

TOWN OF NEW BALTIMORE PLANNING BOARD
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The meeting was called to order at 7 p.m. by Planning Board Chair Kathy Rundberg followed by the Pledge of Allegiance. Other Board Members in attendance were Ann Marie Vadney, Jean Horn, Bob Court and Rob Van Etten. Joseph Caputo and Patricia Bruno were absent.

J. B. Car Services – Special Use Permit Annual Renewal

Present on behalf of J. B. Car Services was owner, Jim Brockett. Memo received by Board following CEO Steve Mantor's visit to site was read into the record as follows:

I visited J.B. Car Services on May 3, 2016. I found everything clean and organized. There is no reason from the Building Department's perspective that their annual Special Use Permit should not be renewed

Mrs. Rundberg asked Mr. Brockett if he had any comments he wished to make. He advised the Board that he thought he had the place, front and back, looking pretty nice. In response to Mrs. Rundberg's question to Board regarding comments, Mr. Van Etten responded that we were lucky to have this place in Town to take things to. With no further comments at that time, resolution was read as follows:

RESOLUTION GRANTING SPECIAL USE PERMIT

WHEREAS, James Brockett is the operator of J.B. Car Service, Inc. located at 241 Flatbush Road, West Coxsackie, New York, bearing Tax Map #17.03-1-13 and;

WHEREAS, Mr. Brockett requires a Special Use Permit, renewed annually, and a Second Hand Junk and Auto Parts Dealers License, also renewable annually, to operate his Second Hand Junk and Auto Parts Business at the Flatbush Road location; and

WHEREAS, per resolution of the Town Board dated January 11, 2010, responsibility for the handling of his Special Use Permit was transferred to the Planning Board in accordance with Section 112, Article X of the Code of the Town of New Baltimore, and

WHEREAS, Mr. Brockett appeared before the Planning Board on May 12, 2016, for yearly discussion and renewal of Special Use Permit; therefore be it

RESOLVED, that the Special Use Permit is hereby renewed for a one-year period expiring June 30, 2017, with no additional conditions applying beyond those currently applying to the Permit.

Ms. Vadney commented that she would like to see the renewal be for more than one year, perhaps two or three years. The business has been in the Town for a long time and they have continually improved conditions at the site since she had been on the Board. There are all the regulatory agencies that are hovering over him on a regular basis. It was noted that the second hand junk and auto parts dealer's license has to be renewed annually. Mrs. Rundberg explained that she thought there was something in the Town Code and it was not the Planning Board's decision. It would have to go to the Town Board. It was the Town Board that had directed the Planning Board to do this. Further, it could open a large can of worms with all Special Use Permits. She did not think personally it was a huge hardship for him or his Yard Manager to come in once a year. Mr. Brockett advised that it is fine the way it is. He further advised that he had had a permit a few years ago to put up another two-bay steel building facing south on the Flatbush Road side of his property. He did not do it at that time but may look into going forward with that which would make that side of his property look even better with everything stored inside.

DEC had been to the site on May 9 and had taken photos because of the great condition of the yard which had made him feel very good.

Mr. Court commented that he would like to give a business owner who wants to make an investment more assurance than just one year. If he wants to put a building up, make a five-year investment and then have to come in every year to get permission to operate. Ms. Vadney felt, being a business owner herself, it should be looked into a bit further. You can have a business investment of \$100,000, \$200,000; and then depending on the Board, it could be cancelled at any time they want. She felt a discussion should be held about that at some point. Mrs. Rundberg will send a memo to the Town Board.

Moved by: Vadney
Seconded by: Court

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AYES: Horn; Vadney; Court; Van Etten; Rundberg

NAYS: None

ABSTAINED: None

ABSENT: Caputo; Bruno

Solar Collection System Legislation

Mrs. Rundberg advised the Board her personal opinion was that she did not like the legislation, did not see why we need it but rather legislation much smaller in size. Ms. Horn advised that she didn't see anything in the legislation that jumped out at her that she didn't like. Mrs. Rundberg continued it is not negative, not too restrictive. I just think it is another piece of legislation in our Town. I think solar farms should be treated as hay farms. When a farmer goes and leases some land to make hay, he makes an investment. He plows it, fertilizes it, seeds it and tends to it until he can make the hay; and no one requires any permits or there is no legislation for hay. I think personally with solar farms, it should be the same with the exception of a Site Plan Review, the CEO, the proper permits and I know there is a little building to transfer it into the electric which I understand; but, personal opinion, I don't see the need for that much legislation.

Ms. Horn responded that she tended to disagree with what Mrs. Rundberg had said because living in the country and if I had a solar farm coming in next to me, I would want a lot of safe guards to know that if something happened to it, there would be money in escrow to take it down again. With regard to fence, when we talked about it initially, I didn't see the reason to need an eight-foot fence around it but CEO Mantor explained it could be dangerous. I could go either way on that. Mrs. Rundberg further commented that she did feel it definitely should be fenced.

