

TOWN OF NEW BALTIMORE – COUNTY OF GREENE
Planning Board - Regular Monthly Meeting
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The meeting was called to order at 7:00 p.m. by Vice Chair Ann Marie Vadney followed by the Pledge of Allegiance. Other Board Members in attendance were Joseph Caputo, Jean Horn, Bob Court, Rob Van Etten and Pat Bruno. Chair Kathy Rundberg was absent due to a family commitment.

Lands of OGS/Zacek

Present was the Zaceks' attorney, Joe Deily, who advised the only reason he was present was because the Town's attorney, Tal Rappleyea, had asked him to come. The Zaceks did not have an application before the Board and would not be submitting one at the present time. Mr. Deily explained that he thought Mr. Rappleyea thought there were some questions and Mr. Deily further thought there was some confusion on the part of Scenic Hudson which doesn't really seem to understand what the State is doing. Once the Zaceks have the matter resolved with the State, they would be back before the Board with a subdivision plan. They are not in a position to go forward at this time.

Essentially what the State has done is it has issued letters patent for four lots and they have already filed them. Unlike your typical deed transaction when you are operating under the Public Lands Law, the title transfers when the Attorney General files the papers with the Secretary of State. That has now been done and title transferred. Nothing is on file with Greene County yet. There are four deeds. The Zaceks were waiting to see what they looked like because the letters patent often have conditions or restrictions in them. They did not know what to expect since the last one issued in Greene County was 65, 70 years ago in the Catskill Creek area. The letters patent have now been received and they look like deeds to four separate parcels. Mr. Deily had spoken with Real Property Tax Service and their position is they are going to map those as four separate parcels when those deeds are recorded.

Mr. Deily emphasized that is not what we really want to do so the plan is, which Mr. Deily has discussed with Mr. Rappleyea, to go ahead and convey the parcels as soon as they are recorded. They will be combined with a parcel that already exists so there will not be new tax map number for four new parcels. Just one parcel will be added. When that is completed, they will come back to the Planning Board with what the upland owners have in mind. Mr. Deily didn't understand how it had even gotten before the Planning Board because there really is no issue here or anything to be decided. It was explained it was as the result of a telephone call received by the Planning Board Clerk. It was clarified that Mr. Deily was representing the Zacek's. Scott Longstreet, who had been in discussion with our Town Attorney, was an attorney for Scenic Hudson.

With regard to the issue of the undersized parcel as discussed at last month's meeting, Mr. Deily explained the State Subdivision Law does not come into play. When the State does something under the Public Lands Law, they can convey parcels in any size or shape that they want. This Planning Board has no jurisdiction over anything that the State does. The letters patent are already filed with the Secretary of State. The minute the deeds are filed with Greene County, all will be transferred to another piece. Four separate lots are not wanted; it does not make any sense. They are odd sizes. The property is meaningless because the property in question is all an area that was filled in the 1930's between the mainland and the island. There is a very steep bank on the west side of two of the parcels. The four lots the State is conveying are going to be combined with one existing lot.

Question was raised as to why the State would want to put it into four parcels. Mr. Deily explained the State has a policy that when they convey public land, in this case lands under water, they will only convey it to the upland owner. The reason being the property owner has some easement rights over the property to begin with. The situation on the ground varies tremendously. There are places here in the Town where there are over 500 feet between the original shoreline and the water. When a deed is received, it says to the Hudson River, not to the water. You go to the high water mark which may be 400, 500 feet. There is an area down in the hamlet behind the old Post Office, if you look at the old maps, there was another street down there parallel to Mill Street which was washed away. The whole street and buildings are gone. So it changes. The State always has this policy because they are not going to sell to a third party who is going to interfere with the rights of the upland owner. Once the upland owner gets it, if he wants to convey it to somebody else, that is his business. The State does that so they do not prejudice anyone. They do it on the river, on the lakes, anywhere else where the State grants.

Ms. Vadney commented at the last meeting it was commented that OGS supersedes any of our rules and local laws. Mr. Deily responded that his clients were going to solve that problem for the Town. They will be taking the small lots, making them all one, the Town will have complete control over it and it will be dealt with on that basis through subdivision. Mr. Deily was thanked for coming and advised that he

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had answered many of the existing questions since the first e-mail. Mr. Deily explained that he believed the underlying problem here was that Scenic Hudson was afraid that when the State issued the documents, they were going to have included conditions in them that may have required them to combine them with other lots or do other things with them. The Zaceks did not know what was going to happen until we saw them. Scenic Hudson's concern about that was what I think generated a lot of these issues.

