

Town of Pine Plains Zoning Commission Minutes
January 13, 2007

Members Present: Jon DePreter, Peter Caldwell, Gary Keeler, Helene McQuade, Scott Chase, Margo Jackson, Nan Stolzenburg (Consultant)

Absent: Vikki Soracco

Guests: (1) member of the public

Meeting called to order at 9:15 AM.

The Commission had a discussion pertaining to the Public Hearing held on January 11, 2007 regarding the moratorium extension. DePreter stated that he received an email from Warren Replansky stating that if the Town Board extends to moratorium, they will possibly make it less onerous with regard to what size subdivisions would be exempt. The Town Board will vote on the extension of the moratorium at a future meeting. Discussion followed.

The Commission moved on to continue their review of the draft zoning law, starting where they left off on Page 61 regarding special use permits. The Commission agreed that in item "C" the term "Building Inspector" should be changed to "Zoning Enforcement Officer" and that term needs to stay consistent.

Stolzenburg stated that she does not know if the new law administering and enforcing the Uniform Fire Prevention and Building Code has been amended to include the authorization of the Zoning Enforcement Officer to enforce zoning.

The Commission discussed item 3 (a) on Page 62, agricultural data statement. The Commission agreed that this item should include some guidance for the Board and the applicant.

The Commission discussed item 3 (e) on Page 62 which pertains to the data needed for the preparation of a preliminary site plan and who will do the calculations of the Environmental Control Formula for the applicant. DePreter suggested that the information be loaded onto the town computer and just say that the data will be available at the Town Hall. Discussion followed. Stolzenburg stated that she will make a note to herself that a decision needs to be made regarding who will be the keeper of the data.

The Commission discussed item 1 (r) on Page 65 regarding historic and natural resources. Chase stated that he would like to propose language to be included that he feels is needed to provide a little more guidance regarding the protection of historic and natural features. Chase will email his suggested language to Stolzenburg to be implemented into the draft zoning law.

The Commission discussed item 2 (c) on Page 68 which states "*Agricultural structures as defined under the N.Y. State Building and Fire Code Regulations and agricultural land uses, with the exception of roadside stands for the sale of agricultural products from a permanent structure. Temporary roadside stands smaller than 100 square feet are*

exempt". Stolzenburg stated that Drew Weaver asked why agricultural structures are not forced to go through site plan review. Stolzenburg explained that this requirement comes from the Ag and Markets law. Stolzenburg stated that she will get a copy of the Ag and Markets Site Plan Review Law. Discussion followed regarding whether or not the Commission wants to require agricultural structures to go through site plan review. Stolzenburg suggested making agricultural structures exempt from site plan review but requiring them to meet setbacks on the lot. Stolzenburg will check with Replansky to see if that can be done.

Stolzenburg stated that the Commission never really made a decision regarding domestic use of farm animals in the hamlet or in any of the other districts. Stolzenburg stated that she will go back and check the minutes but she believes this topic was never resolved. DePreter stated that he will also go back and check the minutes.

The Commission discussed item 1 (a) on Page 68 of the draft zoning law which lists "logging" as an activity requiring site plan approval while "residential garden uses and timber cutting" is listed as being exempt from the requirement of site plan approval. The Commission members agreed to change item 1 (a) to state that "commercial" logging requires site plan approval. The Commission further agreed to change item 2 (i) under the exempted uses to read "residential and non-commercial timber cutting".

The Commission members discussed item 3 on Page 69 regarding existing uses and structures. Item 3 states, *"Any use that would otherwise be subject to this law, which has been discontinued for a period of two (2) years or more, shall be subject to review pursuant to the terms of this law before such use is resumed"*. The Commission members agreed to change the requirement to one (1) year.

Stolzenburg stated that the section regarding stormwater management on Page 72 will be changed to conform to the stormwater plan submitted by Ray Jurkowski.

