

Town of Pine Plains Zoning Commission Minutes
July 12, 2006

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

Also Present: Warren Replansky (Town Attorney)

Guests: (6) members of the public. Millerton News

Meeting called to order at 5:25 PM.

DePreter stated that he received a phone call from Town Attorney, Warren Replansky and Replansky requested to speak with the Commission members for approximately 10 minutes at the end of the meeting.

Caldwell motioned to approve the June 28, 2006 minutes. Seconded by Keeler. All in favor.

DePreter stated that he just wanted to re-confirm that the August 23rd meeting of the Zoning Commission has been cancelled. DePreter stated that the meeting with Harry Willis will start at 7:00 p.m. on August 14th at the High School Cafeteria. DePreter further stated that the Zoning Commission's regular meeting on August 9th will begin at 5:30 p.m. but will be held at the High School Cafeteria.

Keeler advised the Commission that he will not be in attendance at the July 26th meeting.

Chase stated that he thought that Dale Mitchell made a good point at the last meeting about the assisted living facilities. Chase further stated that he feels the Commission should look at how many areas assisted living facilities could actually go into and maybe a special provision can be made. Keeler stated that he thinks that is what the Zoning Board of Appeals (ZBA) does. Chase disagreed stating that it would be much better to make provisions from the start for something that we want. Chase explained that the ZBA under state law can only give relief under certain circumstances and they can not just say something sounds like a good proposal so we think we should give them a variance. Chase stated that he would like to go back and talk about the issue some more. Stolzenburg agreed and stated that if the zoning is working well, the Zoning Board of Appeals should hardly ever be needed and that it shouldn't be seen as something that if it doesn't work then we'll just go to the ZBA. Stolzenburg stated that if it is not going to work from the beginning, then it should be fixed from the beginning. Stolzenburg suggested that the Commission wait until after the meeting on Affordable Housing because that might gel some ideas and questions that the Commission might want to ask and then address the subject again. DePreter agreed with Stolzenburg. DePreter stated that there will be one speaker on Affordable Housing and one speaker on Planned Unit Development and by the time we get through both of those, the Commission might have come to its conclusion. Chase stated he feels that when a good question comes up and there is a use that we want to try to allow then we should try to figure out a way to do it. Chase stated that now is the time, while we are writing the ordinance.

The Commission moved on to discuss the commercial and agricultural uses that would be allowed in the different districts. The Commission used the Town of Dover's Use Schedule as a guide.

The Commission discussed agricultural use – Caldwell stated that agriculture should be outside of the hamlets. Keeler agreed. DePreter asked if it has to be in the Agricultural District or can there be agricultural uses in the Rural District. Caldwell stated that he believes the only restriction for agriculture would be in the hamlets. Jackson asked if the cornfield on Poplar Avenue is outside of the hamlet. DePreter stated that the cornfield on Poplar Avenue is in the hamlet. Chase stated that when he was a kid there was always a horse or two right in the center of town. Chase further stated that he has been in other communities where someone tries to keep 10 horses on a half acre and they end up with a mud field. Stolzenburg stated that is an issue and that the Commission can use the definitions for an agricultural operation that is consistent with the Ag and Markets which are oriented to agriculture for some profit and not just to keep a horse or a pig in a backyard. Keeler stated that he wouldn't want any animals or any agriculture in the business center. Keeler asked if there is a special use, should the Commission set the number of animals instead of having something like "animals per acre" or "per so many square feet". Stolzenburg asked the Commission if they want the zoning to address animals in the hamlet. Chase stated that instead of making that a zoning issue, he would rather the town deal with that as some sort of a nuisance ordinance. DePreter stated that he thinks there might already be something on the books. The Commission's secretary Pineda stated that she will check into whether there is already an ordinance. Stolzenburg asked the Town Attorney, Warren Replansky if he knows if there is anything in Pine Plains that addresses individual farm animals in the hamlet from a nuisance or a public health point of view. Replansky stated not that he knows of. Chase stated that what he wanted to do was avoid the Commission being the body that is going to control whether somebody keeps a pig or a goat or something like that. Chase stated that the Town Board should have some ordinance just like they have a leash law so if the animals are nuisances then the Town Board deals with it rather than the Commission trying to zone it. Replansky stated that the Town wouldn't do that but it would be a Code Enforcement Officer. Replansky explained that most zoning laws have some regulation of animals. Replansky stated that sometimes it is a certain number per acre or there are some restrictions on set back requirements and numbers of pets. Replansky further stated that there are complaints that come in on a regular basis in many municipalities about the keeping of dogs and the keeping of a lot of pets in a small area and in close proximity of the boundaries. Replansky stated that if you try to regulate agriculture then you run into the Ag and Markets Prohibition.