Ms. Vadney commented that she did not think these are issues at this point. Question was raised as to whether Scenic Hudson was in the mix and concern expressed that they might be. Mr. Deily advised Scenic Hudson is not going to purchase the lots. They are going to stay right there and be on the tax roll with everything else. The Zaceks will not deal on that basis. The State does want a conservation easement and they will probably get that over part of it. That is how this whole thing got started any way because the State came to the Zaceks wanting some environmental concessions because of the way Alex Kriel had run the farm over the years. Normally, the State does not give these grants. They are very rare now days. They just won't negotiate with you; but in this instance, the State wanted something. That is how this whole thing came about. Mr. Deily was again thanked for coming.

NEW BUSINESS

New Baltimore Conservancy – Longview Park Event

Carol Melewski, Conservancy representative, came forward and presented copy of the flier for the Conservancy's September 17 event, which will be a repeat of the successful event held in 2015. Al Kash's band will also be playing again. Question was raised as to why they were bringing it before the Board at this time. It was explained that it was a condition of Scenic Hudson's Special Use Permit, part of the agreement. At the time of the approval of this Special Use Permit, the Town was dealing with issues with regard to loud music in the Town. The Conservancy, to date, has had no complaints about their music at this event.

WHEREAS, the New Baltimore Conservancy manages Scenic Hudson's Longview Park; and

WHEREAS, a condition of the Special Use Permit granted to Scenic Hudson for this Park, requires that any change in land use, more intensive activities on the property, including musical concerts, changes in existing structures and/or use of structures and management of the property from that of the New Baltimore Conservancy will be brought before the Planning Board for consideration; and

WHEREAS, representative(s) of the New Baltimore Conservancy appeared before the Planning Board at its June 9, 2016, meeting to advise the Board of its 2016 special event plans; ***NOW THEREFORE BE IT***

RESOLVED, that the Planning Board approves the Conservancy having music at its September 17, 2016, event at Longview Park.

Moved by: Caputo
Seconded by: Court

AYES: Caputo; Horn; Van Etten; Vadney; Court; Bruno
NAYS: None
ABSTAINED: None
ABSENT: Rundberg

Lands of Jay F. & Corina J. Skidmore – Lot Line Adjustment

Minor Subdivision Application for Jay F. & Corina J. Skidmore had been submitted by their authorized representative Frederick Ingraham for a lot line adjustment to move .10 of an acre from the Skidmore parcel, presently .60 of an acre, to the Ingraham parcel, presently .30 of an acre, which would make the Skidmore parcel a rectangle rather than L-shaped and would increase the rectangular size of the Ingraham

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parcel. The subject property is located on Acquetuck Road.

Mr. Van Etten questioned why should they even bother to apply since they are not subdividing? Mr. Court explained to him since we do not have provision for lot line adjustment in our Code, they are required to do a subdivision in this Town. Mr. Van Etten responded that there is no Town requirement, no Town Law that says that and he asked to be shown where it was.

Ms. Vadney explained the Town Attorney had read something to her today. Mr. Van Etten questioned if it was in Town Law? Ms. Vadney continued I was told that last week, that we have nothing on the books. She expressed her frustration in that she is being told something different every week and she was getting a little tired of it. She had told the Town Attorney that she was going to say to these people to go get your deed done, get your survey, file it and then notify us. We will have a form and you will notify the Town when you are doing that, so whoever is waiting for the information, for the tax information, will be aware of it. With the present procedure, she pointed out now this is going to take five months. We reject it, it goes to the Zoning Board of Appeals and they have to have a Hearing. Then it comes back to us and we have a Hearing. Mr. Court pointed out instances with regard to lot line adjustments and Mr. Van Etten responded and we shouldn't have had any jurisdiction over it.

Ms. Horn advised that along that same line she had been talking to the Town Board. She had questioned how come there is nothing in the Comprehensive/Zoning that you are doing regarding lot line adjustments; and she was told we don't have anything in our Rules and Regs saying that we have to do it. Her response was that that was a surprise because the Planning Board has been doing it for a year and a half. The Town Board has requested that the Planning Board make a formal request to Tal Rappleyea and ask him to put in writing exactly what we should be doing regarding lot line adjustments. The Town Board will then vote on it and give that decision to the Planning Board and the Zoning Board of Appeals. The Board will then know one way or the other.

