

Town of Pine Plains Zoning Commission Minutes  
January 24, 2007

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

Guests: Warren Replansky (Attorney), (8) members of the public.

Meeting called to order.

Caldwell motioned to adopt the January 10, 2007 and January 13, 2007 minutes. Motion seconded by McQuade. All in favor.

DePreter introduced Steve Winkley from the New York Rural Water Association who will explain the Wellhead Protection Plan drafted for the Town of Pine Plains.

Winkley stated that the New York Rural Water Association is a non profit organization of communities and waste water systems across New York State founded in 1979 and funded through federal and state funding to do ground water and wellhead protection.

Winkley gave a presentation of the draft wellhead protection plan that he created for the Town of Pine Plains. Winkley explained that he has many versions of wellhead protection laws but it's different wherever you go because it depends on the land use and the situations.

Winkley explained that one of the first things he did was map the surficial geology which is the material that's found at or near the surface. Winkley stated he did that by using GIS and a digital elevation model, as well as digital soil survey information for Dutchess County taking into account that that information is pretty good.

Winkley explained that basically the materials we are talking about in the area are shallow rock exposure, soils and topographic expressions where there is glacial till deposited directly from glacial ice. Winkley explained that there is the glacialfluvial which are water deposited materials and the areas where there are finer sands and areas along the streams which are called alluvium that is basically modern day stream deposits that have been deposited basically in the last 10,000 years.

Winkley explained the area of topographic expression of shallow rock. Winkley stated that the reason he cares about this is because where your wells are, they are completed in bedrock and the bedrock does not outcrop at the plain area. Winkley explained that it is important to know where there is either bedrock very near the surface or where there is material over the bedrock but that material would allow recharge or rain water to readily be transmitted into the bedrock.

Winkley explained the fractured traces which are the surface expression of underlying fracture zones in the bedrock. Winkley stated that in looking at some of the outcrops of the bedrock today, it's well fractured and these fractures extend up to the land surface.

Winkley stated that it's very difficult to map bedrock hydrogeology but the best we can do is look at the soils and a combination of the fractured traces. Winkley explained that based on that, what is mapped as a wellhead protection area are those areas that are topographically upgradient which is where we believe the groundwater is believed to flow toward the wells and where the bedrock is in areas that are an effective hydraulic connection with the overlying surficial materials. Winkley continued with his presentation further explaining the hydraulic connection with the overlying surficial materials.

Winkley stated the wetland areas are basically a natural groundwater divide. Winkley explained that you have wetland areas where groundwater is likely discharging. Winkley stated that there is a watershed divide which is the surface water divide and that some people may ask why that wasn't taken to be the boundary. Winkley explained that the reason is that when you are dealing with these fractures they don't follow the lay of the land. Winkley stated that he did some calculations of the recharge to see if that is too large or too small an area based on the study that was recently done by Dutchess County. Winkley stated another way to check is to look at recharge rates and soil types and using the soil information to confirm that there is more than enough recharge for the wells. Winkley explained that his approach is if you want an area that is as scientifically sound as possible and if you're going to base a law around it, you don't want it too small. Winkley stated that on the other hand, if you have it too large then that just opens up potential technical issues and he really believes that this is the soundest approach.

Winkley explained that as part of the wellhead protection plan one of the steps they have to do is look at potential sources of contamination within the area. Winkley pointed out that in Pine Plains those sources are pretty much all on the margins so there isn't really any obvious sources within that area.

Winkley stated that the most widely used approach to protect a source is to use a Wellhead Protection Overlay District which he explained is an additional layer of regulations above whatever the zoning will be. Winkley further stated that the idea is to prevent groundwater contamination and depletion in the area that supplies recharge to the water supply wells.

Winkley stated that within the Agricultural District, you must pay very close attention to the Ag & Markets law. Winkley explained that Ag and Markets makes sure that no laws unreasonably restrict agricultural operations. Winkley went on to explain various uses that may be prohibited.

Winkley explained the definition of impervious surfaces and stated that there should be no more than a 15-20% maximum impervious site coverage and that will basically allow enough infiltration to maintain a recharge that is necessary.

Winkley explained that unless you are putting up a single family, two family dwelling or an Ag use, there should be site plan review requirements. Winkley stated that there is quite a bit of information that would be required for site plan review in this overlay designed mainly to look at groundwater impacts and impacts to associated water resources. Winkley further stated that there are specific review and approval criteria.