The Commission continued their discussion on agricultural use. Stolzenburg asked if Pulvers Corners and Bethel will be treated in the same way as the Pine Plains hamlet and not have agriculture in the hamlets. Chase stated that the hamlets of Bethel and Pulvers Corners already have agricultural operations in the center. Caldwell stated that those operations are businesses. Caldwell further stated that there is also Dillinger's in the Pine Plains hamlet. Keeler stated that he thinks the Commission should come up with a minimum parcel size, like anything less than 5 acres wouldn't be permitted in the hamlet area. Stolzenburg stated that the only issue she has with that is some of the niche farms and niche agricultural operations like greenhouses and nurseries aren't on large properties. Keeler stated that he was thinking more about the animal agriculture. Stolzenburg stated that she has less of a problem with doing that for animal agriculture.

Further discussion ensued. Chase stated that he thinks that we were all comfortable with the town center district restricting agriculture and then in the other hamlet districts it could be a special permitted use and we would just have to work out what the performance standards are. Stolzenburg stated that she would have to go back and look at the overlap between the hamlet and the Ag District because she wouldn't want to run into an issue with that. Chase stated that outside of the hamlet it could be a permitted use. Stolzenburg stated that the Ag and Markets actually has a model for site plan review oriented for agriculture that they recommend that kind of modifies the site plan review process for agriculture that can be incorporated. DePreter suggested that the Commission look at that. DePreter stated that such a general approach is good and the Commission can just say that something like that will have a special permit and then the Commission will discuss the details later and just get through the generic list of uses for now.

The Commission discussed camps. Stolzenburg stated that she thinks camps would be like an outdoor recreational business but she isn't sure that camps are even anything the Commission wants to address. McQuade asked if it could include something like motor homes. Stolzenburg stated that could be considered a camp. Keeler stated it can also be something like a summer camp where kids go and stay for the summer. **Chase stated that he would allow it outside of the hamlet area as a special permitted use conforming to the general performance standards. DePreter asked if everyone agrees that camps would only be permitted outside of the hamlets. All members agreed.**

The Commission discussed commercial logging. Keeler stated that logging should be outside of the hamlets. Keeler further stated that he thinks something like that would have to go through SEQRA. Stolzenburg stated that some communities have a logging permit that might review the location and construction of logging roads. DePreter asked if logging should be a permitted use or a special permitted use. Stolzenburg asked if the Commission wants to regulate commercial logging in Pine Plains. **McQuade stated that she would think that just in terms of the Comprehensive Plan and trying to protect the natural resources, that logging would be a special permit situation where it would be subject to a more rigorous review than just a permitted use. All members agreed.**

The Commission discussed communication towers. DePreter stated that he doesn't think there's much the Commission can do about the communication tower. Stolzenburg asked Replansky if the town has a separate cell tower law. Replansky stated that he may have done one for Pine Plains but he does not remember. Stolzenburg stated that if there is one in existence, it can be brought into the zoning and if there isn't one in existence then they almost all require a special use permit. Replansky stated that it is a difficult area because it is regulated by the Federal Communications Commission which pre-empted a lot of municipalities' power with regard to permitting a communication tower. Replansky explained that you still have a certain amount of oversight and the process can not be unduly long. Brief discussion ensued.

Chase suggested that since the town already has a cell tower, why not just allow it where it is. Chase asked Replansky if it can be restricted to say that a cell tower can only be on municipal property. Replansky stated no. DePreter suggested seeing if there is any existing language on communication towers first. Pineda will check to see if there is any language on cell towers.

Stolzenburg stated you can potentially say cell towers would be allowed in the hamlet area if they were concealed and part of an existing structure. **DePreter asked the Commission how they feel about that or would they rather just have it in the rural and agricultural area. All members agreed that it would be best to have cell towers only in rural and agricultural areas.**

The Commission discussed craft workshops. Stolzenburg stated that craft workshops are things like ceramics and a lot of them are home occupations that would be handled under home occupations. DePreter suggested that craft workshops just be put under the category of home occupations. McQuade asked if craft workshops and home occupations can be exclusive of each other. Stolzenburg stated that they can be part of a home occupation but it's possible that someone would want to have some sort of craft or artist studio just to have it. DePreter stated that he doesn't see why they wouldn't just be allowed anywhere but asked if they would have to go through site plan review. Stolzenburg stated that if it's a business they are going to be operating and if they are going to be building a building or using a building, it would be a commercial building so why would it be treated any differently than any other commercial building. Brief discussion followed.

