

AGENDA
TOWN OF NEW BALTIMORE, COUNTY OF GREENE
TOWN BOARD REGULAR MEETING

JULY 10, 2017

AGENDA

Please turn off all cell phones and electronic devices.

Pledge of Allegiance

Approval of Minutes

- June 26, 2017 Public Hearing on Franchise/Concession Grant to the Capital District Cricket Association
- June 26, 2017 Town Board Work Meeting

Correspondence

USDA Rural Development 504 Home Repair Loan & Grant Program

Public Comment Period

New Business

- Resolution Rescinding Temporary License
- Audit of Claims

Upcoming Meetings

- July 13, 2017 Planning Board Meeting at 7 PM
- July 24, 2017 Town Board Work Meeting at 7 PM
- July 27, 2017 Friends of New Baltimore Recreation at 5:30 PM
- August 2, 2017 Zoning Board of Appeals Meeting at 7:30 PM (If Needed)
- August 10, 2017 Planning Board Meeting at 7 PM
- August 14, 2017 Town Board Regular Meeting at 7 PM
- August 20, 2017 Veterans Committee Picnic at 12 Noon, Raindate August 26
- August 28, 2017 Town Board Work Meeting at 7 PM
- September 16, 2017 Townwide Yard Sale 9 AM

Public Comment Period/Community Events

Adjournment

****** Agenda Subject to Change******

TOWN OF NEW BALTIMORE **Draft 7/12/17**
COUNTY OF GREENE **Adopted 7/24/17**
TOWN BOARD WORK MEETING
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OPENING OF REGULAR MEETING

Supervisor Dellisanti opened the meeting at 7:00 PM and the Pledge of Allegiance was said. Also attending Deputy Supervisor Ruso, Councilmembers Briody, Irving and VanEtten, Tal Rappleyea, Esq., Town Clerk Finke, Tax Collector Jordan, Highway Superintendent Jordan, and 13 members of the public who signed the attendance book.

APPROVAL OF MINUTES

The June 26, 2017 Public Hearing on Franchise/Concession Grant to the Capital District Cricket Association submitted by Town Clerk Finke, Moved by Supervisor Dellisanti and was seconded by Councilmember VanEtten. The adoption of the foregoing Motion was duly put to a vote and the vote was as follows:

AYES: Dellisanti, Ruso, Briody, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT:

The June 26, 2017 Town Board Regular Meeting submitted by Town Clerk Finke, Moved by Supervisor Dellisanti and was seconded by Deputy Supervisor Ruso. The adoption of the foregoing Motion was duly put to a vote and the vote was as follows:

AYES: Dellisanti, Ruso, Briody, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT:

CORRESPONDENCE:

- United States Department of Agriculture ‘Dear Community Member: With all of the recent record rainfall, do you or someone you know own a home in need of repairs? Considering a new heating system because of high fuel cost? Looking to replace your old windows with energy efficient windows? Is your home in need of any residential energy efficiency improvements? USDA Rural Development may be able to help. The USDA Rural Development 504 Home Repair Loan & Grant Program provides help to very-low income owner occupants of modest single family homes in need of repair that are located in rural areas. Some examples of repairs that could be provided are: Ramps for Accessibility, Septic System Repairs, Insulation, Handrails, etc., Roof Replacement, Drilling of a well, Furnace...USDA Rural Development staff is available to speak to you regarding the program and answer any questions you may have. Please contact us at (518)295-8600 ext. 4 for more information.’

Supervisor Dellisanti: We will have copies available for you.

Town Clerk Finke: It’s also on the website and it’s also on the sign board.

Supervisor Dellisanti: The website and the public bulletin board.

Supervisor Dellisanti (to Tal Rappleyea, Esq.): Do you want to make a statement before we get to the Public Comment Period?

Tal Rappleyea, Esq.: Sure. The next thing on the Agenda is the Public Comment Period and I see that we’ve got a number of people who want to speak on the temporary license and I just thought that I should preface that a little bit with some comments. A couple of weeks ago when the Town Board chose to grant this temporary license, they did so to try to be a good neighbor so to speak; a kinder, gentler government and that was their goal and aim. As it turns out, unfortunately there is one sentence in our 119 page zoning law that says that having any fences are prohibited in the public right-of-way. I didn’t see that so I had to take that on myself for not catching that before making this recommendation and so tonight I have to make a recommendation later on you see on the Agenda that’s there’s a further resolution to rescind that temporary license. The Superintendent of Highways is an elected official and this is something he thinks that needs to be done. That’s his job and so, therefore, I think we have to proceed within that fashion.

