

*Town of New Baltimore Zoning Board of Appeals
Regular Monthly Meeting
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The meeting was called to order at 7:30 p.m. by Chair Pat Linger followed by the Pledge of Allegiance. Other Board Members in attendance were Craig Albano, Jeff Carlson, Denise Taber and Brad Jourdin.

Correspondence

1. 7/31/2021 letter from Frank Orlando, Opportunity Developments, LLC, re: ZBA Review of Opportunity Developments Building Permit 2021-57. (This matter will not be coming before the ZBA, wrong jurisdiction to be heard.)
2. 8/6/2021 letter from Andrew Campanelli, Campanelli & Associates, P.C, re: The SG Rollout.
3. Copy of 9/9/2021 letter from Planning Board Chair Van Etten to Greg Barkstrom, LeChase Development Services, LLC, re: Parcels 40-04-2-6 and 40.02-2-4
4. Variance Application Packet from LeChase Development Services, LLC. (See meeting New Business for more with regard to Correspondence Items #3 and #4.)

Old Business

Sarah Pilatich – Area Variance Application

Present were Robert and Barbara Pilatich. Application had been presented at the July Meeting to allow for the placement of a home on a .27-acre lot on Hillside Drive in what is known as Scheller Park.

Mr. Linger advised that they have returned with the septic plans that the Board had requested. This is property that does not meet area requirements for a residence; they wished to construct a two-car garage with residence above (Mr. Pilatich advised that the plan has now changed to just a small residence.) over in Scheller Park. Since Scheller Park was built, between then and now, Codes have changed and the property does not meet the two-acre minimum that is required to be able to do that. Given the character of the neighborhood there, the properties are all very similar. They are on Village of Cocksackie water and have individual septic systems there already. It was the Board's request to the Pilatich family that they have an Engineer draft up a set of stamped plans for septic that would satisfy all requirements that they would have to meet in putting a residential space there.

Engineering plans were presented which shows the site (Parcel #40.02-3-16.1) in Scheller Park. It appears to be a pretty simple system with a 1,000 gallon septic tank, with four-inch sewer lines, [Several words not understood.] distribution tank, and two 35-foot laterals. Seventy feet of leach there. The plans are stamped by Engineer, Scott Allan Lane, from Palenville, certifying tht this is a sufficient system to meet Code. There are several notes, mostly boiler plate stuff, appearing on the plans and then some inclusions that would help to preserve that system such as some laundry detergents and other things that they recommend not go into the system. It was noted care needs to be taken, there is not a lot of space there if an issue should arise down the road where another lateral is needed.

Application was gone through at the July meeting. It was noted that it had changed a little bit since initially presented. The garage with residence above has now changed to a small two-bedroom residence there. Residence will either be 26x26 feet or 26x28 feet, under applicant's goal of 1,000 square feet. Required setbacks can be met.

Required Public Hearing was scheduled for 7:30 p.m., November 3. List of property owners needing certified letter notice of hearing was provided as well as copy of blue sheet outlining the notification procedure. Template of letter to be sent will be provided. It was explained the more information, explanation, put in the letter as to the reason for Public Hearing, the fewer questions these neighbors will have. Green cards, white receipts and any letters returned are to be brought to the Public Hearing.

New Business

LeChase Development Services, LLC – Use Variance Application

Present representing LeChase was Greg Barkstrom. Mr. Linger advised that this is going to turn out somewhat similar to an application before the Board some months ago. Site Plan Application had been submitted to the Planning Board for a medical office(s) project for Parcels 40.02-2-6 and 40.02-02-4 located on Route 9W. The property is zoned DMR, Developmental, Multi-Family Residential; the use the applicant is looking for is Commercial as a Medical Office(s), which is not permitted in the DMR Zone.

Mr. Linger and Mr. Barkstrom had spoken on the telephone. Of the two avenues discussed, appearance

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before the ZBA is probably the better and quicker of the two, rather than going to the Town Board to try to get the zoning changed for these few parcels that are down just the other side of the 9W bridge where the old TFR Restaurant building is. This is the option the applicant selected, coming before us. The Planning Board denied the Site Plan application based on the Code and sent them to the ZBA and the Board now has an Application for a Use Variance from LeChase Development Services, LLC, who will be under contract to purchase that property, before us.

