

ZBA  
8-17-2000

TOWN OF NEWBURGH:  
ZONING BOARD OF APPEALS

-----X  
In the matter of the application of:

MARTIN MILANO, JR.

DECISION  
AND  
RESOLUTION

for a variance to the height limit  
on structures imposed by Town Code  
§185-11, Table of Use and Bulk  
Requirements, Schedule 8, IB District,  
Column "12."

Tax Map #95-1-45.2  
P.B. No. 2000-16

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The property which is the subject of this application is  
located at Route 17K, Newburgh, New York and is designated on the  
tax map as Section 95, Block 1, Lot 45.2. It is located in the  
"IB" District.

The applicant seeks to construct a motel building 57' in  
height. The Code limits the height of such buildings to 50'.

The applicant's plan requires a variance to the height limit  
on structures imposed by Town Code §185-11, Table of Use and Bulk  
Requirements, Schedule 8, IB District, Column "12."

A public hearing on the application was scheduled for April  
27, 2000 at the Town Hall, 1496 Route 300, Newburgh, New York.  
Notice of said public hearing, including the subject, date, place  
and time, was duly published and mailed. Proper affidavits of  
publication and mailing have been received from the applicant.

The public hearing was held on April 27, 2000 and was held  
open through July 27, 2000. The applicant, by his engineers,  
appeared and testified before the Board.

The testimony and exhibits at the Public Hearing established that the subject property is located on five acres of land near the intersection of Route 300 and Route 17k. The neighborhood is a highly developed commercial area in which some hotels presently exist. The height variance is required because of the architecture chosen for the hotel building. While a lower building could be constructed, such a plan would necessitate a change in the architectural style of the building with a consequent larger lot coverage. The applicant is presently before the Planning Board seeking site plan approval for the project.

The Board unanimously determines that the proposed action is an unlisted action under SEQRA, and makes a negative declaration as lead agency in an uncoordinated review. The Board determines that this is an application for an area variance and that the criteria which the Board must consider in determining whether or not to grant the variance is the factors set forth in Town Law Section 267-b. In considering the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood and community by such grant, the Board has considered the following five factors.

**I. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE VARIANCE?**

The proposed hotel will be a beneficial addition to the neighborhood. Any impacts of its development, such as traffic, would occur regardless of whether or not the 7' height variance at issue is granted.

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II. WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

Construction of the hotel building to a lesser height is not feasible for the applicant.

III. WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL?

The requested variance is substantial. However, this consideration does not require denial of the relief requested.

IV. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD?

The variance at issue will not have any visual, aesthetic or other impacts upon physical or environmental conditions in the neighborhood.

V. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED?

The alleged difficulty is self-created. However, on the facts of this case the Board declines to give significant emphasis to this consideration.

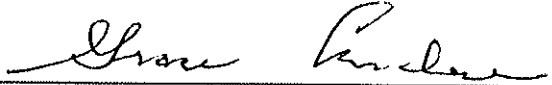
RESOLUTION

The Board determines that an area variance should be granted under Town Law §267-b and hereby resolves that the requested variance to permit construction of a hotel building 57' in height is granted. The Board finds that such variance is the minimum variance necessary and adequate to address the circumstances of the case.

Present and Voting on this decision:

Paul Blanchard,	AYE
Grace Cardone,	AYE
Ruth Eaton,	AYE
Michael Maher,	AYE
Frank Galli	AYE
John McKelvey	AYE
Richard Harris	AYE

Dated: August 17, 2000  
Newburgh, New York

  
GRACE CARDONE, Chairman  
Town of Newburgh Zoning  
Board of Appeals

BC Planning, LLC  
555 Route 32, PO Box 489  
Highland Mills, New York 10930  
(845) 827-5763  
Fax: 827-5764  
Email: [bcocks@frontiernet.net](mailto:bcocks@frontiernet.net)

MUNICIPALITY: Town of Newburgh TOWN PROJECT NUMBER: 12-06  
PROJECT NAME: Hilton Garden Inn Signage  
LOCATION: Existing Hilton Garden Inn, Crossroads Court off Rt. 17K (95-1-45.21 and 45.22)  
TYPE OF PROJECT: Construction of new signage on existing hotel site (11.47 ac)  
DATE: April 18, 2012  
REVIEWING PLANNER: Bryant Cocks