Ms. Horn continued I don't want to say it would be an eyesore but it would definitely be something to look at if it was to be located next door to your house. She emphasized that she thought there should be rules and regulations on it.

Mr. Van Etten questioned Mrs. Rundberg as to what parts of the legislation she disagreed with. She responded that she had agreed with Jean on fencing. She had talked to several solar companies and they all put up a fence. She continued that we are writing legislation that she did not feel was necessary. I think it is already done. The business is doing it; and to a degree, I don't think we should be our brother's keeper so much. It is buyer beware to a degree. If a person is contracting with a business to do this, I don't see that we should be the ones who are making sure he is safe and protected.

Mr. Van Etten commented that he felt a lot of it was geared toward protecting the adjoining property owners. I don't believe we should have so much regulation in New York State that it makes you want to choke; but I can see how some people could get hurt on it if it is done poorly. Ms. Horn added that there is quite a lot in the legislation to help the property owner himself or herself. I thought there were quite a few regulations as far as the escrow and things like that. You could have an unscrupulous person and you could be a farmer who just didn't realize what was happening. It was noted as with all businesses, there are good ones and others that aren't so good.

Concern was expressed regarding the location of some of the residential ground mounts (i.e. right in front yards) but that was the property owner's business and/or siting location that received the most sun. Ms. Vadney continued that she was not anxious to have as much criteria to have to follow; but with the farmer who puts all the pesticides on the property, I am more concerned about that with regard to my health than I am with solar panels. She further thought more discussion was needed after Mr. Court had had a chance to review it to see where the balance is.

Town resident, Ellie Alfeld, representing the public in Town, asked where she could get copies of the suggested legislation that is being considered so that she might know what was going on. She was advised that it is not the Planning Board that will be voting on it. The Town Board will have copies available at the appropriate time. Mrs. Alfeld further questioned will it not be until the day they vote on it? That was a question that would have to be directed to the Town Board. It was explained that there

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would have to be a Public Hearing prior to the Town Board taking a vote on it.

Mrs. Rundberg added that she felt the Zoning update process should be slowed down a little to include solar legislation as well as legislation with regard to lot line adjustments. The Clerk advised the Board that since commercial solar farms are not allowed in any district within the Town, a Variance would have to be obtained from the ZBA at present. In a recent telephone conversation with a solar company, the representative did not find having to go to the ZBA over burdensome and said that they were having to do that in many Towns.

Further discussion will be held on this after Mr. Court has had a chance to review the sample legislation. In Mr. Court's conversation with a Solar Company, he was informed there has to be 30 to 50 acres, a minimum of 30 to consider a sub-station and three-phase for transmission. Question was then raised do we even need to do this if we do not have three phase and then noted there is three phase in certain areas of the Town, northern end of Town, at Fire House on Gill Road and down Route 61, which is a scenic highway. It was not known how far into Town it came at the southern end. It was believed the electric company would gladly extend it but the person/company wanting it would have to bear the expense.

Lands of NYSOGS/Zacek Property

Situation at hand is the Zacek family is obtaining just over 25 acres of land from the New York State Office of General Services (OGS), land which was at one time the Hudson River channel between the mainland and Bronck Island. Many years ago, this channel was filled with dredging spoils creating land between the mainland and the island located at the end of Cole Lane, a private road off of Route 61. Because of riparian rights, the landowners abutting the OGS dredging spoils land, OGS can only sell those lands to the abutting landowner(s) necessitating the property to be transferred in four separate parcels of 20.02; 2.203; 1.335 and 2.069 acres. The three smaller parcels will then be deeded to Karl & Peter Zacek and joined with their 20 acres and then that entire parcel merged with the Zacek Bronck Island parcel.

OGS is taking the position as a State Agency that these parcel transactions can take place without need to go through the Town's subdivision process and/or ZBA approval process for the undersized parcel before subdivision can be completed. This matter has been directed to the Planning Board for discussion only at the May Meeting since none of the attorney(s) can be present to represent their clients at this meeting. They will be present at the June meeting.

The Board Members had been provided with the e-mails received regarding this matter. Ms. Vadney advised that she had read through them several times, had done research and then questioned why the Board was even receiving this? The Clerk advised that an additional e-mail dated April 19 to the Town Attorney had been provided to the Board this evening. This e-mail, which in oversight had not been provided, contains information covering the Clerk's initial discussion on the matter and the Attorney's response is shown as well. He also spoke with Mrs. Rundberg on the same day. Mrs. Rundberg was of the opinion that it needed to go through the subdivision process and Mr. Rappleyea was in agreement.