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PUBLIC COMMENT

John Cashin: I wasn't happy with the way the process went because Mr. Jordan had an attorney here who brought many case law points on the highway law. I, as a zoning officer, reminded the Board you are not allowed to grant a variances in the zoning law and not one of you said 'hey wait maybe we should table this and talk to the Town Attorney again to make sure everything was alright. Instead you passed it; you might open the Town up to litigation and to Mr. Rappleyea, I would ask you that at sometimes you just gotta to tell them no when these things...

Tal Rappleyea, Esq.: I can tell you...

John Cashin: Rather than crafting a temporary license to grant somebody a favor.

Tal Rappleyea, Esq.: It wasn't a favor, as I said it was something that was done to be a good neighbor. In this instance it didn't work out.

John Cashin: I'm disappointed that the Board...

Councilmember VanEtten: Some of those points in that letter that we got from the attorney were not to deal with fencing. Tal, I mean you can speak on this.

Tal Rappleyea, Esq.: I took a look at the letter that was provided and it was off base, I guess would be the best way. The case law that was cited didn't have anything to do with fences or right-of-ways or anything of that nature. And the section of law, Section 198 of the Town Law, has to do with the creation of a special drainage district. That's nothing to do with fencing or right-of-ways or licenses. So the letter is what it is, but the point is that unfortunately we do have this one line, one sentence in our zoning law and we have to abide by it.

Patty Hildebrandt: I'm here in defending, I guess there's a problem with my privacy panels. I have lived here for 40 years and never had a problem with anyone and they are there because I would like some privacy, not being on show when everyone rides by. That's the only reason and I feel that this is all brought up because of a prestige or election is up for due because I've never had a problem and that fence is well enough off where we had a very bad snow storm and they still had plenty of room to plow snow and I've maintained that ever since I have lived there. I was living there when Superintendent was still getting off the school bus and I never had any problems with anyone. I just keep to myself and I don't see a problem with that privacy fence. It's not in the way of anybody's way. You know we're supposed to have New Baltimore look nice and I work hard to do that. So I see no problem with it and 1) if they say it's deeded property, there was never no pins and when that was done I did have them come up and see where the wires ran underneath the ground for the towers and telephone company and they are two feet where the road is now, two feet over. So I really don't understanding why making a big issue when we do have some pictures to present where there's a lot of fences, stone walls closer in the road than mine. So I feel this is just prestige and a grudge.

Supervisor Dellisanti: Thank you.

Barbara Trembacz: Hi, I'm here for Patty because she was all upset about her privacy panels and that and I took pictures in the area and there's fences and stone walls a lot closer to the road than hers is and like she said she's been there 40 years and there's like four or five panels and they're back and there's sections in between the trees and that so that nobody can see her in her pool. And if you drive up her road, there's stone walls and there's other horse fences and that a lot closer to the road like maybe this close where hers are set way back and so and I went and took pictures around the area, in that area so. I mean she's really upset. She didn't receive anything in the mail about those privacy panels being moved or anything. She heard from friends and neighbors about it. That's why we're here tonight to find out what's going on. Thank you.

Supervisor Dellisanti: Thank you.

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NEW BUSINESS

TOWN OF NEW BALTIMORE, COUNTY OF GREENE

RESOLUTION 133-2017
JULY 10, 2017

RESOLUTION RESCINDING TEMPORARY LICENSE
TOWN BOARD OF THE TOWN OF NEW BALTIMORE

WHEREAS, the Town Board of the Town of New Baltimore (hereinafter referred to as the “Town”) previously granted a temporary license for a privacy fence which had been constructed on Town-owned real property known as High Mount Road located adjacent to 997 County Route 54, Hannacroix by Ms. Patricia Hildebrandt; and

WHEREAS, the Town Board has determined that such license is not consistent with the Town Zoning Law.