VACANT LAND  
Lot 12  
Hotel  
on Lot

**PROJECT SUMMARY:**

Approval Status: Plans submitted April 5, 2012  
SEQRA Status: Type II  
Zone/Utilities: IB/Municipal Water and Sewer  
Map Dated: March 29, 2012  
Site Inspection: April 13, 2012  
Planning Board Agenda: April 19, 2012  
Consultant/Applicant: Maser Consulting, PA  
Copies have been sent to: John P. Ewasutyn at the Planning Board office, James Osborne, Michael Donnelly, Karen Arent, Ken Wersted, Patrick Hines and Gerald Canfield on April 18, 2012

**Comments and Recommendations:**

1. The applicant is proposing two new pylon signs at the Hilton Garden Inn; the first is adjacent to the NYS Thruway and is 55 feet tall, the second is an 18 foot tall sign on Route 17K and Crossroads Court. The applicant is also proposing a directional sign at the hotel driveway entrance, facing the Crossroads Court cul-de-sac.
2. There are several variances needed for construction of the signs, and the applicant wishes to be referred to the ZBA for their review and approval. The list of variances necessary for the project are as follows:
  - A) For the directional sign facing Crossroads Court, a variance for square footage of the sign (5 sq. ft. proposed and 4 sq. ft. is the maximum)
  - B) For the directional sign facing Crossroads Court, a variance for sign location (2.8 feet from the property line is proposed, a 15 foot setback is required).
  - C) For the proposed pylon sign on the Hotel parcel next to the Thruway, a variance for freestanding pylon sign height (55 foot height is proposed, 40 foot maximum height is allowed).
  - D) For the proposed pylon sign on the Hotel parcel next to the Thruway, a variance for total site signage (421.75 sq. ft. proposed, 46.1 sq. ft. is the maximum allowed).

- 12  
VACANT  
LAND  
LOT
- E) For the freestanding pylon sign on the adjacent vacant parcel (tax lot 95-1-45.21) a variance is required for the sign location (0 feet is proposed, a 15 foot setback is required).
  - F) For the freestanding pylon sign on the adjacent vacant parcel, a variance is required for the sign not being on the same parcel as the business it is advertising.
  3. Both freestanding signs proposed on the site are blue with white lettering, and have the red Hilton Garden Inn logo included on the signs. The applicant has provided ARB drawings and signage tables, as required under the Town of Newburgh Zoning Law.
  4. The plans will need to be referred to the Orange County Planning Department for their review. The plans will also be sent by the ZBA so the Planning Board should discuss whether they would like to send the plans now or wait until the applicant returns from the ZBA. The plans will also need to be approved by the DOT since the freestanding pylon sign along Route 17K is in the DOT right of way.

The above comments represent my professional opinion and judgment, but may not necessarily, in all cases, reflect the opinion of the Planning Board. Please revise your plans to reflect these comments with the understanding that further changes may be required. In all cases the requirements of the Zoning Law and Subdivision Regulations shall be adhered to by the applicant and shall be shown on the plans. Where variances to the Zoning Law are required or where waivers from the Subdivision Regulations are needed, specific requests shall be made to the Planning Board for a waiver or for referral to the ZBA. These comments are prepared based on current zoning and subdivision regulation requirements. Any change in those regulations prior to final approval of these plans could require revisions beyond the scope of my existing comments.

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

HILTON GARDEN INN SIGNAGE PLAN  
(2012-06)

Crossroads Court off Route 17K  
Section 95; Block 1; Lot 45.22  
IB Zone

----- X

CONCEPTUAL SITE PLAN  
ARCHITECTURAL REVIEW BOARD

Date: April 19, 2012  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: ANDREW FETHERSTON

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MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

1  
2 MR. PROFACI: The next item on  
3 tonight's agenda is Hilton Gardens Inn  
4 signage plan. It's a conceptual site plan  
5 and ARB. It's on Crossroads Court off Route  
6 17K, Section 95; Block 1; Lot 45.22, located  
7 in the IB Zone, represented by Andrew  
8 Fetherston.