The Commission discussed item 7 on Page 73 regarding less intensive review and waiver requirements. Stolzenburg explained that the way the law is written now, the Planning Board may elect to conduct a less intensive review for minor types of projects. The Commission discussed whether or not the Planning Board should make the decision. The Commission agreed that there should be some written guidelines to assist the Planning Board in making decisions regarding less intensive reviews for minor projects. The last sentence in item #7 was amended to read, *"The Planning Board must state in writing its grounds for electing to conduct less intensive reviews according to the guidelines presented and file such statement along with the site plan application and supporting documents."*

The Commission discussed item b (1) on Page 72 regarding visual impacts assessments. The Commission agreed to add the term "existing, onsite" to paragraph b (1) so that it will read, *"Visually illustrate and evaluate the relationship of proposed new structures or alterations to existing, onsite and nearby pre-existing structures in terms of visual character and intensity of use (e.g. scale, materials, color, odor, door and window size and locations, setbacks, roof and cornice lines, and other major design elements"*

The Commission discussed that since a lot of things get site plan review and special use permit something could be added into the zoning law stating that the Planning Board is

empowered but not required to grant site plan approval and special use approval concurrently. Stolzenburg explained that the Planning Board can then go through and do the review and meeting the requirements concurrently such as one public hearing, one set of review that would incorporate both if they choose to. All members agreed to add the clause empowering the Planning Board to grant site plan approval and special use approval concurrently.

The Commission discussed adding language to the draft zoning law to make sure that projects being done protect and maintain historic and architectural character such as door and window openings. Chase stated that this was a concern of his. Chase stated that he has some suggested language that he will submit to Stolzenburg to be included and the Commission can talk about it. Chase's suggested language states, "The board may engage the services of an architectural advisor to suggest alternatives to harmonize with the character of the area." The Commission members agreed with Chase's suggested language. Discussion followed.

Stolzenburg stated that this is where illustrations are really important and the report to the Town Board really should have a strong recommendation that the very next thing they do is get an illustrated booklet done to correspond with what we are doing. Discussion followed.

Stolzenburg stated that maybe someone could mention to Gregg Pulver that we do need to revisit the draft subdivision to make sure it is consistent with and supportive of the draft zoning law. DePreter stated that he had a brief conversation with Pulver. DePreter further stated that he thinks that's something the Town Board would be agreeable to. Brief discussion followed.

The Commission discussed the criteria regarding the process of public hearings on Page 78 of the draft zoning law. The last sentence of item 15 (b) states, "*The Planning Board may, in its discretion, send notice of the Public Hearing to abutting property owners by certified mail, return receipt requested at least five (5) days prior to the public hearing*". The Commission members agreed that where it says the Planning Board "may, in its discretion" send notice of the Public Hearing, it should state that the Planning Board "will" send notice. The Commission members further agreed that the notice should be mailed certified mail, return receipt requested at least "seven (7) days" prior to the public hearing instead of only five (5) days. Brief discussion followed.

The Commission discussed item 14 (h) on Page 76 regarding adequacy of utilities and whether or not there should be language that says that the town engineer should inspect and approve newly installed underground utilities services. The Commission members agreed to include the language to item 14 (h). The Commission members further agreed to include language in item 14 (i) that the Planning Board shall refer applications regarding adequacy of site accessibility for emergency services to applicable emergency services providers as well as the town engineer and/or code enforcement officer.

Discussion followed regarding various other agencies or boards that the Planning Board may refer site plan applications to. Chase suggested that there should be a checklist for the applicant that notes what items need to go to other boards or agencies. Stolzenburg stated that a checklist has already been developed for the site plan review law. Discussion continued and the Commission members agreed to include language in the

draft zoning law under the category of “Criteria for Review” that states that the Planning Board must forward the site plan to emergency services, highway department and town engineer for their review and/or approval.

Stolzenburg explained that the way the draft zoning law is written, it states that the Zoning Board of Appeals may grant only one expansion of a non-conforming structure or lot. Stolzenburg stated that Drew Weaver questioned why a non-conforming use would be allowed to expand. The Commission had a lengthy discussion regarding whether or not the Zoning Board of Appeals should grant any expansions of non-conforming structures or lots and if so, how many. The Commission agreed to amend the document to say that the Zoning Board of Appeals shall review any requested expansion and may grant only one expansion of a non-conforming use, structure or lot and it can be no greater than 5% of the square footage, not to exceed 5,000 square feet. And for residential uses, it would be 25% of the gross floor area. Discussion followed. The Commission members agreed to have Stolzenburg check with Warren Replansky for his opinion.