... Parcel 40.02-2-6 which is three and a half acres and 40.02-2-4 which is 5.8 acres.

... The Type of Variance requested is for medical use within a DMR zone.

... The application is to allow medical use within that zone.

... Undue hardship that would be created is that the proposed project would be unable to proceed unless the Variance is granted.

... The Variance would not affect the character of the district. Neighboring properties uses include commercial, industrial and a mobile home park.

Necessary notarized letter of authorization is in file from current owner of property, Angel Radtke, for Mr. Barkstrom to be before the Zoning Board of Appeals.

Mr. Linger questioned what the plan is for the property/a synopsis of what you people are looking to do. Mr. Barkstrom advised that they submitted a conceptual to the Planning Board. It was kind of the strangest meeting I ever went to. I knew going in I was going to lose and I was okay with it. The plan here is to do a primary care and a physician's office building(s). I think the conceptual is about 40,000 square feet. I don't think we are even going to get there. Our thinking now is if we are granted the Use Variance I don't believe we will be back in front of you again to request a side variance or lot coverage variance. So again, we are in the conceptual stage. We don't want to spend money without the Variance obviously. If we are granted that, we will move forward and submit a Site Plan for Site Plan Review.

Mr. Albano questioned that if that is two pieces of property there and is that taking that house? Mr. Barkstrom responded no. It is the old restaurant and then the land adjacent to the restaurant. It was clarified that there are two parcels there before the occupied residence/house. There is also a ravine there. The TFR building is still somewhat there, with property very overgrown around it.

Question was raised if it would just be a medical facility and parking. Mr. Barkstrom explained it may be two separate buildings; it may be one. Obviously, we will know when we go to the Planning Board with the Site Plan. Question was raised if there would be an emergency care facility/urgent care facility included. Mr. Barkstrom explained that that would be called a primary care.

The plan is to combine the two parcels into one. LaChase is under contract to purchase. Question was raised as to whether there could be more than one building on a parcel; it was believed there could be in Commercial. It is not a residential use. This will be researched a bit further in the Code to confirm. Current application could be amended to allow for one or two buildings if need be.

Question was raised as to whether the same problem would arise as with the solar project currently before the Board with two different properties and two different setbacks. If combined that issue would be alleviated. It was noted not necessarily. We are talking about two buildings on one parcel here. With the solar, there are different property owners involved. It is their decision if they want one or two parcels and/or if they want one tax id or two tax id's.

Mr. Jourdin questioned who is LaChase Development and do you just develop medical facilities. Mr. Barkstrom responded the parent company is LaChase Construction Services which has been around for about 75 years. Located in Rochester, NY with seven offices throughout the state. In the last three years we have kind of branched out into the development side.

Mr. Jourdin further questioned so you do strictly commercial? Mr. Barkstrom responded mostly Commercial. He further questioned if they would be the owner of this building; will you sell it, lease it out? Mr. Barkstrom responded that the thought now is that we will own the land, build the building and lease out the building. Mr. Jourdin continued so you will be more than just the builder, per se. Mr. Barkstrom responded correct. We branched out into LeChase Development to start owning some stuff rather than just building and walking away.

Mr. Linger explained the other avenue that I had suggested as a potential was to go to the Town Board to see if they would look at the map, see if there was a change that they would need to make on the map.

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When you look at the maps in the book and on paper they are very, very small and it is very difficult to make out really what is what and what properties are what. It was believed that there were three properties on that side of the bridge that are listed as DMR. There are only a couple of properties in there. Mr. Linger further advised that he talked with some of the Town Board Members just to see if they had any insight as to what the thought process was in making these pieces of property on that side of the road all by themselves as DMR. They could not come up with a reason as to why they were there. They thought that the maps were actually wrong. It is very similar to what we saw with the residential variance; the Board approved where the district was changed from Commercial to Industrial and they didn't believe that it should have been; but that is up to the Town Board to change. He had made them aware of it and it was believed the Town Board was going to work on doing both of them. In the meantime, it was believed that was a longer process than what this would be; and even if this were turned down, if they moved Zoning a month later through the Town Board avenue and changed the Code, the Zoning, then it would again be available really.