NOW THEREFORE, it is hereby

RESOLVED, that the Town rescinds its prior resolution granting a temporary license to Patricia Hildebrandt for the aforementioned privacy fence it is further

RESOLVED, that the matter is referred to the Building Department for appropriate enforcement action.

MOTION by Supervisor Dellisanti, seconded by Councilmember Briody

Councilmember Ruso: I would like to ask the attorney something. What does it take to make this proper or allowable?

Tal Rappleyea, Esq.: I don’t know. I mean at a minimum we would have to amend our zoning and then have a further public hearing to deed some of that land back to Ms. Hildebrandt.

Councilmember Ruso: Is the issue the right-of-way or the deed because I heard your say right-of-way before?

Tal Rappleyea, Esq.: Right.

Councilmember Ruso: Which is it?

Tal Rappleyea, Esq.: Well, it’s the public right-of-way that came to the Town by deed. We actually own that land on which the fence is located.

Councilmember Ruso: And that makes the other fences that were described okay elsewhere; is that what you’re saying?

Tal Rappleyea, Esq.: It’s possible. The typical right-of-way is by a user road. User roads are three rods wide which is essentially 49.5 feet wide and so from the center of the road out we have the right to use and maintain that. That’s the typical right-of-way. So if those fences are 25 feet from the center of the road, then they’re fine because it’s still on their property. In this situation, the fence is actually on town-owned property.

Councilmember Ruso: Okay, so the distance it needs to be in is the same in this case.

Councilmember VanEtten: How much further is she out?

Tal Rappleyea, Esq.: Off the top of my head I don’t know how far away she is from the center of the road.

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Councilmember VanEtten: Denis can tell us. How much further out is she, Denis, than she’s supposed to be?

Highway Superintendent Jordan: Probably by 10 feet.

Dot Davis: Where’s the proof?

Highway Superintendent Jordan: We’ll get proof then, I’ll have it surveyed.

Barbara Trembacz: That means her garage is sitting out there too, it’s been there for 40 years.

Patty Hildebrandt: It’s all prestige.

Highway Superintendent Jordan: No, it isn’t.

Patty Hildebrandt: Yes it is.

Supervisor Dellisanti: Any other question? Calm down, any other questions?

Councilmember VanEtten: I feel terrible doing this; I mean our hand is forced.

Patty Hildebrandt: Anyone want to pay \$1,500, pay it to me.

Supervisor Dellisanti: There’s a motion and a second on the table. Any other questions or comments? (To Town Clerk Finke) Do you want to do a roll call vote please?

Town Clerk Finke: Absolutely.

	AYE	NAY	ABSENT/OTHER
SUPERVISOR DELLISANTI	X		

Councilmember Ruso: I’d prefer to have more time to consider this so in the meantime I’m going abstain.

DEPUTY SUPERVISOR RUSO		ABSTAIN
COUNCILMEMBER IRVING	X	
COUNCILMEMBER VANETTEN	X	

Councilmember Briody: I’d like to Abstain to have more time to review it also.

COUNCILMEMBER BRIODY	ABSTAIN
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Supervisor Dellisanti: We have a 3-2 vote, the motion is carried.

TOWN OF NEW BALTIMORE, COUNTY OF GREENE
RESOLUTION 134-2017
JULY 10, 2017

RESOLUTION TO AUTHORIZE SUPERVISOR TO PAY AUDITED CLAIMS

WHEREAS the Town Clerk has presented claims to the Town Board for audit and review, and

WHEREAS the Town Board has audited claims 2017-07-01 to 2017-07-35 it is

REVOLVED that the Supervisor is hereby authorized to pay claims 2017-07-01 to 2017-07-35.

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BE IT FURTHER RESOLVED that the Town Clerk will prepare an abstract and hold it for public review until August 31, 2017.