The Commission discussed item H, number 1 (a) on Page 85 which pertains to existing undersized lots and reads, “*Such residential lot does not adjoin any other lot or lots held by the same owner whose total area is equal to or greater than the minimum lot area or average density required for that district*”. The Commission discussed the fact that this language seems to force the merging of lots if the owner of the undersized lot owns an adjoining lot making that property owner unable to sell the undersized lot. Discussion continued. The Commission members agreed to remove the requirement that would force the merging of the undersized lots with an adjoining lot owned by the same individual.

The Commission discussed item H, number 3 on Page 85 that reads, “*A lot of nonconforming size that does not meet the minimum base density requirements may be subdivided once to create a maximum of two lots provided that the nonconforming lot is one acre in size or larger*”. Lengthy discussion ensued. The Commission members agreed to amend item number 3 to read, “A lot existing at the time of adoption of the zoning of nonconforming size that does not meet the minimum base density requirements may be subdivided once to create a maximum of two lots provided that the existing nonconforming lot is one acre in size or larger and meets Dutchess County Department of Health approval. All members agreed.

The Commission had a lengthy discussion regarding what happens when someone doesn't meet the density requirement in the rural and agricultural areas. Chase stated that he thinks that we are trying to treat lots that exist at the time of the adoption of the zoning law equally and that regardless of the size, as long as it's more than one acre and they can meet Department of Health approval they would be allowed to try to get one extra home. All agreed.

The Commission members agreed to add language to the draft zoning law stating that anyone who has a existing lot at the time of the enactment of the zoning law in rural Pine Plains has the potential for a single one time additional residence provided that the subdivision meets setback requirements and Department of Health requirements and is at least one acre. All agreed.

The Commission discussed various changes on Page 86 whereby the term “Building Inspector” was changed to “Zoning Enforcement Officer” in certain paragraphs. The Commission members agreed that all references to Building Inspector and Building Permits should be changed to Zoning Enforcement Officer and Zoning Permit.

The Commission discussed item H on Page 86 of the draft zoning law. The Commission agreed to add language to item H stating that all applications for building permits shall initially be made to the Building Inspector and reviewed and approved by the Zoning Enforcement Officer. Discussion followed regarding Warren Replansky’s suggestion that all applications should be routed to one individual.

The Commission members agreed to add a sentence into item H on Page 86 that states “should the building inspector determine that a site plan for special use permit approval is required, he will forward it to the Zoning Enforcement Officer”.

The Commission discussed item 8 on Page 87 of the draft zoning law regarding the deadlines for applications. The Commission members agreed to amend item 8 to state that, “The Zoning Enforcement Officer shall determine within seven (7) days of receipt of an application whether the application is complete. The date of receipt is the date that the application is filed with the Zoning Enforcement Officer. If the application is incomplete, the Zoning Enforcement Officer shall notify the applicant that the application is incomplete and provide the applicant with a statement as to what additional information is required. The application shall be deemed complete if the Zoning Enforcement Officer fails to provide the applicant with a Notice of Incomplete Permit Application within such period. A building permit must be issued or denied within 15 days of the date that the permit application is complete. The aforesaid deadlines may be extended by mutual, written agreement between the Building Inspector and the applicant”

Stolzenburg stated that she made a change to item 10 on Page 88 by amending the second sentence to read, “No person shall perform any site work, clearing, landscaping or building construction of any kind unless the required building permit is displayed”.

Stolzenburg stated that on item 11 on Page 88 which pertains to the expiration of permits, Drew Weaver suggested changing the paragraph to state that a building permit shall expire two (2) years from the date of issuance instead of one (1) year. The Commission members agreed to make the change.

The Commission discussed item 12 on Page 88 which currently refers to Certificate of Completion. The Commission members agreed to replace the term Certificate of Completion to Certificate of Compliance or Certificate of Occupancy and carry that language through the whole paragraph.

