ROBERT T. POLITI
SUPERVISOR
LAURIE C. DUDLEY
TOWN CLERK / TAX COLLECTOR
523-2162
COUNCIL
BOB MILLER
JAY I. RAND
DEREK DOTY
JACK FAVRO
LARRY C. STRAIGHT
SUPT. OF HIGHWAYS
523-9081
CATHERINE EDMAN, CPA
BUDGET OFFICER
TEL: 523-9517
FAX: 523-2599

TOWN OF NORTH ELBA

2693 MAIN STREET
LAKE PLACID, NEW YORK 12946
phone: (518) 523-9516 fax: (518) 523-9569
web: www.northelba.org

EUGENE MARTIN
PARK DIST. MGR.
523-2591
CODE ENFORCEMENT OFFICE
523-9518
TODD ANTHONY
ASSESSOR
TEL: 523-1975
FAX: 523-9821
TOWN COURT OFFICE
523-2141
RONALD J. BRIGGS
ATTORNEY FOR THE TOWN

ZONING BOARD OF APPEALS
MEETING MINUTES
March 25, 2019

MEMBERS PRESENT
John Hopkinson
Linda Friedlander
Todd Rissberger
Charlie Roscoe
Bill Morris

MEMBERS ABSENT

ALSO PRESENT
Bill Kissell, Board Attorney
Terry Tubridy, Planning & Zoning Coordinator
Mike Orticelle, Code Enforcement Officer

Mr. Hopkinson called the meeting to order at 5:35 PM.

Dual Development/Quality Inn (Case #168) – Area Variance/Shoreland Overlay

Mr. Hopkinson announced the public hearing and record of written comments from the public are closed.

The Board reviewed the case file documents, a draft stipulation and a draft finding of facts. Final documents are expected to be ready no later than Monday, April 1.

Mr. Morris asked about stormwater management requirements in relation to size. Mr. Orticelle stated a stormwater management plan is required by Code. No new management plan will be required if applicant does not improve the property.

Ms. Friedlander was told there are no updates to the viewpoint pictures taken from various locations along Saranac Avenue.

Mr. Morris read an extract from the Hilton website stating prototype designs can be modified to conform with local planning and zoning laws.

Mr. Hopkinson reviewed the process for determining the approval or denial of an area variance. He noted the five questions to be addressed in accordance with the Laws of New York, Consolidated Laws, Town, Article 16: Zoning and Planning, Section 267-B Permitted action by board of appeals. The questions may have different weights and the final motion to approve or deny is not necessarily a sum of the votes.

Ms. Friedlander noted adoption of the current 2011 Land Use Code involved public participation and many of today's buildings pre-date 2011.

Mr. Hopkinson stated the variance request was not about economic development or what types of rooms are being offered. Nor is it about the credentials or reputation of the applicant. The Board's role is to decide on a height variance for this project in the Gateway Corridor District at this time.

Mr. Kissel noted this is the first time the Board is considering a decision. The voting in this meeting is informal and a final vote will be taken at the next meeting.

The Board voted on the five questions as follows:

1. Will the requested variance produce a detriment to nearby properties or undesirable changes in the character of the neighborhood?
Mr. Rascoe – NO; the residents closest to the property are in favor of the proposal. Other neighbors are further away. Ms. Friedlander – YES; the resident in favor of the proposal sold the property to the developer. The hotel is on a prominent ridge and does not fit in. Mr. Rissberger – NO; increased traffic falls below the requirement for a DEC/DOT study and the hotel is in a commercial area. Mr. Morris – YES; the hotel is in a tough site and may work in a different location. Mr. Hopkinson – YES; the Gateway Corridor should be a positive introduction to the community. Routes 73 & 86 have a special character. Most buildings on Saranac Avenue are one to two story buildings at road level as you drive eastward from Price Chopper. The exception is the Quality Inn on a bluff 50 ft above the road. It would not be a welcoming sight to see a large box-like building on a prominent hill.

The Board answers YES in a 3-2 vote.

2. Will the requested variance produce an adverse effect on the physical or environmental condition in the neighborhood?
Mr. Rascoe – NO; stormwater management and other environmental issues are the Review Board's responsibility. Ms. Friedlander – YES; there would be an adverse impact due to the sight of a four-story building. Environmental issues are irrelevant. Mr. Rissberger – NO; the Review Board will address architecture and other requirements. Mr. Morris – YES; my only concern is traffic. Mr. Hopkinson – NO; increased traffic, lighting and noise are minor issues and would be mitigated by other entities. An improved stormwater management system will be required regardless of a variance.

The Board answers NO in a 3-2 vote.

