planning board as part of any subsequent approval required as a result of this resolution, and then Sandy pointed out that the structures are pre-existing non-conforming as to height so I revised the resolution to indicate that.

**Sal Carrera:** And where's the language on that, because I had similar questions with regards to that?

I really think it's the purview of the planning board with regards to any environmental or SEQRA or traffic studies because it does change the approval we're giving. It's changing the whole original character of the special permit that we gave a number of years ago. I'm almost sure that the Planning Board has to get a copy of this to see what they have to say.

**Christie Addona:** They will, I mean this this will be reviewed by the building department and it'll be determined whether to go back to the planning board.

**Sal Carrera:** And that's going to be a John's decision.

**Christie Addona:** We'll discuss it with John and Valerie Monastra the Planner.

**Sal Carrera:** Okay. The other question I had with regards to the various dates from June 15 of September 15. Camps usually are over by the end of August, no matter what you do, especially since this is for summertime and not after school activities but for summer camp.

**Christie Addona:** Okay, I just wasn't, I was trying to indicate that it was a summer use.

**Sal Carrera:** Yes, when school starts, if they ever start, but it's not September 15.

**Christie Addona:** Okay, so what would the board like to see instead?

**Sal Carrera:** I think it should be August 31<sup>st</sup>.

**David O'Neil:** I would agree with that.

**Dave Whitlinger:** I think Ossining traditionally starts on the first day after Labor Day so, yes.

**Christie Addona:** So do you want to use labor as the date? So, it's fluid with each year.

**Unknown Speaker:** August 31<sup>st</sup>, he just said it.

**Sal Carrera:** I'm good with August 31<sup>st</sup>. All in favor of August 31<sup>st</sup>?

**David O'Neil:** Okay with august 31<sup>st</sup>.

**David O'Neil:** Aye.

**James Blair:** Aye.

**David Whitlinger:** Aye.

**Sal Carrera:** Aye.

**Christie Addona:** Okay, sorry, it's hard to see everyone when I'm sharing my screen, that's everyone, that's okay?

So, Sal yes, David O'Neil, yes, Jim? Dave Whitlinger, yes, and David Krieger?

**James Blair:** Yes.

**David Krieger:** Yes.

**Sal Carrera:** That's okay, no problem. August 31<sup>st</sup> okay with you?

**Sal Carrera:** Okay, it's unanimous.

**Christie Addona:** Okay, thank you.

**Sal Carrera:** Any other questions or comments, Jim, do you have any?

**Christie Addona:** Well Jim, you had some comments. So do you want to go through what your comments were?

**James Blair:** They were for you Christie and if you don't think they're worth mentioning, now we'll just assume that you know I'll go with your take on this.

**Christie Addona:** I think some of them made sense. There were some that I wanted to leave in just because what I was trying to do is make sure that we were still linking this to the Not for profit philanthropic organization use.

**Sal Carrera:** Yes, that is definitely you know this is what this is all about. This is not changing any you know area use anything like that. This has to be with this philanthropic per the original application and a special permit for these uses.

**Christie Addona:** So one of the things that Jim had brought up was in section two b, which I'm highlighting right now the Camp shall operate only between the hours of 8:30am and 4pm Monday through Friday, which hours include preparation for the camp in the morning and breakdown in the afternoon. Jim and suggested removing the breakdown information to give the applicant, a little bit more time throughout the course of the day after the children are picked up.

**James Blair:** I would and I stand by that but it's just really a suggestion that you know I'm not sure that that the board came down and Foursquare, one way or the other on it, but breakdown.

**Sal Carrera:** I understand what you're saying but, again, I think we're going to head over heels on this. This is still a residential area. This is still summertime. This is still camp. I think 830 to 4pm is the right timing.