Ms. Vadney continued that she had Mr. Rappleyea's telephone number here because she was not happy with what he had told her. Mr. Van Etten asked what she had been told. Ms. Vadney responded that she was told we would have to follow the process that has been being used for the past few years until there is something formal in writing on the record. Ms. Vadney added this is ridiculous. Ms. Horn responded that is why the Board is asking for Tal to give them something in writing so they can then vote on it and give it back to the Planning Board and the Zoning Board of Appeals. Mrs. Alfeld added thereby they can prove that there was legal expertise in the decision and incorporation.

Returning to the matter at hand, it was noted both of these lots are non-conforming lots, grandfathered in and that should be addressed too. No matter what these people do with these lots, they have to come before us if a lot line adjustment, if they even want to build on them they have to come. Mr. Van Etten advised that he was familiar with them. One lot goes back and angles around behind the other one. They both come square off Acquetuck Road. They just want to create two rectangular parcels. It was further noted basically what they are doing makes common sense. They are both less than two acres, grandfathered in from way back to the '50's or '60's, whenever created.

Mr. Van Etten again pointed out this is not a subdivision that they are applying for so I don't see why the Planning Board should have any say in it. Mr. Court commented on one hand, we might agree to this one; but the next guy might do something that does not comply with the Zoning Regulations that we have so when you open that door...I think that is why the Lot Line Adjustment agreement needs to be put in place so the lot line adjustments do comply with the Zoning Regulations. Ms. Horn then questioned when Tal writes this for the Board, should there be something included or does the State have something as far as how big the acreage can be? If it is 10 feet or 1/10th of an acre, that is one thing but what if it is an acre? Ms. Vadney responded that she didn't care if it was an acre or 1/10th of an acre, if it is a lot line adjustment and both parties agree and they are going to file the maps. It was pointed out when you are

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looking at 10 or 20 acres to be merged with another parcel, it is not a lot line adjustment.

All Board Members were urged to take a look at the proposed local law regarding the altering of lot lines and boundary line agreements that Mr. Van Etten had been asked to provide to the Board this evening and to get their comments to Ms. Vadney for forwarding to the Town Board. Ms. Horn questioned what does it matter, it is the Town Attorney's decision as to what is legal as far as lot line adjustments? Ms. Vadney responded that she thought there was flexibility in a Lot Line law in that you can set the amount of acreage involved before it becomes a subdivision.

Mr. Court questioned when two parties move a line are they affecting the party behind them who might have had that lot shown on their deed? How does that affect the neighbors? Ms. Vadney responded the most recent survey that is recorded is what is looked at so if there are two parcels that sign a lot line adjustment, it is the line between them that is changing, not affecting the party behind them. If anything is then done on the property after the adjustment, it has to still meet zoning requirements and go through necessary permitting process.

Mr. Caputo questioned whether property can be moved from one parcel to another making the one parcel now less than two acres, if in two-acre zone? He was informed that can't be done. Mr. Court cited from information he had obtained on line with regard to this that:

Parcels proposed to be created by the lot line adjustment comply with all applicable Zoning Regulations.

The Clerk advised the Board when this proposed adjustment was first brought up in 2011, she had checked with the Town Attorney at that time to see if such an adjustment would be possible since both parcels were less than two acres and grandfathered. The response received was that it was improving the shape of one, adding to the other, in essence improving the boundary lines in this instance.

With no further comments, Ms. Vadney advised we are forced to deny this subdivision application based on the current practice unless they want to take a chance, wait and come back in four months. Mr. Van Etten again commented there are no rules forcing us to deny it since there is nothing in Town Law to hang it on. Ms. Vadney agreed but it was her understanding that it was a past practice. The Clerk added it was the Town Attorney who advised us that we had to do it this way. It was then pointed out but now he is telling us differently. Town resident Ellie Alfeld added that is why it always best to get it in writing.

Attorney for the Town, Tal Rappleyea, was called on the telephone. Ms. Vadney explained to him the desired lot line adjustment for one-tenth of an acre to be moved between two grandfathered parcels under two acres. Ms. Vadney further commented that many of the Board Members would like his input since they are under the assumption that there is no written law that identifies that we have to deny this and send it to the ZBA. Based on our discussion this afternoon, you told me that there was something in our Zoning that would imply that we should do it this way until we have lot line adjustment actually in the Zoning.

Rappleyea: That is correct.

Vadney: Could you explain to the Board what that is so they understand and know what it is.