9 MR. FETHERSTON: Members of the Board,  
10 good evening. I'm representing Hilton Garden Inn  
11 this evening.

12 We're looking for three signs. We need  
13 to go for a number of variances, and I just  
14 wanted to take the Board through what we were  
15 seeking. I did two colors just to make it a  
16 little easier. We're proposing, I'll say sign  
17 number one, an 18-foot tall sign in the  
18 right-of-way of Route 17K. This is Route 17K.  
19 West is to my left, I-87 north is up the page.  
20 We're proposing a 18-foot tall, free- standing  
21 sign, double sided so that it can be seen by  
22 travelers both east and west on 17K, in the  
23 right-of-way of 17K for the reason that when  
24 you're traveling eastbound on 17K, the cemetery  
25 is built up high, which is at this location. You



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can't see, when you're traveling west, anything until you get beyond the cemetery when you're into the clearing. We're thinking at that point you're almost getting too far along to realize that the Hilton is there and to turn in.

I have a number of photos I can just pass through the Board and let you take a look. I clipped a couple of pages in there so you can see where I'm speaking of. That sign of course would require a license and an agreement with DOT to install the sign, maintain the sign, and if at such a time the DOT decides that they need that area of the right-of-way, we would remove the sign. I think the right-of-way is so wide there to facilitate a possible replacement of the bridge. That's what we were thinking.

The total frontage on this lot, which is 95:1;45;21, is about 900 feet. Half of that could be -- half of that linear feet could be used for the sign area. So we're entitled to 450 square feet of signage on this lot. We realize that the sign that we're proposing is not for that lot.

There's a required setback on the sign

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that of course we're not adhering to. The sign setback is 15 feet inside of the property line. We're obviously not adhering to that as well.

I'll go to the signage that's proposed off of the frontage for the lot that the Hilton Garden Inn is sitting on. The frontage is very minor. It's only about 90 feet along the front off of Crossroads Court. 20.75 feet of the area that is allowed for the signage for this lot is already taken up by a building-mounted sign. That 20.75 we got from the Planning Board approval. That was the number that was dictated at that time. So there's only -- let me see. There's only 23 or so feet remaining to propose the signage.

What we're looking for is a directional sign at the bottom of the cul-de-sac. We're proposing to put that close to the right-of-way because, if you go through the photos I have there, when you're standing in the cul-de-sac or driving down the cul-de-sac, there's landscaping there. We wanted to pull that directional sign up nice and close to the pavement so that it could be seen. That sign is also 1 square foot larger

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than what is normally allowed for or permitted for a directional sign. Then we have the tower sign. The tower sign we're proposing in this location. I took a couple shots from the parking lot at the grassy area, the landscaped area there. It's a dead level area. We don't have the benefit of some of the other locations, like the Holiday Inn across the way where they built a shorter masted sign because they had the luxury of being up on quite a good rise. We don't have that luxury anywhere along the frontage here. That's part of the reason we're proposing such a tall stick to hold the sign. The other reason is just south of the property it's wooded. It's completely wooded. It looks like it's going to stay that way. I believe that's part of Stewart. North of us, if you're traveling south on 87, the bridge becomes a visual barrier. If you're looking for a sign that's up in the air, this becomes a visual barrier as well. So we're trying to get a sign up high enough so you have a chance to see it, to spin off right here. I have an aerial also I can show you just so we can see where the off ramp is. I'll bring it up. The

1  
2 Hilton Garden Inn is here. 17K is of course the  
3 bridge that goes over 87. So we're trying to  
4 have people see a sign here before they're  
5 obstructed by 17K. So again, the locations are  
6 -- here's the Hilton Garden Inn. The sign would  
7 be here. 17K is an elevated bridge going over  
8 87. We're trying to give people a chance to see  
9 it prior to swinging around. The Hilton, 17 and  
10 that swing. Do you know what I'm --

11 MR. COCKS: Yeah.

12 MR. FETHERSTON: So that's the reason  
13 for the height. We need a significant area  
14 variance because the frontage on the Hilton  
15 Garden Inn is so slight. That we'll certainly  
16 take up with the Zoning Board, but we were  
17 looking for -- we were looking to get your input  
18 on what we're proposing. I think that's it.