Winkley explained the schools of thought on zoning overlay districts in terms of boundaries. Winkley concluded his presentation and asked if there were any questions.

Chase asked Winkley if someone was doing a site specific boundary, would they be essentially examining the soils in that area. Winkley stated that they would basically see what the depth of the bedrock is, the substantial layer of fine grain material clay or something that would basically reduce the recharge of the aquifer in that area. Discussion followed.

DePreter stated that in the Comprehensive Plan there are some outlying areas that were just scattered islands. Winkley explained that basically the overall flow direction is not toward the wells from those areas. Winkley further explained that by doing the recharge calculations, you can basically see the most conservative and most defensible is to basically start closer to the wells and once you've got more than an adequate amount of recharge there really isn't a need to go further and further away. Winkley stated that in terms of defensibility this is much more defensible than including scattered islands. Discussion followed.

DePreter stated that Ray Jurkowski had some comments on the Wellhead Protection Plan. The Commission had a lengthy discussion regarding Jurkowski's comments.

Winkley stated that he can do another version and email it to Stolzenburg that would have something in it about the boundary issues. Stolzenburg stated that Winkley could just send along what he would recommend and we will just make sure it's consistent with other pieces where we say basically the same thing. Stolzenburg asked Winkley if he would recommend, within the wellhead area, that a large multi residential development be clustered so it is not spread out across the landscape so the storm water can be better controlled. Winkley stated that he would recommend that as long as there are adequate areas for waste water disposal. Discussion followed.

Stolzenburg asked Winkley if he reviewed the density of development suggestions for the underlying districts that the zoning commission has, which she explained is one dwelling for five acres with the use of an environmental control formula that adjusts that based on environmental features. Winkley stated that he feels that is adequate. Discussion followed.

Chase stated that he thinks Steve Winkley did an excellent job on the Wellhead Protection Plan presented.

Winkley stated that if the Commission has any further questions, they can email him and if there are any further changes he will send a new version to Stolzenburg with the new areas highlighted.

The Commission thanked Winkley for his services and for providing the presentation of the proposed Wellhead Protection Plan for Pine Plains.

The Commission moved on to review the new sections submitted by Stolzenburg.

The Commission discussed the guidelines for review of local zoning and planning laws which DePreter stated seems like a site plan review for Ag uses. DePreter stated if he

recalls there was going to be no site plan for Ag uses and Replansky thought that might be a little questionable. Stolzenburg asked do you want to have any agricultural uses go through site plan review and which type of agricultural uses would the Commission feel should have site plan review. Discussion ensued.

DePreter asked the Commission members if they want site plan review for Concentrated Animal Feed Operations. All Commission agreed that Concentrated Animal Feed Operations should require site plan review.

The Commission had a lengthy discussion regarding whether agricultural structures should be required to go through site plan review. Replansky advised the Commission that large farm structures should have site plan review. The Commission members agreed that there should be site plan review for farm structures over 10,000 square feet with language that states that all farm structures must comply with building code regulations and setback requirements. All agreed. Brief discussion followed.

The Commission discussed the stormwater control draft submitted by Ray Jurkowski. DePreter stated that on page 2 under applicability where it says, "*All land development activities subject to review and approval by the Town Planning Board of the Town of Pine Plains under subdivision, site plan, and/or special permit regulations resulting in a disturbance of greater than one acre shall be reviewed subject to the standards contained in this local law*" he did not see anything that defines "disturbance". Stolzenburg stated that she thinks it would be any disturbance but she will add a definition.

The Commission discussed item 3 (i) on Page 2 of the stormwater control section, where it says, "*This local law shall be applicable to all land development activities as defined in this local law*". Stolzenburg asked for clarification of which activities are being referred to. Stolzenburg stated that Jurkowski recommended commercial projects equal to or greater than one acre of disturbance and residential equal to or greater than five acres of disturbance. Discussion followed.

The Commission discussed item 3 (ii) on Page 2 of the stormwater control section which states that the municipality shall designate the Code Enforcement Officer to accept and review all Erosion and Sediment Control Plans and Stormwater Pollution Prevention Plans. The Commission discussed changing it to read that the Town Engineer is the designated individual to review the plans. The Commission discussed whether to change all references in item 3 (ii) from Code Enforcement Officer to Town Engineer. Discussion followed.

