

**TOWN OF NEW BALTIMORE ZONING BOARD OF APPEALS**  
**Regular Monthly Meeting**  
**February 1, 2017 – Page 1**

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, Kingsley Greene, Mike Meredith and new Board Member Jeff Carlson.

**Minutes**

It was moved by Greene and seconded by Albano to accept the minutes of the August 3, 2016, Skidmore Public Hearing as presented.

AYES: Linger, Albano, Greene; Meredith

NAYS: None

ABSTAINED: Carlson\*\*

ABSENT: None

It was moved by Linger and seconded by Greene to accept the minutes of the August 3, 2016, Regular Monthly Meeting as presented.

AYES: Linger, Albano, Greene; Meredith

NAYS: None

ABSTAINED: Carlson\*\*

ABSENT: None

\*\*Carlson not a Board member at that point in time.

**Correspondence**

1. From CEO Mantor, copy of 1/11/17 letter to Ms. Deborah Guarasce, Saxton Sign Corp., re: Drake Petroleum Co.

The Clerk advised the Board this letter is with regard to the Sunoco station south of the Thruway exit. They have a grandfathered sign that they want to change to incorporate a new Sunoco logo. In so doing, it will increase the size slightly over that of the currently grandfathered sign. They had hoped to be before the Board this evening but the Variance Application packet went astray in the mail and did not reach Saxton Sign Corp. in time to make the deadline for this meeting.

2. From Rob Van Etten, Chair, Planning Board, copy of 1/17/17 letter to Attorney Michael Biscone, re: Bristol Manor Assisted Living Facility.

**OLD BUSINESS**

**William Brandt/Bristol Manor Assisted Living Facility – Variance Application**

Present on behalf of the applicant was his attorney, Michael Biscone.

Linger: I think the last time we met on this was in March or April of 2015.

Biscone: March 4<sup>th</sup>, 2015, Public Hearing.

Linger: So I know we have at least one, probably two, members on the Board that may not have been here at that time, so as a brief overview, this project was actually several years older than that when it first came. It is down on 9W near the dentist office. The project is basically to put an assisted living facility, 54 beds I believe it was, and they need a Variance for the height on the building. Our Town Code limit is 35 feet; this building height, the way it is designed, is 38 feet nine inches if I remember correctly.

Biscone: Actually, we reduced it. It is 36.9 and your Code is 35. So we are one foot 9 and a half inches over Code.

Linger: Okay, so it came down from the original design.

Biscone: Yes and it is all related to snow load.

Linger: So at that time, there was a problem completing our SEQR and Environmental Assessment Forms because of Lead Agency status. We were all in agreement to pass that along to the Planning Board if they so choose to take it but they had to make that decision so we adjourned. We had a Public Hearing

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on the Variance Application here but we adjourned from there to await the decision by the Planning Board and the Planning Board has now gone ahead and has now made that decision. They have taken the Lead Agency on it for SEQR purposes and now the application comes back to us for a determination for the Variance. So that is kind of where we are at. The Public Hearing, itself, I don't believe we had anybody here from the Public.

Biscone: Correct.

Linger: On the Public Hearing. There were some comments that I had checked with the Board of Fire Commissioners and things like that. They did not have any problem with it as it was previously designed so we are back now to go ahead and make the determination on it. So if any of you guys who might not have been here have any questions.

Carlson: Marjorie sent me the minutes of the old meetings. I read those over the weekend.

Linger: Mr. Biscone is here so if anyone has any.

Biscone: We actually had a letter from your Building Inspector at that time, John Cashin, who reviewed the roof height and wrote a letter recommending that the Board consider granting the variance because of the slight defection. In his opinion, the extra height in the roof was needed because of the snow load in our area so that the roof would comply with our geography to carry the anticipated snow load. What had happened is, just as Pat said, we now have a negative declaration and an approved SEQR from your Planning Board. The Public Hearing has been completed here. The only question is that the Board at that time had asked for me to show an elevation scheme; and without unrolling those big huge things, here it is if you want to see actually what the elevation looks like. That was the only one remaining question that the Board had and then if anything else that you need for me to answer tonight, I am here for that purpose.