**James Blair:** Including preparation?

**Sal Carrera:** Yes, exactly the way it is.

**Dave Whitlinger:** Not sure that's the spirit of what we discussed when we last met because I think the timing on the date of their hours was really trying to tie it to when parents would likely drop off and when parents would likely pick up and

**Sal Carrera:** That that would, that was with regards to, after school activities not summer camp.

**Dave Whitlinger:** Than that was summer camps out because, you know, parents, usually work during the day. And so they're dropping their kids off at camp in the morning before they go to work and picking them up after work in the afternoon. And so at least I think the conversation. I remember David O'Neil is part of this conversation as well that you know we talked about you know, the hours being such that, you know, parents could drop the kids off and then get to work and then they've got to be able to get there after work and so I thought that what we had talked about was that 8:30 time was the time camp is starting and the 4:00 pm time is when camp is ending but that's not inclusive of time necessary to setup and takedown

**David O'Neil:** But I think the setup and takedown and should potentially be hours on that because you don't want somebody like hammering to put a stage together or something at 7:30am to get ready for kids, showing up at 830 or whatever.

**Unknown Speaker:** Get ready to go, everybody's up in the morning, what's the difference?

**David O'Neil:** Is this section open to the public?

**Christie Addona:** No, it's not.

**David O'Neil:** Okay, thank you.

**Sal Carrera:** Yeah. What did the Board want to do?

**James Blair:** Could I ask, Sal, if David Lyons could give us a suggestion about how much time he needs to set up and break down the camp days.

**David Lyons:** It would be great if we could start at eight o'clock in the morning and I can assure you there would be no hammering of stages, but I'm fine with 8:30 am if we could make it a little later 4:30 pm just to give those parents the extra few minutes

**Sal Carrera:** I'll agree it is David since you're bending over backwards 8:30 am to 4:30 pm but that's it. This is still a residential area and this is still camp during the summertime. So I'm okay with 8:30 am to 4:30 pm.

**David Lyons:** That would be great. Thank you so much.

**Sal Carrera:** My board members.

**James Blair:** I agree with that.



**David O'Neil:** That's fine.

**Dave Whitlinger:** That's fine.

**David Krieger:** That's fine agree, yes.

**Sal Carrera:** 8:30 am to 4:30 pm

**James Blair:** Another item I raised, Sal, was I, I don't know why it is that we have to have in our resolution that that this that this operation be providing scholarships, as some sort of a standard by which the variance will stand or fall.

**Sal Carrera:** That was part of the philanthropic part from David that they gave numerous conversations with regards to how many they've done and that fits into the philanthropic which I think very, very, very important. Other than just a business model here because when you do philanthropic and David is paying for it through His donations or fees or wherever he gets his income from I think it's important that that is kept in I don't think that we have a right to say how many, but we know from what he did, you know, the first couple of years, which was probably like a dozen so I think that should be kept in with the philanthropic part of his organization.

**James Blair:** Again, so could we ask for input from the applicant since he's there.

**David Lyons:** As Sal said, the, Mr. Chairman explained this is part of our mission is to, you know, create situations and especially for kids under served I would prefer not to put a number on it, but I can assure you that there will be, you know, it's for I mean I'd really, you know, we do have bills to pay. So I'm thinking can we do like a 15% of applicants type, you know, participants.

**Christie Addona:** There's no number on it. This language was in your submittal.

**David Lyons:** Looking for a number I can give you a percentage. If we could work with that, but I can assure you that anytime you come to look at our records should you choose. We will gladly show you that several kids if not many kids have been scholarship.

**Sal Carrera:** Have you had any in the past two years?

**Abby Lewis:** Okay, I apologize, Mr. Chairman, but David, do you mind if I, if this is me. Do you mind if I say something, a suggestion?

**David Lyons:** Yes, this is our Managing Director

**Abby Lewis:** Thank you. So Christie, I would suggest that instead of it, you know, maybe we should say that the applicant will make scholarships available and that's really in the spirit of what we're talking about. And I think it gets us out of the circle of the Zoning Board prescribing precisely the operations and business model of the philanthropic organization that should be in my view that ought to be left to the organization. I think that puts the Zoning Board in good stead.