Rappleyea: Sure. In our Zoning Law and Subdivision Law, just like basically in every other Town, if you don't have Lot Line Adjustment, that doesn't dismiss you for subdivision covers even these minor situations. Even though you are not creating a new lot, you are starting with two and you are ending with two, you do actually have two different lots because they are configured differently. So, therefore, they have to be reviewed for at least the potential for environmental impacts or other kinds of changes. Even though you have two sub-standard parcels, what you are creating are two new sub-standard parcels so those have to be approved by the ZBA for a Variance because they are going to be smaller than the

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minimum lot size.

Vadney: So is it the lot line adjustment or the lot size or both?

Rappleyea: Well, it is a subdivision and a lot size variance.

Horn: They are already grandfathered.

Vadney: They are already grandfathered in as not compliant with the current size.

Rappleyea: As they are currently configured, correct, but now we are going to be creating two new parcels that are both going to be sub-standard.

Vadney: Okay, so they have to be. Rappleyea: Yes. Vadney: Okay.

Rappleyea: The Town Board is working on that, a lot line adjustment; and once that gets implemented, then we won't have to jump through all these silly hoops any more. We can just simply go ahead—they come in with their map, they show you their deeds, you stamp the maps and away they go.

Horn: I think we should tell him the request from the Town Board.

Vadney: Yes, Jean was speaking with Nick Dellisanti this afternoon and he wanted me to request from you a.

Horn: Formal written statement. Vadney: Formal written statement.

Horn: Regarding the lot line adjustment so then they can vote on it and then they can tell the ZBA and us exactly what we should or should not be doing regarding a lot line adjustment.

Rappleyea: So Nick is looking for a formal request from you folks? Horn: No, from you, Tal.

Rappleyea: From me: Oh, that is easy. All right, because I have already supplied them with basically an outline of what I have done for other Towns.

Vadney: Okay. That must be what I have in front of me. It says Town of New Baltimore, Local Law, Altered Lot Lines and Boundary Line Adjustment. It is three pages.

Rappleyea: Yes.

Vadney: Okay, all right, so you are the source of this document? Rappleyea: That is correct.

Vadney: So what I have requested the Board Members to do is review this; and within the week, provide us with comments in regard to this Local Law and then we will send them back to you.

Rappleyea: Sure, that would be great.

Vadney: And then you can take the next step with the Town Board with your recommendations. How does that sound?

Rappleyea: Now, we do have a Town Board Meeting Monday night. I know that is a pretty quick turn around but if you can get me your comments by then, we can maybe move things over. We can't have the Public Hearing on the local Law but maybe we can get it set for the following meeting.

Vadney: Does everyone think they can take a quick look at this? Okay, we will have those to you before Monday. We did discuss the number of acres and we will have something in our comments with regard to this local law as to how many acres, one or two, before it is considered a subdivision.

Rappleyea: Okay, Very good. That is excellent. Vadney: Thank you, Tal.

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It was moved by Court and seconded by Horn to deny the Skidmore minor subdivision application and refer them to the Zoning Board of Appeals for a Variance.

Ayes: Caputo; Horn; Vadney; Van Etten; Court; Bruno
Nays: None
Abstained: None
Absent: Rundberg

Mr. Vadney commented maybe they will want to hold off for a little while. It will save them a lot of trouble. It was noted again the process as it is will take at least five months and include two Public hearings. Mr. Caputo pointed out no one has been doing anything about this for 100 years. The people come to an agreement or they don't so why are we going to make this so we can't bend it or anything else? This right now gives us all hoops and movement. There are times like when somebody should, like with this one here, should be I feel made. The guys are trying to make a couple decent looking lots. I don't see anything wrong with it. Then there are going to be people who are going to try to bend it the other way. Once you put this down and have a lawyer put it in writing, it is going to be down the line. It is going to have to be that way. Are we causing more work for ourselves?

Ms. Vadney responded that she thought everyone should read the proposed local law first, just the first part of it isn't so specific that it will dig a hole for us. We should continue to look at it and send some comments to the Town Attorney, all the things that we have discussed for some consideration. Mr. Court pointed out that he saw a limit on how many lines can be moved at once.

Copy will be scanned and e-mailed and/or dropped off to the Planning Board Chair.

Minutes

It was moved by Caputo and seconded by Bruno to approve the minutes of the April 14, 2016, Hallock Minor Subdivision Application Public Hearing as presented.

Ayes: Caputo; Horn; Vadney; Van Etten; Court; Bruno
Nays: None
Abstained: None
Absent: Rundberg

It was moved by Caputo and seconded by Bruno to approve the minutes of the April 14, 2016, Regular Monthly Meeting as presented.