Linger: And it is actually not the whole building according to this. It is only a portion of the building that has 36 foot 3 and a half inch.

Biscone: You are correct. It is only a small portion.

Linger: And the rest of the building shows that 27 feet 10 inches so it is actually less area than what we had anticipated when this was here the last time.

Biscone: You are correct.

Greene: I guess I remember from the minutes somebody asking about the purpose of the space in the roof peak. Is that simply empty space or would that be?

Biscone: Yes, it was for the aesthetics of the building but to the fellow who designed it, this was a much more appealing building with this design and that roof. In order to accommodate the aesthetics of the building, it had to have that one foot something more of height; and the engineers and your building inspector at that time agreed that that was a necessary elevation. Anything lower would jeopardize the integrity of the building. You all know where this is going to be. This is going to be parallel with the Thruway. I won't say it isn't going to be visible from 9W but it will be from afar. It is going to set even further back from 9W than the two hotel/motels. I did both of those presentations.

You have the dentist office obliquely to the right and then further down the road to the left is the Best Western. There will be another building between 9W and this building to come. These two guys may know, you may have had an inkling. We were going to put a buffet restaurant there; and then I won't get into the corporate structure of that; but in any event, there will be another building between 9W and this building so the visibility of this building will be very minimal from 9W for two reasons. Number one is the intervening building in the middle and the very, very deep setback. This will be visible mostly from the Thruway.

Carlson: Two-story living?

Biscone: Yes, two story living.

Meredith: You did the Best Western and the RV Park, is that what you are saying?

Biscone: No, I did the Holiday Inn Express and the Best Western.

Meredith: But I am just saying this will be between the RV Park.

Biscone: No, no.

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Linger: This is between the RV Park and the dentist office.

Biscone: No. This is going to be between the Best Western and the dentist office.

Linger: Sorry, Best Western.

Mr. Biscone advised that there is going to be another large building between the 9W and the assisted living, and he was endeavoring to promote the possibility of a medical arts building.

Biscone: Here, we are here for this. If there are questions on the slight variation, please ask and I will try to address them as best as I can. It is old and what we are looking for is an approval and the granting of this variance just for that section of that roof for the reasons we stated.

Linger: The other question that I remember was the height of the windows or doors for the second floor; and according to the drawing here, to the low end of the gabled roof is 16 feet 6 inches so that is well under what the 24-foot ground ladder can reach.

Biscone: You had asked that question, yes.

Linger: I think that definitely shows what we needed to see or what we asked to see.

Biscone: That was the remaining question and you were the one who seconded the motion that night. Anybody else want to see this? Down there, you are all set?

Linger: All right. Anybody else have any questions or are you ready to move ahead on this?

Biscone: It is going to be very affordable. I have gone over the economics with my client and what the room charges would be, so on and so forth. It is going to be an affordable thing and it is going to be beneficial to the community. It helps to round it out. You just have that one area where you can have any development here. You all basically want the rest of this Town farming. That is great especially for the guys that live in the country; but you have just this one area so let's develop the one area that you are allowing.

Linger: Now do you have, this doesn't have anything to do with the Variance but do you have a requirement from the Federal end of things that provides a lower income housing?

Biscone: No.

Linger: I didn't know whether that was part of this or not.

Biscone: That was a good question that was brought up. I went down to the County Attorneys and they researched it quite thoroughly. No, we don't need any. We had set aside two rooms in the structure for that and I have now been told quite emphatically by Ed Kaplan, who is the current County attorney, that there is no such rule for this structure in this area. So that was fine. We have re-cut some of the rooms because of that.

Linger: Possibly because it is private money going into it.

Biscone: All private money.

Linger: I have been through this and all the questions that I had were answered. I am glad you brought those drawings tonight because that shows the building about two feet lower than what the original showed us. It will have a little less impact than what it originally would have. The rest of it is definitely accessible for what we need to do in an emergency situation. So does anyone want to make a motion?

It was moved by Albano and seconded by Linger that the Board accept the Variance.