19 CHAIRMAN EWASUTYN: We'll start with  
20 Tom Fogarty. Tom?

21 MR. FOGARTY: I understand where your  
22 concerns are. We have a number of projects that  
23 come before the Town of Newburgh and we do have,  
24 as you know, sign regulations, all right.  
25 They're there for a reason. I'm opposed to a 55-

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2 foot sign, all right. That then becomes the new  
3 standard in the Town. Right now I don't believe  
4 we have any sign over 40 feet. It's there for a  
5 reason, because the Town of Newburgh has  
6 determined that this is what we want our Town to  
7 look like.

8 MR. FETHERSTON: Okay.

9 MR. FOGARTY: All right. To me, even  
10 though you do have some hardships here, none of  
11 those hardships, to me, reach a point where you  
12 can't live within our sign ordinance.

13 MR. FETHERSTON: Okay. Thank you.

14 CHAIRMAN EWASUTYN: Any other comments  
15 from Board Members?

16 MR. GALLI: I don't have a problem with  
17 the 18-foot sign or the 4-foot sign. Like I  
18 said, they are nice. The 55-foot sign, I think  
19 when people travel nowadays they really don't  
20 pull off and say here's a Hilton. Most people  
21 who stay at a Hilton either book ahead of time or  
22 they're Googling it on their way down with their  
23 phones, today's technology. I don't think too  
24 many people pull off the road and -- if they're  
25 looking for a hotel, they're probably looking for

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a Motel 6 or something, they're not looking for a Hilton or one of your higher-end hotels. So a 55-foot sign to me I think is just a little bit too high.

CHAIRMAN EWASUTYN: Any additional comments?

MR. MENNERICH: I was curious. You've been in operation there for a few years now. Why all of a sudden are you asking for all this increased signage?

MR. MILANO: Can I answer? When I built that hotel you guys were in the middle of rezoning. Nobody knew heads or tails about how you can do a sign there. In fact, even though it does have some road frontage, we're surrounded by roads. I know the formula doesn't work with that. We're on this highway here, we have a road here and we're on this road. So we actually have more road frontage than any other hotel in Town. Because of the formalities of that, we can't count that towards our formula. When I went originally to get that sign, nobody knew heads or tails about how to get this done, and I just got involved in running the business. You know, it's

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an issue. The chain itself requires a sign and I've been written up for it. I had a waiver because I said the zoning rules were being changed or amended. So that's kind of why we didn't do it at the time. You know, I want to make sure -- my favorite thing is not a 55-foot sign. That was not my idea. That's the sign company. I had a discussion with them. Okay, why do we want 55 feet? What's so good about that? This is not a road like Route 300 or 17K. This is a major highway. The cars are traveling 65, 70 miles-an-hour. It's a little different than the sign I have at my Hampton Inn or Lowe's or anything with a traffic stop. This is 65 mile-an-hour traffic.

One thing that I did want to put out there is that emergency light there over the clock, that's 15 feet. When you're traveling on a major highway, that is not a lot. It is in this room but on this long stretch of highway it's not. So that was actually the sign company's idea. Not my favorite thing. I went through great lengths with this hotel to make it aesthetically pleasing. I put it back here and

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used the entire six acres for the hotel so that we would border the airport preserve and have privacy. It took great expense to get it back here. This land here, I've never marketed it. That's the lawn that I maintain for that hotel to give it more aesthetics.

The only thing I want to bring to your attention is if you have a beautiful hotel, and this chain itself is one that JD Power awarded many times for the number one mid-scale chain, it's the best name in the business, why are we keeping it a secret. I know what you're saying about people, but there's people that don't do that. What if you're traveling and there's no other hotels, which happens in this area because of West Point, et cetera. Why don't we want a sign. I have a 12-acre site with really no signage at all. That's not a good business move. I worked around it because at the time the zoning was being developed. Now that it's in place, I said I do need these signs, and I have been contacted by the chain regarding that. So the 55-foot sign was not my idea. Everything I do there, the landscaping that's required --



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MR. GALLI: It looks nice.

MR. MILANO: I'm a little shaky with 55 feet myself. He said to me Martin, you're traveling on a highway doing 65 miles-an-hour, that 15 feet, which is that emergency light there, that's not as extraordinary as it would be on a regular road like Route 300.