Ayes: Caputo; Horn; Vadney; Van Etten; Court; Bruno
Nays: None
Abstained: None
Absent: Rundberg

It was moved by Caputo and seconded by Horn to approve the minutes of the May 12, 2016, Regular monthly meeting as presented.

Ayes: Caputo; Horn; Vadney; Van Etten; Court; Bruno
Nays: None
Abstained: None
Absent: Rundberg

PUBLIC COMMENT - None

Correspondence

1. 5/10/2016 letter from Ruth Pierpont, Deputy Commissioner for Historic Preservation, NYS DEPT. of OPRHP, re: Stanton Hill Cemetery.

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The Stanton Hill Cemetery is now listed on the National Register of Historic Places as well as the State Register.

2. Green form return verifying filing of Hallock Minor Subdivision Maps in County Clerk's Office.
3. From Assessor Bennett, copy of April, 2016, Greene County Real Property Transfer Report.
4. Copy of Building Permit Applications: 3 Roof Top Solar; 1 Aboveground Pool; 3 Deck; 1 Front Porch; 1 Renovations; 1 Septic Tank Replacement

Solar Legislation

The Board Members have had in their possession for a while now a copy of Coxsackie's proposed solar legislation and it has been discussed at at least a couple of meetings. These comments need to be put into writing and be gotten to the Town Board prior to the Board's June 12 meeting. Mr. Caputo and Ms. Horn advised they had no problems with Coxsackie's draft.

Mr. Court advised it was a pretty strict law and advised that New York State provides a Unified Solar Permit. He explained with this, you get to customize it to the Town's liking. It gives a lot of assurances for quality, policing of the job, making sure people are not ruining their roofs and that all is code compliant. It also provides up from what is small generation to large generation. When it gets to the large generation, then Engineers and planners become involved to submit the information. It covers various concerns—public safety, how much weight can be put on the roof, can I block the chimney so fireman can't access the roof with ladders, weight load, snowload, etc. If you go on line, there is a list of Towns that have already adopted this. A Town puts in their logo and pretty much goes through the template and fills out what you want the people to do. If it is a small roof unit, the person is done after the first page. If questions are answered "no", then Pages 3 and 4 have to be completed. It is for the protection of the homeowners/property owners. It holds the contractor liable. You can see on line how the other Towns have tailored it to fit their needs. It becomes the actual permit used for applying for solar and a lot of it could be incorporated right into the Town Code. Copies were made and given to all Planning Board Members. Mr. Court further added if it is not on your roof but on a pole that is put in the ground, then that is another structure and setbacks, etc. have to be followed.

Ms. Horn recommended that a copy of this be forwarded to the Town Board as well. It was further thought that Mr. Court's comments should also be forwarded to the Town Board. Ms. Vadney cautioned if we rush to do this, it may not be the way we want it. Ms. Horn pointed out, it is not our rushing to do it, it is the Town Board voting on it. It could be brought up at the Town Board Meeting as early as this coming Monday.

Town resident Ellie Alfeld pointed out I am not saying this has to be done in a rush but the faster that you can get as much of it together the better because the Comprehensive Plan is being worked on and you want to get as much incorporated into one, instead of having additions and more additions. It was noted the Town of Greenville has its legislation in place and is already moving to amend it. The more you can get in it initially, the better. Everyone was urged to go to the New York State website. It contains the basic questions that should be asked and each Town can modify it as they see fit. All comments should be directed to the Town Board by Monday night.

Zoning Changes

Again all comments on the proposed changes to Zoning have to be in for the Board Meeting on Monday night. Mr. Court offered following comments with regard to the Zoning changes?

...There is a description for Rural Agricultural, Commercial, Hamlet Residential but no description for IND. He did not know what it was. It was believed to be Industrial but there is no definition for IND which would not be part of Commercial. If there is no description, then that column should be omitted.

...For Development large scale, you allow an acre, lot width of 50 feet but the side setback is 50 feet. For Development Multi-Family residential, in one place it says one acre, in another two acres and in the description it says three acres.

Draft: 7/12/2016
Approved: 8/11/2016

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...Further on, IND disappears.

...All setbacks in descriptions are different from what is on the chart. They do not match.

Ms. Vadney asked the Board Members to have their comments for the Town Board to her in time for her to put them together and send to the Town Board on Sunday night.

ADJOURNMENT

At 8:15 p.m., it was moved by Caputo and seconded by Bruno to adjourn the meeting.

AYES: 6 NAYS: 0 ABSTAINED: 0 ABSENT: 1

Respectfully Submitted
Marjorie B. Loux
Planning Board Clerk