AYES: Linger, Albano, Meredith, Greene, Carlson

NAYS: None

ABSTAINED: None

ABSENT: None

**WHEREAS**, William Brandt, wishes to erect an assisted living facility to be known as Bristol Manor, on his property located at 12514 Route 9W, bearing Tax Map Number 40.00-4-2.111; and

**WHEREAS**, the Town of New Baltimore has a maximum 35-foot height for structures and said structure requires a 36 foot 3 ½ inch roof at its highest point for purposes of snow load factor, William Brandt submitted application for Area Variance at the February 4, 2015, Zoning Board of Appeals Meeting; and

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**WHEREAS**, a Public Hearing, having been duly published in THE DAILY MAIL, was held on said application at the New Baltimore Town Hall on March 4, 2015, with no members of the public offering objection or negative comment; and

**WHEREAS**, required 239 was submitted to County Planning Board with response received that due to lack of a quorum, the County Planning Board did not meet and therefore local Board can proceed without County recommendation; and

**WHEREAS**, applicant's attorney and authorized representative, consented to an adjournment of client's Variance application and associated decision period to allow the Planning Board, as lead agency, to complete a thorough SEQRA review of the entire project under the Site Plan Application; and

**WHEREAS**, the Planning Board completed said SEQRA review and issued a negative declaration at its January 12, 2017, meeting; and

**WHEREAS**, with application now reactivated, the applicant returned to the Zoning Board of Appeals at its February 1, 2017, meeting; and

**WHEREAS**, after discussion by the members of the Town of New Baltimore Zoning Board of Appeals at its March 4, 2015, Regular Monthly Meeting and February 1, 2017, meeting, it was

**RESOLVED**, that the application for an Area Variance is hereby granted.

Moved by: Linger  
Seconded by: Greene

AYES: Linger, Albano, Meredith, Greene, Carlson  
NAYS: None  
ABSTAINED: None  
ABSENT: None

Mr. Biscone shared with the Board a little history of the parcel where this facility is to go. Fifteen years ago, it was proposed that a transfer station go on this property. He was hired by the neighbors and successfully opposed the project on their behalf. He was then hired to purchase the land and negotiated successfully the purchase of the land from the owners wishing to site the transfer station. The property has been divided with the Best Western on one parcel, dentists' office on another. The assisted living will go on another lot and then that will leave the one lot in the front where he had hoped to site a Cracker Barrel. However, even with being close to the Thruway exit, there just wasn't a sufficient traffic count for any of the franchises contacted. There will be one more building which the Planning Board will hear about. Mr. Biscone thanked the Board for its patience.

Mr. Linger pointed out that a lot of the time consuming process comes right down from the State—the stormwater on your part and the SEQR, the environmental assessment forms that we deal with on our part. It all needs to be done and sometimes it gets in the way of progress and the speed at which we can do that unfortunately.

For the benefit of the newer members on the Board to understand, Mr. Linger explained under normal circumstances, we would have filled out our part of the Short Environmental Assessment Form, done the SEQR review. This type of project requires a long form which is why we had to have a Lead Agency declared. Because of that, since the Planning Board has the Lead Agency, the ZBA does not need to fill out an Environmental Assessment Form. That has already been done by the Planning Board so that is one step that is not needed to be done by the ZBA.

Mr. Biscone advised it was hoped the shovel could go in the ground on this project just as soon as the frost is out of the ground. The one remaining item was the DOT road cut still needing to be resolved. The matter of whether the dentists' office has to abandon its road cut and use Mr. Brandt's road cut is up to DOT. Mr. Brandt's engineers are addressing this matter with DOT.

**Appointment of Vice Chair**

It was moved by Linger and seconded by Carlson to appoint Craig Albano Vice Chair for the 2017 year.

AYES: Linger, Meredith, Greene, Carlson  
NAYS: None

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ABSTAINED: Abstained  
ABSENT: None

**Adjournment**

At 8 p.m. it was moved by Albano and seconded by Greene to adjourn the meeting.

AYES: Linger, Albano, Meredith, Greene, Carlson  
NAYS: None  
ABSTAINED: None  
ABSENT: None

Respectfully Submitted,  
Marjorie Loux, Clerk