Mr. Linger reiterated through the discussions he had had with some of the Town Board Members, they just thought the maps were wrong. They did not know why those few properties on that side of the road were listed as DMR. It is a small enough area to where when you are looking over the whole Town, re-doing the Zoning back in 2016, I could see where it could be missed; it was just a couple of pieces beyond where it was supposed to be.

Comment was raised that Diedricks didn't fall under that DMR and noted that Diedricks, through a land swap eight, ten years ago between the Towns of Coxsackie and New Baltimore is now officially in the Town of Coxsackie. It was believed the swap also affected Empire Merchants' property as well.

Mr. Albano advised when you read the definition of DMR, it gives you a lot of outs any way. Mr. Linger responded that it would give you a lot of outs other than the fact that a medical office is specifically not permitted in DMR on the Use Table. If you check the Use Table, you can put it under Commercial or Industrial. Mr. Albano continued but it says and/or large scale Commercial uses should be encouraged. Mr. Linger responded that is why this process and further pointed out it does not change the character of the neighborhood; there are dental offices across the street.

Mr. Linger advised Mr. Barkstrom, just more information for you guys, you may already know it; but with the difference between a Use Variance and an Area Variance, you guys have a little bit more burden to prove to the Zoning Board that you absolutely have to have this and that you did not create the problem on your own. When we have the Public Hearing and we have the meeting afterwards, somewhere between the two, we will need to make sure that you guys hit all the four points that have to be hit for a Use Variance. An Area Variance can be a consideration; a Use Variance is not so flexible.

Question was raised as to whether it was known what it was zoned when TFR was in business there. It was believed it was Commercial according to the Town Board Members that Mr. Linger spoke with; and for some reason, those couple of properties there on that side of the bridge changed to DMR. They did not think they should have been but they were and that is what this Board has to go by; that is what the applicant has to go by. The Board cannot change that; we just work with what is there; and generally speaking, unless something doesn't fit in the neighborhood, isn't making a really big change, especially if we are improving the property that is there, it can be considered.

When you come in, we will need to see:

- ...That the applicant can't realize a reasonable return provided that the lack of return is substantial as demonstrated by competent financial evidence, (Basically wouldn't be able to build.)*
- ...The hardship to the property is unique; does not apply to a substantial portion of the district or neighborhood.*
- ...The requested use variance, if granted, would not alter the essential character of the neighborhood; and*
- ...The hardship has not been self-created.*

Those are the four things that we have to see evidence of in order to consider a Use Variance.

With no further questions from the Board, Public Hearing was scheduled for 7:45 p.m., November 3. Blue sheet explaining certified letter notification process and list of surrounding neighbors to be notified by certified mail was provided. Green cards and certified receipts are to be brought to Public Hearing. Question was raised as to whether NYS Thruway Authority should be notified and determined they should be. Further noted also as part of reason for 239 referral, highway is within 100 feet, actually

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borders the one parcel. The Thruway is not normally that concerned with this type of construction but might be with regard to any sign that would cause any distraction.

Mr. Barkstrom questioned when the Board would vote on the application, would it be that evening? Mr. Linger explained it would depend on feed back but it was possible it would be taken up in the meeting following the Public Hearing and voted on. It would all depend on if concerns are raised that would take some extra effort on the Board's part or applicant's part to address. In that case, then the decision would be postponed until concerns are addressed.

Hannacroix Solar Project Update

The Clerk advised that the Planning Board is still awaiting acceptable subdivision maps to correct the non-conforming status of parcels on which the project is to be constructed once all approvals received. As previously noted it is not the intent of the ZBA to move forward on Variance approvals until such time as the Board has in hand evidence that the required maps and deeds have been filed at County level bringing the parcels into conformance.

Adjournment

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

Ayes: 5 Nays: 0 Abstained: 0 Absent: 0

Respectfully Submitted,
Marjorie Bronk Loux
ZBA Clerk