**Abby Lewis:** And at the same time ensures that we're all keeping in the spirit of what we're doing here, which is a nonprofit philanthropic organization.

**Sal Carrera:** And an answer to that, okay, since this has always been since day one, philanthropic and not just a business model, it's that David has put on record over the past couple of years. How many children from depressed areas receive scholarships, and even a brother or cousin of one of them that you know you didn't intend to give what you gave any way. But again, correct me if I'm wrong there were there 12 or 15 David?

**David Lyons:** We had 10 the first year and 11 the second year in our summer camp with our one of our after school programs. We had 36 out of 40 scholarships, I would have to look into some other records about some of the other after school programs that we had. I don't have those numbers handy. I apologize.

**Sal Carrera:** You don't have to apologize. No problem.

**Christie Addona:** I just want to be clear, I did take this information directly out of the applicant's submission this didn't just come out of thin air. What the board had discussed was approving what was presented as presented by the applicant with subject to these certain conditions and that's where I got this information but, it can come out, as the chair mentioned, I was trying to link it to the use. There is no number. It's just the concept of the way it was presented that these children from River Fund are coming because they they're being provided with them.

**Sal Carrera:** Scholarships.

**Christie Addona:** And to the extent they need it.

**Dave Whitlinger:** Alright, I have some comments when you're ready Christie.

**Christie Addona:** Okay, so is the board okay with the applicant shall make scholarships available to these children. Is that language okay?

**James Blair:** Christie, how would you interpret just as a legal matter, how would you would interpret the word "these" would that

**Christie Addona:** It's a subset of the River Fund discussion. So with respect to the children attending the camp from River Fund the following conditions will apply.

**Sal Carrera:** I will try to put some languages as similar to a previously awarded over the past two years. That doesn't give it a number that doesn't give it a percentage but as previously.

**Christie Addona:** Shall continue to make scholarships available. How about that?

**Dave Whitlinger:** I'll leave it like that.

**James Blair:** Yeah, I'd agree with that. Yep.

**David Krieger:** Yep. Sounds good to me.

**Sal Carrera:** Onward.

**Christie Addona:** And then one of Jim's other comments was for Artoberfest, to give the applicant some flexibility in setting up. Before the board had discussed allowing breakdown activities the next day, so to do something comparable and allowing setup in the, in the days prior to the event.

**Dave Whitlinger:** Yes.

**James Blair:** Thank you.

**Sal Carrera:** Yep. Okay.

**Christie Addona:** So I'll just add that language. We don't have to do that right now.

**Sal Carrera:** One day a year.

**Christie Addona:** Right.

**Sal Carrera:** Jim, do you have any more?

**James Blair:** No, sir.

**Sal Carrera:** Thank God. Okay.

**James Blair:** So I'm not sure I like that.

**Sal Carrera:** That's okay. Jim you'll get over tonight. Jim, you had some comments?

**Dave Whitlinger:** I have some comments.

**Sal Carrera:** David

**Dave Whitlinger:** Yep. Thanks. Sure and if we're going to put Quidditch in and it is a capital Q, but I was kind of questioning whether or not we should, I guess that's actually drawn on the site plan. So that's why we're calling it the Quidditch pitch and not something more general.

**Christie Addona:** Yes. Yeah, that's how it's identified on the site plan and that's also that so the discussion of where the activities are going to be for each use is was also taken out of the applicant's submission. So I wanted to make it consistent with the terminology and the site plan and also how the applicant discussed it in their submission.