The Commission discussed the difference between a Code Enforcement Officer and a Zoning Enforcement Officer. Stolzenburg stated that at some point the Commission is going to have to settle on whether to call it a CEO or a ZEO. Keeler explained that the Building Inspector is a CEO and the Zoning Enforcement Officer is the ZEO. Brief discussion followed.

DePreter asked the Commission if they are all in agreement with the changes discussed and made to the Stormwater Control section. After further discussion, all members agreed with the changes.

The Commission moved on to discuss the mining section. The Commission agreed to move the definition of mining, currently on page one of the mining section, to the definition section of the zoning law. Further discussion ensued regarding various grammatical corrections.

The Commission discussed item 5 on Page 3 of the mining section where it states, “*no excavation shall be within 5 feet of the existing water table*”. The Commission questioned whether Ray Jurkowski would feel that was adequate or if it should be greater than five feet. Stolzenburg stated that she can ask Jurkowski. Discussion followed.

DePreter asked the Commission members if there were any further comments on the mining section. DePreter stated that with the changes that the Commission has made that he thinks that overall, conceptually we are happy with what Jurkowski has presented. The Commission members agreed to accept the mining section with the changes that were discussed and agreed to.

The Commission moved on to discuss the section on Manufactured Home Planned Unit Development (PUD).

The Commission discussed the Rent/Ownership section where it states, “*the land lying wholly within the perimeter boundaries of any proposed or established Manufactured Home PUD District shall be held in single ownership and shall consist of separately dimensioned, individual lots, collectively held in single ownership and used entirely for rental purposes only*”. DePreter asked if these will all be rental properties. Stolzenburg explained that they would be because otherwise it would be considered a subdivision. Stolzenburg explained that there are several different models for manufactured homes but the model she gave to the Commission to review seems to have worked well and it seems pretty complete. Discussion followed regarding the comparison between the town’s existing mobile home law and the model being discussed.

Replansky asked if there really needs to be all of these criteria for the developmental standards in the PUD for manufactured homes if the town is going to create a PUD. Replansky explained that normally when you create a PUD, the town formulates all of these things. Stolzenburg explained that the process for any PUD is laid out whether it’s a mobile home or a commercial PUD. Stolzenburg further explained that it is the same process but the criteria outlined in the manufactured home PUD are the minimum standards which the Town Board must apply for the manufactured home PUD. Discussion followed.

Replansky stated that he wanted to go back and comment on the mining section. Replansky explained that he still needs to take a closer look at it but he has a real problem with the process regarding violations. Replansky stated that item I (3) on page 9 states, “*if the Town Zoning Enforcement Officer determines that there is a violation of operating conditions and/or that the mining operation is not being conducted or can not be conducted in accordance with the plans as approved, the mining permit shall automatically become null and void, upon notification...*”. Replansky stated that is really going to be a problem and he feels that Jurkowski is going to have to revise this because just like any other violation, you have to give the person a notice of violation and an opportunity to correct it. Replansky explained that if the violation is not corrected, then the town can close them down but you can’t just say you can’t operate anymore

without some sort of notice. Replansky further stated he feels the fines in item K are too onerous. Replansky explained that the fines have to be consistent with the fines that we are going to have in the zoning law and that he believes that \$1,000 per day is something we can't even do under state law. Discussion followed.

The Commission had a lengthy discussion regarding the recreation fees for the manufactured home PUD District. Replansky explained that since this is not a subdivision the Commission has no statutory authority to impose a recreation fee. Replansky stated that he would like to see a requirement in the planning process for some sort of playground, open space or some other facility. Chase stated that since this will be done as a PUD it almost becomes a contract zoning in which case the developer would negotiate the conditions with the town. Replansky stated that Chase is probably correct.

The Commission had a discussion regarding whether a \$100 recreation fee is high enough. Replansky stated that he thinks \$100 is too small and should be consistent with whatever our standard recreation fee is.

The Commission had a discussion regarding site size and whether the standard suggested in the Manufactured Home PUD, which states, "*Manufactured Home PUDs shall be located on well drained sites comprising a minimum of five (5) acres and a maximum of fifteen (15) acres*", is an acceptable size. DePreter suggested that the Commission continue with the discussion at the next meeting.

Public Comment - Community member, Rick Osofsky requested the draft documents under review and was advised that he could FOIL for them.

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

Respectfully submitted by:

Karen Pineda  
Zoning Commission Secretary