The Commission discussed item 13 on Page 88 which pertains to civil penalties and fines. Stolzenburg stated that Drew Weaver asked if this paragraph applies to the landowner or the construction manager. The Commission agreed that the penalty should apply to the applicant. Stolzenburg will amend item 13 to read, “Civil Penalties and Fines to Applicant”.

The Commission discussed item 16 on Page 89 which pertains to inspections. The Commission discussed who will perform inspections. The Commission agreed that it should be the Zoning Enforcement Officer.

The Commission discussed item 17 on Page 89 which pertains to the procedure for investigation of violations. The Commission members agreed that all references in item 17 that pertain to violations should be amended to zoning violations and all references to Building Inspector should be changed to Zoning Enforcement Officer.

Stolzenburg asked the Commission if they want to add something about stop work orders into the draft zoning law. The Commission agreed to add language to the draft zoning law that if there are violations, a stop work orders may be issued by the Zoning Enforcement Officer, the Building Inspector or the Code Enforcement Officer

The Commission discussed the second sentence in item "c" on Page 90 which reads, "*The Building Inspector shall commence the proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets*". The Commission agreed to amend the sentence to read, "The Building Inspector or Zoning Enforcement Officer shall commence the proceeding by ordering and appearance ticket..."

The Commission discussed item 19 on Page 91 which pertains to appeals. Stolzenburg stated that she needs to rewrite the paragraph to read that the appeal has to go the Zoning Board of Appeals first.

Stolzenburg stated that the whole section on the Zoning Board of Appeals is pretty much language that is right out of the state law. The Commission members did not have any problems with the language.

Stolzenburg stated that she has added a bunch of definitions as a result of everybody's comments and additions to the use table. Stolzenburg stated that the Commission will need to review them in the next round of reviews. Brief discussion followed.

Stolzenburg stated that the next time the Commission meets there will be the Wellhead Protection Area discussion with Steve Winkley, the review of Jurkowski's stormwater management plan and she will have the other missing chapters for the Commission to review. Discussion followed.

DePreter explained that Gregg Pulver had sent a copy of the draft zoning law to Roger Akeley. DePreter stated that he called Akeley after hearing that Pulver had sent a copy to him and explained to Akeley that this draft was written in August and that there have been a lot of changes made to it since then. DePreter stated that Akeley told him that Anne Saylor is working on the Affordable Housing Model but he did not know when it would be done. Chase stated that he thinks DePreter should email Akeley again and ask if there is a timeframe when he thinks it might be done. Discussion followed.

DePreter stated that he called Dale Mitchell and Brad Mitchell and advised them both of the upcoming presentation by Steve Winkley pertaining to the Wellhead Protection Plan. DePreter stated that he also told the reporter from the Millerton News about Winkley's

presentation so the paper would know about it. Discussion followed regarding Winkley's upcoming presentation.

Stolzenburg stated that she had asked Replansky to send her his preferred model of a Cell Tower law. Stolzenburg explained that Replansky said he sent it but she did not receive it. Brief discussion followed. DePreter asked Pineda if she can contact Replansky's office to ask if they can send it to Stolzenburg digitally. Stolzenburg stated that she would also need a copy of escrow law that Replansky said he wrote for the Town of Pine Plains. Pineda will contact Replansky's office.

DePreter thanked Stolzenburg for her effort and her work and stated that she has never missed a deadline and never held up the progress of the work.

Public Input - Jon Adams stated that he was in attendance in Matt Rudikoff's place since Rudikoff is out of town. Adams stated that he would suggest having a little more flexibility in this first zoning law. Adams stated that the Commission is talking about 5% for expansion while most towns are using 25% as a standard. DePreter stated that it is 25% for residential expansion and then 5% for commercial. Caldwell asked Adams if 25% for residential and 5% for commercial sounds reasonable. Adams stated that 5% is pretty restrictive for commercial. Adams stated that 25% is the norm that he has seen. The Commission discussed whether or not to change it to 25% for commercial expansion since there will still be 5,000 square foot maximum and would still have to go under review. DePreter asked the Commission if they would be in favor of changing it to 25%. All members agreed to the change.

McQuade motioned to adjourn. Seconded by DePreter. All in favor.

Respectfully submitted by:

Karen Pineda
Zoning Commission Secretary