**David Lyons:** It was for delineation of the different areas. Quidditch will be where it is at all times.

**Dave Whitlinger:** Yeah okay. And then in similar fashion. There are other places where we use proper nouns, such as Theater O, in Artoberfest and I wanted to wonder to know if we wanted to be more general. Let's say that, you know, in three years from now, maybe they figure out that Artoberfest is a copyrighted thing and you have to change it to, I don't know Arts in October or something like that, you know, do we want to be that specific, do we want to call it the art event in the fall, or something more general and not be using that proper noun similar with Theater O, let's say, years down the road that some sort of outdoor painting camp or something, instead, do we want to be so prescriptive?

**David O'Neil:** I mean I think since the special use permit doesn't go for that long, I think, for it to me. It makes sense to keep the specific names of the intended you know organizations that are that are doing these activities so that there's no confusion if somebody comes in with another name and it's doing exactly the same thing. And that you know it you know it gets revisited in, you know, two to three years on a regular basis, anyway.

**Sal Carrera:** I agree with that and all the applications and all of the determining language and all of the paperwork that has been sent to us has all of these names and so I just like to leave it alone without revisiting all of it.

**Abby Lewis:** So, this is Abby Lewis again, the paperwork specifically, said, these were examples precisely for the reason just suggested. So if for some reason Theater O, next, you know, in another year or two is doing something different and there's another theater program or another arts program. We really don't want it, you know, to come back, just because there's another name of an organization so that we were, we tried to be very clear about that in the application. Certainly the guidance about the number of participants in the hours and that is a philanthropic purposes. All of that is exactly the same. But I think as Dave suggests it would be in the spirit of what was asked for in the prior discussions to remove the specific name.

**Christie Addona:** It's still an outdoor children's theater camp right? Is that concept changing?

**Abby Lewis:** No. There's no change there, so it's as we had asked for, for outdoor theater program. And that's right. It said Theater O was an example of the program. So I think the way you know one suggestion of doing this really quickly might Christie just be for example, Theater O, in your parenthetical which would make it clear to tie to what our submission was while at the same time also making it clear that the spirit of that submission and what we said is, that's an example of an the current program that we had in mind.

**Christie Addona:** Is that all acceptable to the Board?

**Dave Whitlinger:** That seems to be in alignment with the conversation. Was similar language used for Artoberfest, or was that also specifically referring to or was Artoberfest used as an example in the application.

**Abby Lewis:** It was, but I think, you know, Dave, you raise a valid point it for some strange reason, we discovered, there's a copyright infringement. I certainly doubt it's, I hope it's not people's intention that suddenly that would become a non permitted activity if we had to call it something else, it's probably pretty unlikely but you raise a valid point.

**Christie Addona:** So this is how it's kind of categorized, Artoberfest an annual interactive artistic experience. Is that better?

**Dave Whitlinger:** Yeah, I think that gives flexibility, if something happens. So we're not all

**Christie Addona:** I understand and I don't think this board, you know, if the name changes I think it's more the more the concept of regulations is that's how it was presented in the application materials and that's what I was working on. But I think that's find.

**James Blair:** I think it's also an efficient use of the board's time

**Sal Carrera:** Any other comments with regards to what Christie has drawn up.

**Dave Whitlinger:** That's all I have.

**David Krieger:** No, not for me.

**David O'Neil:** No other comments.

**James Blair:** No other comments.

**Sal Carrera:** Okay, Christie I guess do you need a vote on this?

**Christie Addona:** Yes and if we do it as a role call so that we're perfectly clear and then I will make those changes and we'll get a final version to sandy into the applicant.

**Sal Carrera:** Okay, we have a roll call on approval of the resolution and the language that Christie has put forward for BAC.

**James Blair:** I'll move it.

**Dave Whitlinger:** Second,

**Sal Carrera:** All in favor.

**James Blair:** Aye.

**David O'Neil:** Aye.

**David Krieger:** Aye.

**Dave Whitlinger:** Aye.

**Sal Carrera:** Aye.

**Sal Carrera:** Okay.

**David Lyons:** Thank you very much.

**Sal Carrera:** Thank you. Okay. Meeting is adjourned. Thank you for your participation.

**Time Noted 9:06 p.m.**