Ms. Vadney questioned subdivision of what and was advised the four parcels shown on the map and because they are under water does not mean they are not land. Ms. Vadney continued OGS is proposing the four separate parcels. The people do not own the parcels now but they are going to buy them. She then questioned who cares? It is none of our business. Why are we getting involved in a purchase of land that is underwater or on top of water? We are a Planning Board. That is their business. It was pointed out that it is no longer under water. It is land. Ms. Vadney continued this is a purchase between the private sector and the State of New York. We don't need to be involved in it.

It was pointed out that there is one piece of land that is going to be divided into four different sized pieces and go to four different people. Ms. Vadney continued if OGS wants to separate that property, I don't think the Town can override what OGS is doing. Mrs. Rundberg explained that Town Law supersedes all State Law. For property inside our Town, we supersede all State Law. Ms. Vadney questioned why would we want to get in the middle of a State agency? It was then pointed out we got in the middle of CSX and further noted CSX is not a State agency but rather Federal.

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Ms. Vadney continued by again questioning why would we want to get in the middle of that? Do we want that to come in here? Mrs. Rundberg responded they are separating the property. Ms. Vadney then questioned who wants OGS to come in here? The Planning Board is saying we want OGS to come in here and do a subdivision? Is that what we are saying? Mrs. Rundberg responded yes, because they are chopping it up into four pieces. It was noted it was no different than anyone else coming in.

Ms. Vadney continued then there is discussion in the e-mail about the right of refusal and the next 100 years. It was pointed out if we let this go by, the next person can come along and say why do I have to go through the subdivision process? You let them get away with it. Ms. Vadney continued and then it gets into too much information about the wife is buying it, the husband is buying it. It was then pointed out it didn't matter who was buying it, plus it has to go to the ZBA because of the size of Parcel #3, 1.335 acres. Mr. Court pointed out the reason they are subdividing it is it has to go to adjoining landowners. There are already individual deeds separating it, so that is why you have all these parcels as I understand it. It might be different owners but it is all separate deed numbers. Mrs. Rundberg questioned can't they make that one parcel two acres? Ms. Vadney continued the bottom line is 25.68 acres is going to be in Carl and Peter Zacek's name. Is that what they are ultimately doing? So it is the same owners of what they are calling the Bronck Island property.

Mr. Court then pointed out on the map that boundary line between Parcel #3 and Parcel #4 goes right through the buildings. He then questioned why would a subdivision line be put right through their buildings? Question was then raised as to whether it was a subdivision or easement line. Further question was raised as to who owns these parcels now? It was noted the State owns it and further clarified where this property is used to be water on the west side of Bronck Island. All the dredging spoils were put in there so it is now solid land; and per riparian rights, any transfer of land has to go to the abutting landowner to the west.

It was noted after these individuals get the property, they are going to deed it to Karl and Peter Zacek who will combine it with the acreage they are getting from OGS and then combine it with the property they currently own on Bronck Island. It was then noted and then Scenic Hudson is going to get it eventually. It is currently State property and not taxed. When in the property owner's names, it will be taxable; and then if Scenic Hudson gets it in the future, it won't be taxable again.

The Clerk pointed out to avoid the five-year wait after the subdivision, the subdivision map will have to reflect the intent for the property, it is going to the individual property owners, then to Karl and Peter Zacek for inclusion with their piece and to be added to Bronck Island parcel currently owned. Concern was again expressed regarding it going to Scenic Hudson. It was noted it did not appear it was going to Scenic Hudson now but rather they wanted to complete the easement negotiations by the end of June. Further, they do want the right of first refusal when for sale and/or if it was felt an unsuitable use for the land was being pursued.

Ms. Vadney expressed here concern that the Town better start looking at all this property that is going off the tax roll. Mrs. Rundberg pointed out if a property owner wants to sell their land to Scenic Hudson, there is nothing the Town can do about it. Ms. Vadney continued that Scenic Hudson is a "not-for-profit" but they have the authority to sell the property for whatever they can get for it.

Mrs. Rundberg polled the Board regarding whether the subdivision process needed to be gone through, with responses as follows:

Rundberg: The property needs to be subdivided. We are supposed to work together but that doesn't mean we don't follow the rules. If it was Joe Smith, he would have to do it; and for that reason, I am standing by the rules.

Horn: It would seem they need a subdivision unless there is old deed evidence that can be presented that reflects they are currently four separate parcels.

Van Etten: What is good for the goose is good for the gander.

Court: If OGS is subdividing land, why would they not have to follow the same process as everyone else? There is only one procedure.

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It was noted it would be a two-step process since it would have to go to the ZBA because of the size of the one parcel unless that parcel acreage is revised to at least two acres.

Vadney: They will need to subdivide.