Motion by Supervisor Dellisanti seconded by Councilmember VanEtten

AYES: Dellisanti, Ruso, Briody, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT:

General \$4,326.51, Highway \$14,154.28, Sewer 1 \$1,617.75, Sewer 2 \$171.11, Lighting 1 \$1,593.86, Lighting 2 \$128.42, Total \$21,991.93

Upcoming Meetings

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- August 2, 2017 Zoning Board of Appeals Meeting at 7:30 PM (If Needed)
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- August 14, 2017 Town Board Regular Meeting at 7 PM
- August 20, 2017 **Veterans Committee Picnic at 12 Noon, at Cecil Hallock Park**
- **District 2**, Raindate August 26
- August 28, 2017 Town Board Work Meeting at 7 PM
- September 16, 2017 Townwide Yard Sale 9 AM

PUBLIC COMMENT PERIOD/COMMUNITY EVENTS

Tal Rappleyea, Esq: At the last meeting also we did a resolution to purchase the excavator for the Highway Department. It's \$114,500. I went and got quotes from three different banks. The first, Pioneer Bank, chose to pass because we don't have any accounts with them. The next one was the Bank of Coxsackie. They offered two different types – one would be a one year renewable and then we could each year renew it at 1.45 or a five year just statutory installment bond, a 5 year note at 2 percent. And then The Bank of Greene County, for the one year renewable made a bid of 1.59 per year so they were slightly above the Bank of Coxsackie, but their 5 year statutory installment bond is 1.95, just better than the Bank of Coxsackie. You don't know which way to go with these because you can get a better rate for the 1 year, but you get a worse rate too next year when it's time to renew.

Deputy Supervisor Ruso: It could be updated based upon the prime rate.

Tal Rappleyea, Esq.: I think you are leaning toward the five year statutory installment bond. So that would be...

Supervisor Dellisanti: The 1.95.

Tal Rappleyea, Esq.: 1.95 with the Bank of Greene County.

Supervisor Dellisanti: I'll make a Motion that we go with the Bank of Greene County for five years at 1.95%, seconded by Councilmember Irving. Any other questions or comments on that?

Supervisor Dellisanti: Thank you, Tal, for putting that together.

Tal Rappleyea, Esq.: I'll finish off the paperwork and have the closing in a week or so. We still have to do the 20 day estoppel notice so it will take about a month before we close.

AYES: Dellisanti, Ruso, Briody, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT:

Highway Superintendent Jordan: Thank you.

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Supervisor Dellisanti: You're welcome.

Ann Marie Vadney: I'm a little confused and I think that I'm going to make some blanket statements here. I wasn't at the last meeting, but I am very happy the Board tried to accommodate a member of our community in regard to this fence or whatever it is. And I also hope that everyone stops with the Republican Democrat baloney because I find this law very strange and would like to pursue this further because I live right up the road from Ms. Hildebrandt and I have always seen some type of fencing or something so if that is the reasoning that I'm understanding why it's not acceptable, I don't understand as a citizen of our community because I don't ever see anything going on in that property that, what is it an easement that the Town owns it, so I'm a little confused because I would vouch to say that there's many other properties in our community that may have fences etc. on their property in the same type of situation so I would be very happy to see us look into this a little further not just for Ms. Hildebrandt but for anyone else that this issue might be brought to the Town's attention and I don't know maybe Denis knows more people, I don't, but I can't believe there's only one person in our Town that is in this type of situation. So if there's additional information available or somehow can she get a variance with the Zoning Board, if it's a zoning issue. Is it possible to get a variance? I'm just throwing our ideas because there's a lot of money for someone to have spent and also I have the same issue with the Telephone Company. I mean the wires are sticking out of the road and I've had to call them three times so if the telephone wires are further out than the fence, that's an issue as well wouldn't it be if the fence can't be there, the telephone wires shouldn't be there as well. I mean I'm just talking because I think it's a terrible situation when we try to help someone in the community and it ends up like this and I would hope that all our elected officials and other people in our community would like to help each other. That's all.

Supervisor Dellisanti: Thank you.

Dot Davis: Hi, I'm Dot Davis. I have a large complaint with Denis Jordan. I think he's a bully. If he doesn't like you, he will make your life hell. We have personally witnessed him doing favors for private residents using Town equipment. A friend of mine wouldn't come tonight because he was afraid of repercussions. He witnessed him at 4:00 in the morning with the Town truck plowing a private driveway this winter. I also witnessed...

Supervisor Dellisanti: Dot, we're not going to listen to this.

Dot Davis: Well, it's the facts. It's true.

Councilmember VanEtten: Without proof...