MR. GALLI: What about those -- I'm sorry, Ken. What about those -- instead of a 55-foot sign, when you travel the Thruway all the time you see the Thruway billboards that have the hotel next exits, then you have signage.

MR. MILANO: I can give you the same thing. You're traveling 65 miles-an-hour --

MR. GALLI: I travel that road every week, Monday through Friday.

MR. MILANO: And there's a sign about this big. I mean you may see it and you know it's your exit, but I mean --

MR. GALLI: The hotels I travel to in Buffalo, Rochester, Massachusetts, I see them all the time with --

MR. MILANO: If you look at Howard Johnson's sign, it dwarfs my hotel, and that

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sign, because it's on the mound, it's light years higher than mine.

MR. GALLI: Howard Johnsons is not even competition, trust me.

MR. MILANO: I know, but they have a sign that dwarfs my sign. On the other side, the Comfort Inn is built on a hill.

CHAIRMAN EWASUTYN: The difficulty we have also, though, is once if it's granted -- you're allowed a 55-foot sign. No matter what, everybody in the Town is going to want to have a sign 55 foot and it is setting a precedent. So the impact isn't as one single individual, it's an overwhelming impact for the Town in its entirety.

MR. GALLI: You do have a beautiful site there. Keep it up.

MR. FOGARTY: It is nice. Is corporate Hilton requiring you to have signage of a certain standard?

MR. MILANO: They do. They have standards. Anything that you do has to follow a plan that they -- they don't want somebody putting up a hodge podge. They're very careful.

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There's a whole sign package that you must follow.

MR. FOGARTY: Do they take into consideration that whatever they have is a corporate guideline and may not follow in the towns that they're building in?

MR. MILANO: It could be amended. You know, that can be amended to whatever the local zoning ordinance are, but I'm just -- I just want to just, you know, state that it's a little different. 55 may be a little, you know, excessive but not a lot excessive. I mean I want --

CHAIRMAN EWASUTYN: It's 15 feet above what the current code is. I do remember when the site plan was before us and there was an issue of signage like this, and at that particular time we weren't in favor of this.

MR. MILANO: Right.

CHAIRMAN EWASUTYN: Ken Mennerich was on the Board. This isn't the first time something like this came up.

MR. MILANO: What I would recommend, because this isn't the only hotel I've had, I've

1  
2 been doing this for 25 years, the Thruway areas  
3 are different than the local streets. I mean  
4 maybe they could have -- there's only a few  
5 parcels on the highway that could even be used.  
6 Maybe, you know, in the future it would make  
7 sense to have a different zoning for the highway  
8 property where you're on a major interstate.  
9 What I figured out is if I have a nice sign on  
10 that property advertising that hotel, one car a  
11 day -- one car a day would bring \$150 in,  
12 roughly, and 100 days -- if you get one car a day  
13 for a 100 days, that's \$15,000. I think this is  
14 a good way to generate and bring people off the  
15 highway into our area. They're going to spend  
16 money with me, they go to Choppers and buy their  
17 merchandise, they gas up, they go eat. They're  
18 going to patronize our community, and we've got  
19 the best name in the business. I don't want to  
20 hide that. I have a sign on this building that  
21 -- I know my sight is going but I can barely make  
22 it out, and that's my place.

23 CHAIRMAN EWASUTYN: It's a good point,  
24 but that's an issue that you would have to bring  
25 up to the Town Board because the Town Board is

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the one who adopts the zoning change. It's not a Planning Board matter.

MR. FOGARTY: As another point of that, a lot of those people who do that, they get back in the car and they leave and they don't live in the Town of Newburgh.

MR. MILANO: Okay. That's a good point.

MR. FOGARTY: We're the residents and the thing is we want our Town to have a certain look to it.

MR. MILANO: Right.

MR. FOGARTY: That's why those guidelines are there.

MR. GALLI: When you come down the Thruway you can see your site. It looks nice from the Thruway. It really does. You're coming off 17K, you can see it. Like I said, the hotels around you, I don't think you're competing with those particular hotels. I mean you've got the Knights Inn across of street, you've got the Holiday Inn. God knows that place is going to close up. If you look, Ramada never has any cars in the lot. You go around the Town and you have

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2 it. I don't know how much more -- I ride by your  
3 property a lot and there's always cars there.