DePreter stated that the question is will craft workshops be allowed in every district. DePreter stated that he doesn't see any reason why they wouldn't be if they are going to be reviewed anyway. Keeler stated that the only thing that concerns him is what environmental impact it would have on noise, pollution, etc. Stolzenburg stated that would be addressed during the site plan review and the SEQRA that would be done. McQuade stated that there used to be a business that is no longer in Pine Plains but where they made lead figurines. McQuade further stated that is an environmental issue so we should be prepared for that. Chase stated that there should be provisions that the general performance standards will be reviewed by the town and that the community will be protected. **DePreter stated that we could say that craft workshops would be a permitted use but that they require site plan review and then we'll talk about that further. All agreed.**

The Commission discussed home occupations. DePreter asked the Commission if they agree that home occupations should be permitted everywhere. DePreter stated that there are some definitions in the Design Standards. Stolzenburg stated that home occupations were addressed very substantially in the site plan review so we can take a look at what is in the site plan draft. Stolzenburg further stated that she thinks home occupations were broken up into minor and major categories. Stolzenburg explained that someone sitting at a computer is different than someone who has heavy equipment coming in all day and being parked. DePreter stated he believes what was said was that people who were considered minor would not require site plan review and that major home occupations would. **DePreter asked the Commission if everyone is in agreement that home occupations would be allowed in every district. All members agreed.**

The Commission discussed bed & breakfasts. Keeler stated that he doesn't have a problem with them being anywhere. Chase stated that there probably still needs to be some sort of additional review. Stolzenburg stated that she thinks bed & breakfasts were also addressed in the site plan review draft as far as things like signage, parking lots, lighting and things of that nature. DePreter stated that there is also the question of how long people would be staying because we don't want it to become a boarding house

situation. Stolzenburg stated that she thinks the Planning Board worked a lot of that out so that can be brought in to see if the Commission agrees with it.

The Commission discussed junkyards. Keeler stated that junkyards should be in the rural area only. Chase stated that there is a stand alone ordinance on junkyards right now so the Commission would have to figure out how that would be incorporated. Stolzenburg stated that she thinks the site plan review law also has something on junkyards. Stolzenburg asked Pineda if she can get a copy of the town's junkyard law. DePreter stated that the Commission can look to see what we already have but asked Stolzenburg if she wants to investigate it further before the Commission makes a decision. Stolzenburg stated that she needs some sense on where the Commission might want junkyards. Keeler stated again that he feels junkyards should be in the rural district. All members agreed. Replansky asked if the Commission really wants junkyards. Stolzenburg stated that she doesn't think junkyards can just be completely ruled out. Replansky stated that there might be a problem if junkyards are allowed because they are considered noxious uses that most people don't want and are uses that most municipalities try to get rid of. Replansky stated that once you allow junkyards with a special use permit, the courts have decided that can amount to a legislative finding if that use is compatible with that zoning district and it becomes very difficult to deny the special use permit unless they don't meet all of the performance standards. Replansky stated that the Commission can consider not having them at all. Discussion followed.

DePreter asked the Commission members if junkyards overall should be prohibited or would the Commission want to have them as a floating zone. Jackson stated that if other communities are prohibiting them and if they will make Pine Plains a magnet for junkyards, that is not consistent with the Comprehensive Plan. McQuade stated that she is trying to think of an upside to having junkyards and can't think of anything positive, especially since there is no demand for it right now. Chase stated that if somebody has a large piece of property with a large buffer zone and regulations are written whereby the actual storage of the junkyard components are stored out of sight and stored properly and the neighbors aren't seeing it then who is it hurting. Chase stated that we can say that it is a special permitted use and someone would need to have a minimum of 30 acres and the junkyard can only occupy 3 acres of it. DePreter asked Replansky if that can be done and Replansky stated that it can be. **DePreter asked the Commission for a vote on whether junkyards will be outright prohibited or will they be allowed with some provisions that will be later identified. All members agreed to prohibit junkyards.** Replansky stated that he will look into the legalities of prohibiting junkyards.