Supervisor Dellisanti: There's no proof for that so we're not going to get into a personal attack.

Dot Davis: I guess I'm a liar.

Supervisor Dellisanti: I didn't say that, Dot, I'm just saying that we're not going to take personal accusations. Anyone else like to speak this evening?

John Cashin: The homeowners looking for relief from an article of zoning so that is the process is to go the Zoning Board, apply for a variance, it will have a Public Hearing, and then the Zoning Board will make a decision on it. That's what you'll find if anybody happens to put a garage too close or shed too close to the line or something like that. That's the process for fixing it so there is a process to go through.

Councilmember VanEtten: But isn't the fact that if you put it up without knowing the law, then you created it yourself so the ZBA can't help you in that situation, Tal?

Tal Rappleyea, Esq.: No, for an area variance there are five things that an applicant would have to prove. The first is that the granting of the variance would not create an undesirable change in the nature of the surrounding community. The second would be that the granting of the variance wouldn't create an environmental or other negative impact to the surrounding

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properties. The third is that there's no other way for the applicant to get what they want without the variance, no alternative. The fourth is that it's not a large or what is the extent of the request, in other words a large encroachment. And the last is whether the issue is self-created and that's one that they all have to look at in that situation is a balancing test between the benefit given to the landowner as opposed to the potential negative impacts to the surrounding properties. And you use those five things to gauge to do that balancing.

Councilwoman VanEtten: Then she could go to the ZBA.

Tal Rappleyea, Esq.: That's an avenue that she could to, yes, but the other thing is that because this is on town property, if the Highway Superintendent determines that this is a deterrent or a danger to the motoring public or to his ability to maintain the highways, he still has the right to actually bring an action himself regardless of whether a variance is granted to have the thing removed

Councilmember Briody: I would like to ask what is the primary cause of this as far as what is it impeding? Is it the plowing or is it visibility?

Highway Superintendent Jordan: It's plowing and I've had complaints from other residents in the Town.

Councilmember Briody: Complaints for...?

Councilmember VanEtten: Written complaints or just...?

Councilmember Briody: What were the complaints about?

Highway Superintendent Jordan: Well, some people have to do... I'm not going to speak, I'll have my attorney.

Councilmember VanEtten: So you're not going to tell us anything about the complaints?

Highway Superintendent Jordan: No.

Councilmember VanEtten: Just that they're there and we don't know who they are or what they're saying.

Patty Hildebrandt: As far as plowing, there was plenty of room. We had a heavy snowstorm and the banks were up and there was still plenty of room for them to plow the snow if they had to. I've been there since it was a dirt road even before they put the main road in I was there.

Tal Rappleyea, Esq.: I have to tell you that it's a judgment call that belongs to Denis alone; it's his discretion to make that determination.

Barbara Trembacz: Can I show you these pictures? How come these fences aren't a problem for him to plow either? They're closer to the road than hers are.

Councilmember VanEtten: You'll have to ask Denis, we can't. He just told you...

Barbara Trembacz: There's other fences and stone walls on that same road, if you go up that road, and they're a lot closer to the road than her personal panels are.

Supervisor Dellisanti: Excuse me, we're not going to get into this.

Barbara Trembacz: She just told me to ask that.

Councilmember VanEtten: You can't ask us, we can't answer for...

Barbara Trembacz: Shouldn't this go in front of the Code Enforcement first.

Councilmember VanEtten: You can maybe meet with....

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Barbara Trembacz: But she never got anything in the mail about anything. She found out from friends.

Supervisor Dellisanti: Did you file a building permit to put the fence up?

Patty Hildebrandt: Never knew I had to have a permit to put a fence up. I mean what are we in Korea, if we don't do it we're going to get beheaded?

Supervisor Dellisanti: Okay, we're finished.

Audience Members: This is personal.

Supervisor Dellisanti: Is there any other business to come before the Board tonight? Hearing none I'll accept a Motion.

On a Motion by Councilmember Briody seconded by Councilmember VanEtten, the meeting was adjourned at 7:24 PM.

AYES: Dellisanti, Ruso, Briody, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT:

Supervisor Dellisanti: Thank you all for coming; this meeting is closed.

Respectfully Submitted,

Barbara M. Finke, Town Clerk