3. Are there other feasible alternatives to the requested variance that the applicant could pursue?
Mr. Rascoe – YES; they did originally apply for a remodeling loan. Ms. Friedlander – YES; obsolete means not in use. There are feasible alternatives and Dual Development needs to be flexible. We won't die if the hotel is not built. We are regional and Saranac Lake and others can handle rooming overflow. Mr. Rissberger – YES; it is feasible to keep four-stories with a lower height variance. Mr. Morris – YES; refers to earlier extract from Hilton regarding flexibility of prototype designs to change according to local planning laws. Mr. Hopkinson – YES; cites synonyms of feasible. Dual Development is self-described as a developer. Hilton manages over 500 hotels worldwide. They have the resources to renovate or build any hotel anywhere. The Quality Inn remains open 16 months after purchase and receives high reviews. The hotel has also been full during recent weekends. The original intent was to remodel and that is still a feasible action.

The Board answers YES in a 5-0 vote.

4. Is the requested variance substantial?
Mr. Rascoe – NO; the Gateway Corridor from High Peaks Resort to the Whiteface Inn has tall buildings. Mr. Friedlander – YES; the height is significant and current hotels were built under older Code regulations. Mr. Rissberger – YES; Dual Development admits this in their application. Mr. Morris – YES; the variance request is significant for that location. Mr. Hopkinson – YES; the request is a 54% increase in the height. It is a substantial proposal for a 500+' long hotel, with about half that length overlooking Saranac Avenue. In contrast, the Marshall's Department Store is less than 35' tall with decorative dormers reaching 38'.

The Board answers YES in a 4-1 vote.

5. Is the alleged difficulty self-created?
Mr. Rascoe – NO; the original plan was to renovate but the building run down. I talked to Hilton and they said a four-story hotel is necessary to be profitable. Ms. Friedlander – YES. Mr. Rissberger – NO; new construction requirements are not due to any error on Dual Development's part. Mr. Morris – NO; I have seen projects start out one way and have to change. I give them the benefit of the doubt. Mr. Hopkinson – YES; Dual Development has presented themselves as a sophisticated developer who has done their due diligence. Only after purchase and further investigation did Dual Development find repair costs surpassed their budget. Dual Development did not know the maximum height standard in the Code at the time of purchase and that Hilton no longer builds two-story hotels. I find Dual Development's due diligence to have been inadequate. Who created the difficulty if not Dual Development?

The Board answers NO in a 3-2 vote.

After taking the above five factors into consideration, does the benefit to the applicant outweigh the detriment to the neighborhood or the community?

Mr. Rascoe – DOES; popular brands will enhance Lake Placid's offerings. Ms. Friedlander – DOES NOT; do not forget negative community responses. There is increasing pressure on Lake Placid to make money but the cost should not mean building bigger. Mr. Rissberger – DOES; this is a substantial variance with a limited impact in a commercial area. Mr. Morris – DOES NOT. Mr. Hopkinson – DOES NOT; New York provides for local Zoning Boards of Appeals to serve as a "safety valve" to provide relief from rigid zoning regulations. Zoning Board approvals are for only the minimum needed. Dual Development faced two unattractive conditions – the excessive costs to remodel and the need for a substantial height variance. Dual Development did not sufficiently back up their claim that only a four-story hotel would work. The Town/Village Land Use Code was openly and publicly developed and adopted. There is a definite incompatibility between Dual Development's request and community desires and this Board is here to weigh the community's needs against the needs of the applicant. I judge the neighborhood/community to have the stronger case.

The Board answers DOES NOT in a 3-2 vote.

No motion was made to adopt the decision as a final document review is needed. Final document review and final voting to approve or deny the variance are scheduled for April 1, 2019, at 4 PM in the Town Hall.

End of discussion.

These minutes were reviewed by the Board on 5/6/2019. Mr. Rascoe made a motion to approve the minutes as amended. Ms. Friedlander seconded the motion. All members voted in favor. The motion passed 5-0.

John Hopkinson

John Hopkinson, Chairman
Zoning Board of Appeals

RECEIVED
Date 7/2/19
Town Clerk
Date 7/30/19
Village Clerk

ROBERT T. POLITI
SUPERVISOR
LAURIE C. DUDLEY
TOWN CLERK / TAX COLLECTOR
523-2162
COUNCIL
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Bill Kissell, Board Attorney
Terry Tubridy, Planning & Zoning Coordinator
Mike Orticelle, Code Enforcement Officer

Board Business

Elections

Mr. Hopkinson made a motion nominating Todd Rissberger as Vice Chairman of the Board.
Mr. Rascoe seconded the motion.
All voted in favor with Mr. Rissberger abstaining. The motion passed 4-0.

Mr. Rissberger made a motion nominating John Hopkinson as Chairman of the Board.
Mr. Morris seconded the motion.
All voted in favor with Mr. Hopkinson abstaining. The motion passed 4-0.

Meeting Minutes of 2/25/2019

The Board deferred approval of the minutes to the April 1, 2019, meeting.

Meeting adjourned at 6:58 PM.

These minutes were reviewed by the Board on 5/6/2019. Mr. Rascoe made a motion to approve the minutes as amended. Ms. Friedlander seconded the motion. All members voted in favor. The motion passed 5-0.

John Hopkinson

John Hopkinson, Chairman
Zoning Board of Appeals

RECEIVED
Date 7/2/19
Town Clerk
Date 7/3/19
Village Clerk