4 MR. MILANO: Well it's an added expense  
5 for me that I don't really want to go through  
6 because we just went through a tough time.  
7 Obviously my payments are always made on time. I  
8 believe if we do assign some modification of that  
9 sign, that it would be better for me in bringing  
10 more business in. Even though you do see that  
11 hotel, you know, how do you get to it. It's  
12 there and it's kind of tricky to get to. It's  
13 not like the other hotels where you get off the  
14 exit and it's right there.

15 MR. GALLI: Say for weddings and things  
16 like that. I don't know. 55 feet is high.

17 MR. MILANO: Okay. I agree. I said  
18 the same thing.

19 MR. GALLI: I drive down 81 in  
20 Pennsylvania and I go through Cleveland, you see  
21 these monstrous signs and look and say one is  
22 higher than the other. They're like 55, 100 feet  
23 you see them in the air. They're confusing when  
24 you see a ton of them. Everybody wants to be the  
25 next highest guy and it seems like tons of hotels

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and you're concentrating up in the air.

MR. MILANO: The higher they are, they're difficult to maintain. It's expensive. You have to hire a boom truck.

MR. GALLI: If you had a lower one it would be easier for you.

MR. MILANO: I agree.

MR. PROFACI: You're saying that the sign company recommended this 55-foot sign?

MR. MILANO: Yes, because the -- you've got to realize you have all that vegetation. I mean I can't go on the New York State Thruway and trim the trees. He was a little concerned that the growth of the Thruway would grow up and block the signage. That's happened in some areas. I had a long conversation why 55 and he had his concerns because of the distance, the sight lines and vegetation. If you could maintain the vegetation and it doesn't cover it. These things are not cheap. They're very expensive.

MR. PROFACI: I was wondering why you couldn't stay at the 40 feet and still make it work.

MR. MILANO: I ran that by him and what

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he said is 55 is definitely better than 40. That's what he would recommend. And like I said, 15 feet on a highway, I know what you're saying, it's not as bad as a local municipality. I think we could live with a shorter sign. Not extraordinarily shorter.

MR. PROFACI: 40 feet is the maximum height. I don't know if you consider 15 feet extraordinarily shorter but --

MR. MILANO: I think we could probably live with 40. That wasn't my recommendation. I didn't want an odd ball thing in front of my hotel. I would have to shorten it if it didn't look good.

MR. GALLI: We'll help you.

MR. PROFACI: Then that's an option.

MR. MILANO: Okay.

CHAIRMAN EWASUTYN: I drive by your site every Saturday morning around 4 in the morning getting into Manhattan, which I do every Saturday. I think it's one of the most pleasing sites. I really do. I think it's -- probably, quite frankly, it's the most attractive site in the Town of Newburgh.



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MR. MILANO: Thank you.

CHAIRMAN EWASUTYN: I mean that in all sincerity. To me, maybe being around as long as I have, it really is an accomplishment. You're an accomplishment with what you presented there. I looked at your other hotel this morning next to the Starbucks, because now I begin to frequent that, and that seemed to be all booked out this morning. You've been around that long. I remember your father when he made his presentations. The Town has grown a lot since those days. This is a trigger that could backfire for all of us if it reached 55 feet. That's my concern. You can go to the ZBA, but Mike Donnelly is going to put something together because we do have to refer you to the ZBA. We discussed it during the work session, and it really isn't directed toward you, it's directed toward the possibility of an impact throughout the Town. I don't know how else we can help you.

MR. DONNELLY: I took some notes and these are the things the Planning Board wants to bring to the attention of the Zoning Board:

First I want to point out that in their

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experience and observations there is no other sign in the Town approaching the height of this one, therefore it has some precedential importance.

Next, at least in the earlier discussions, and the Board has certainly heard your explanation here, the Planning Board questioned the need, given the existing visibility of your site from the surrounding highway system. Obviously you have your explanation, the high speeds, but that's for the Zoning Board. The Planning Board wants to point out its observation on that score.