The Commission discussed kennels. Stolzenburg stated that kennels are typically put outside of the population centers because of barking dogs. Keeler stated that Pine Plains has a veterinarian in town and they have kennels. Chase stated that kennels probably need to be in the rural area. DePreter asked if the Commission wants to differentiate between the center residential and non-center residential areas. Jackson stated that the veterinarian is in the non-center residential area. **DePreter stated that he thinks we should say that kennels should only be in the rural and agricultural area with a special use permit. All members agreed.**

The Commission discussed light industry. Stolzenburg stated that light industry would be things like assembly whereas heavy industry would be where you start with raw material to make a product to ship out to wholesalers. Stolzenburg explained that light

industry generally takes components that are made somewhere else and assemble them into a new product. Discussion ensued.

DePreter asked the Commission where they feel light industry should be or whether it needs to be defined further to be able to have a conversation about it. Stolzenburg stated that she can get the Commission some definitions. Stolzenburg further stated that the Commission might want to consider industrial uses through the floating zone concept. Stolzenburg stated that without having a designated area for these things, then maybe the way to handle it would be through a floating zone because you can't really anticipate what might come. Discussion followed.

DePreter asked if the Commission is generally in favor of having light industry be a floating district and then the Commission can look at the definition that Stolzenburg brings in and that might help firm things up. All members agreed.

DePreter stated that the Commission will go into an attorney/client session with Replansky at the end of this meeting and we want to give the community 10 minutes to talk so there are only a couple more minutes for discussion.

The Commission discussed lodging facilities. Stolzenburg stated that the definition could make a big difference. Stolzenburg explained that lodging facilities are hotels or motels or a number of other things that can fall under the lodging facility category. The Commission discussed what types of facilities would be considered lodging. Stolzenburg explained that lodging facilities are usually for transient overnights or one, two or several nights at a time but are not really residences where people would come and live for weeks and months. DePreter stated that basically it would be a hotel. Stolzenburg stated a hotel or a motel of some sort. McQuade stated maybe it can be defined as not being a boarding house so that it is only a transient type of facility. DePreter asked if the Commission would want lodging facilities everywhere in every district. Keeler stated that he hasn't thought that far yet. DePreter asked Stolzenburg to get the definition for lodging facilities and then the Commission can decide what to do.

DePreter opened the public input period and stated that the public will be allowed 10 minutes for comments.

Jim Mara – Mara thanked the Commission for their excellent work. Mara had a comment regarding home occupations. Mara stated that he feels home occupations should be severely controlled so that a person would not be allowed to go into an established residential area and open up a home business that would have the potential for noise and/or visual pollution in that area. Mara explained that he thinks people go into a residence and into a community, they buy a home, they put a lot into it and they expect to have what they see, which is a residential area. Mara stated that then you wake up one morning and you find out you have something like a kennel, a repair shop, a kiln or whatever next door to you. Mara stated that he would like the Commission to somehow address that issue as they go through their thoughts.

Torey Soracco – Soracco stated that many people are starting home businesses because they need money and this is where they can afford to live. Soracco stated that if she has to support a family and needed to open a business in her home, she would do it and is not going to be able to give a lot of concern to her neighbor because when you have to

support a family, you have to do what you have to do. Soracco stated that is just another way to look at the subject of home businesses. Soracco stated that she isn't saying to have something where you're going to have noise 24 hours a day, 7 days a week but stated that she is talking about more minor businesses. Soracco also stated that in terms of kennels, nobody wants a kennel anywhere near them until they have no place to bring their dog and then everyone wishes that there was a kennel somewhere around. Soracco stated that in terms of soundproofing so that at night when the dogs are enclosed indoors you don't hear anything, that can be regulated so that there are certain hours when there will be nothing you will be able to hear. Soracco further stated that putting kennels in the rural or agricultural areas doesn't mean it is not going to impact a neighbor even with a buffer.

Brad Mitchell – Mitchell stated he had a comment more than a question. Mitchell explained that it is very difficult to hear what the Commission is saying even in the second row, especially these months when the air conditioning is on. Mitchell stated that it is especially hard to hear those who don't have very loud voices and are facing in the opposite direction. DePreter stated that he thinks the Planning Board has a microphone that we can probably use and he will look into that.

DePreter asked if there were any more comments from the public. There were no further comments.

DePreter made a motion to adjourn the meeting. Seconded by Keeler. All in favor.

Respectfully submitted by:

Karen Pineda
Zoning Commission Secretary

*** Bold font denotes a decision made by, and agreed to, by the Zoning Commission for purposes of composing the Generic Environmental Impact Statement.**