Lands of Lauren Hallock (2016)

Mr. Court, who had accompanied Ms. Vadney on this site visit, apologized for being absent in April. He wished to advise the Board that he found it a bit odd that the surveyor had referenced iron pipes and used them for property markers and yet he wants to totally ignore the iron pipe setting over here that has survey tape on it as well. Ms. Vadney advised that she had failed to bring the working copy of the map used for the On Site in April but did indicate that she wanted it copied and given to the lawyers because Surveyor Hite had claimed he did not know what it was for.

Mrs. Rundberg advised that the maps had already been signed. Ms. Vadney responded that was okay but that she had made the point she was bringing this in so they would have the information. Mr. Court pointed out the issue could be if neighboring property owner, Rausch, should come in and say that he had been going from that pipe for the past 20 years and now it is going to change. If anyone is going to be hurt, it will be him. Ms. Horn questioned unless one of the landowners has an issue with it, why are we making an issue out of it?

It was noted the discussion is in the April minutes, a copy of the map is in the file and in response to Ms. Vadney's request, her commitment, that a copy of section of the map with the pin in question circled be sent to the attorney, Mrs. Rundberg pointed out it would be setting a precedent, reaching out, corresponding more than is necessary. Ms. Vadney continued for our protection, I want to be sure we tell them that we identified a problem. That she had made the commitment.

It was again noted that concern for this extra pin was already documented in the minutes and in the file and that Mr. Hilscher had commented in the meeting that it meant nothing. A letter will not be sent.

Minutes

Neither the minutes of the April 14, 2016, Hallock Minor Subdivision Application Public Hearing nor the April 14, 2016, Regular Monthly Meeting could be approved since there wasn't a quorum present of those in attendance at that April meeting. They will be presented again in June for approval.

CORRESPONDENCE:

1. 5/4/2016 memo from CEO Mantor, re: J. B. Car Services
2. 5/10/2016 e-mail from Attorney Tal Rappleyea, re: New Baltimore/Zacek Property
3. 5/11/2016 e-mail from Attorney Tal Rappleyea, re: New Baltimore/Zacek Property
4. From Assessor Bennett, copy of 3/2016 Greene County Real Property Tax Service Transfer Report
5. Copy Building Permits: 1 Inground Swimming Pool; 1 double-wide manufactured home; 1 roof mount solar panels; 1 sign update.

Proposed Zoning Changes

Copy of the Zoning section of the Town Code reflecting proposed changes had been e-mailed to the Board Members and hard copy was provided to the Board at this meeting. Mrs. Rundberg advised that she knew the inclusion of provision for lot line adjustment legislation would be brought up. It was felt there was a divided opinion that it was needed and it was not needed. If there isn't a deed description and clearly established line, then the legislation it is not needed. If there is a deed description and a clearly established property line, then it is needed. It would make lot line adjustments so much easier than having to go through the subdivision process.

Ms. Vadney commented that her position in all we do is the safety of the whole community as well as protecting the rights of the citizens. Mrs. Rundberg added safety and welfare comes first. Ms. Vadney

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continued a lot line adjustment is not a big deal hurting anyone. Ms. Horn pointed out it could be.

Question was raised as to whether there should be an acreage limitation to qualify for a lot line adjustment. The Clerk will reach out to the Attorney for the Town to see if any of his Towns have lot line adjustment legislation in their Code. Question was raised as to what the time frame was for the Town Board to have the comments back from Planning and Zoning; it was not known for sure but believed they wanted to start moving forward with the approval process in June.

It was noted that the 50/50 requirement of green space for subdivisions was being removed as well as the various Districts on 9W, returning it all to just Commercial which might make a difference. Arcas of the Code are being softened and changes made with regard to signs.

Town resident, Ellie Alfeld, commented we have so many laws on our books now. There are things that are not in compliance with these laws now and yet we are going to change some of the laws that we have, change the Zoning or modify our zones, and we are not even enforcing what we have. We have to do a better job at enforcement. Mrs. Rundberg responded we only have one CEO and he is limited to just so many hours which is not our issue. It is the Town Board's issue. Mrs. Alfeld continued that the changes are not going to make a difference if you don't have a good Town to come to. You get off the Thruway and you see nothing but junk. She questioned would you really want to put your business here to have people come to it? There is one site on 9W with a Special Use Permit with certain requirements that are not being lived up to, which could have bearing on house sales in that area. Mrs. Rundberg again commented it is not up to the Planning Board. We are not going to discuss it.

The deadline for Planning Board comments will be ascertained and discussion continued at June meeting if the meeting is before the deadline.

Adjournment

At 8:20 pm., it was moved by Vadney and seconded by Horn to adjourn the meeting.

Ayes: 5 Nays: 0 Abstained: 0 Absent: 2

mbl