Thirdly, the variance for the sign -- land that you don't own, we want to point out we believe that's a use variance, not an area variance. We'll have a different standard. I think you will also need to have this -- again it's the Zoning Board's call but we'll flag the issue for them. You may need to have the DOT apply as a joint applicant because the variance is actually for their land. So I'll leave that to the Zoning Board. We want to flag those as potential issues that we think the Zoning Board

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should consider. We're not recommending either an approval or a disapproval. You've heard the opinion of the Board Members but I don't want the Board Members to step on the toes of the Zoning Board. Those three issues the Planning Board has asked me to bring to the attention of the Zoning Board.

MR. FETHERSTON: Can I ask a question, John? Is my best step to move forward to change the sign from 55 to 40 to remove that issue -- remove that one issue?

MR. GALLI: And go for the two littler ones?

MR. FETHERSTON: Go for the 40 foot tall on the highway, the 18 out on DOT, allow me that time to change the plan, come back to the Board if you feel it's necessary but maybe go to DOT prior to going to -- seek some type of a letter if that easement or license to propose to permit a sign there. I'd certainly like to remove them from the possibility of having to be an applicant.

MR. DONNELLY: If they gave you a license, that might satisfy the Zoning Board in

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terms of standing.

MR. FETHERSTON: Dominic Cordisco is the attorney on the project. He had a conflict and he couldn't attend.

MR. DONNELLY: It's your choice. If you want to regroup and come back, I think that would be all right.

MR. FETHERSTON: I think I'd rather do that than go to the Zoning Board and really go with something that's -- like you said, it's a precedent. I don't really want to be the precedent setter. Do you agree?

MR. MILANO: I agree.

MR. FOGARTY: The other thing is, I may have my numbers wrong here, but you're allowed, I believe it was 378 square feet and you're going for 421. Is that about --

MR. FETHERSTON: We did it a number of different ways. What we're saying is we're taking from the signage that is permitted on this lot and deducting that so that when the applicant -- understand, the same owner owns this lot, but when the applicant comes forward for this lot, they have to deduct that existing signage. I've

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got the numbers a couple of different ways. It's a little convoluted. I'd rather regroup, come back and maybe try and clarify it if I could. I think maybe that's my best way to move forward.

MR. CANFIELD: If I can. Just one thing, Andrew. The way you did the calculations, that's not going to fly. As far as taking the available signage for the vacant parcel, I think you were just hindering your attempt at what you want to do there. And you're right, it is convoluted to do that.

Also I'd like to point out too that should you choose to reduce the height of the sign, which I think is a very good idea, but then that eliminates one variance. Bryant Cocks had identified it, and I believe you had also mentioned in your narrative, so I think you're both on the same page of the variances that are going to be needed. Probably most importantly, it still does not negate the need for a use variance, which may be the most difficult to obtain here.

MR. FETHERSTON: Yeah. That's odd. That's another reason I really want to regroup.

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I want to confer with our attorney and get his opinion on that. It just never came up until now, and I'm very surprised.

MR. CANFIELD: I just wanted to make sure you understood that.

MR. FETHERSTON: Yeah, yeah.

MR. DONNELLY: It's going to be for the Zoning Board to determine whether that's an area for you. We just don't want them not to see that potential issue.

MR. FETHERSTON: Right. Right.

MR. DONNELLY: Maybe Dominic has a legal reason why he believes it's an area variance.

MR. FETHERSTON: I want him to vent his thoughts to my client. Okay.

CHAIRMAN EWASUTYN: Bryant, do you have anything to add?

MR. COCKS: No. Nothing additional besides what was already discussed.

CHAIRMAN EWASUTYN: I thank you for your patience.

MR. FETHERSTON: I thank you for the direction. I want to regroup and come back.

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MR. GALLI: Thank you.

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MR. FETHERSTON: Okay. Thanks very

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much.

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MR. MILANO: Thank you.

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(Time noted: 7:35 p.m.)

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DATED: May 3, 2012

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

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In the Matter of

HILTON GARDEN INN SIGNAGE PLAN  
(2012-06)

Crossroads Court off 17K  
Section 95; Block 1; Lot 45.22  
IB Zone

----- X

SITE PLAN & ARB

Date: November 15, 2012  
Time: 7:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: ANDREW FETHERSTON

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MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018



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MR. BROWNE: The next item of business we have is Hilton Gardens signage plan, project number 2012-06. This is a site plan and ARB being presented by Andrew Fetherston.

MR. FETHERSTON: Good evening. The last we were in front of the Board was sometime in April. We have been going back and forth with New York State DOT regarding a sign that we had previously proposed or had wanted to put out in the right-of-way of Route 17K. The right-of-way in that area is abnormally wide, and we think it's that wide for a possible replacement of the bridge at some date in the future over Route 87. I'm thinking maybe possibly leave the bridge, construct another and remove then the bridge. We were trying to get a sign at that location and saying if at any time in the future DOT wanted that property, needed that right-of-way or wanted that sign removed, we could do that, we would remove the sign.

The issue came -- the issue was that, for the DOT, that the parcel that the sign would be representing was not abutting that section of the right-of-way. It's owned by the same owner

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but it was not abutting the sign for the use. So that was denied by New York State DOT. We've since removed that sign. Our whole argument was the eastbound traffic coming around the knob that remains for the cemetery, that remains on high of course. One area that wasn't excavated of course, the cemetery use. It obscures the view of the traveling public. Almost at the speed that they're traveling, they could almost go right on by. We weren't successful with that so we removed that sign. That was going to be a free-standing sign. We removed that so that's no longer part of our application. As such, it removed quite a good quantity of signage which we would have required a variance for anyway.

The other part that we changed on this was we had the pole sign located down adjacent to 87. We did get a permit for that sign from the Thruway Authority. I have copies. I don't know if you have that but I have copies I could hand out.

We acknowledge the Board's request and your insistence that there was nowhere in the Town that had a sign -- I think we were proposing

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50 or 60 feet. It was quite tall. We're down to 40 feet. That's still going to work for my client. So we proposed a reduced height down to 40 feet on that sign, the same size.

We also proposed that one directional sign down at the bottom of the cul-de-sac, but the Code requires that it would be setback 15 feet from the property line. That really obscures it given the landscaping that's there. It really just wouldn't do any purpose if it was setback 15 feet. We have it back not quite 3 feet off of that property line so that it will be visible and will be a useful sign.

As far as the directional signs in the code for that, it's slightly oversized. I think it's -- I think it's 2 square feet over what is permitted. So we're seeking variances and we're looking to be directed to the Zoning Board.

CHAIRMAN EWASUTYN: Bryant, in your review you outline the variances. Can you, for the record, speak of them now?

MR. COCKS: The directional sign, a variance for square footage for the sign is required. 5 square feet is proposed and 3 square

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feet is the maximum. And also for the directional sign facing Crossroads Court, a variance for sign location where it's 2.8 feet away from the property line as proposed and 15 feet is required. For the pylon sign next to the Thruway, a variance for the total site signage is required, where 421.75 square feet is proposed and 20.75 square feet is existing on the building and 43.1 square feet is the maximum allowed.

CHAIRMAN EWASUTYN: Jerry Canfield or Pat Hines, do you have anything you want to add?

MR. HINES: I have nothing on it.

CHAIRMAN EWASUTYN: Anything from the Board Members?

(No response.)

MR. COCKS: The only other thing is this will need to be referred to the Orange County Planning Department. I don't know if you want to do that now or when they come back from the ZBA.

CHAIRMAN EWASUTYN: I think we'll expedite it.

MR. FETHERSTON: That's great.

CHAIRMAN EWASUTYN: Okay. Mike

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Donnelly, you'll prepare a --

MR. DONNELLY: I will. I'll use the list. With your permission, I'll advise the Zoning Board that it's satisfactory to the Planning Board if they wish to conduct their review on an uncoordinated basis under SEQRA, otherwise we'll have to await your declaration of significance which you have not issued.

CHAIRMAN EWASUTYN: Is the Board in agreement with that?

MR. PROFACI: Yes.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: I would move for a motion to refer this to the Orange County Planning Department and have Mike Donnelly forward a letter to the Zoning Board of Appeals.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a second by Ken Mennerich. Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

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HILTON GARDEN INN SIGNAGE PLAN

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried.

Thank you, Andrew.

MR. FETHERSTON: Thank you.

CHAIRMAN EWASUTYN: With that I'll move  
for a motion to close the Planning Board meeting  
of the 15th of November.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Ken Mennerich and a second by Frank Galli. I'll  
ask for a roll call vote.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:26 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: December 6, 2012