

Town of Pine Plains Zoning Commission Minutes  
July 26, 2006

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

Absent: Gary Keeler, Helen McQuade

Also Present: Warren Replansky (Town Attorney)

Guests: (6) members of the public.

Meeting called to order at 5:15 PM.

Caldwell motioned to approve the July 12, 2006 minutes. Seconded by Chase. All in favor.

DePreter stated that before the Commission discusses the uses, he would like to mention that he checked into obtaining the Planning Board's microphone but it has been misplaced and has not been located yet. DePreter suggested that the Commission members sit facing the audience so everyone can hear what the Commission is saying. DePreter stated that as far as the microphone goes, we are going to try to hunt one down or buy another one sometime before the next meeting at the Town Hall. DePreter further stated that the two meetings in August will be at the High School and there will be a microphone at both of those meetings.

DePreter asked if the junkyard law was researched. Pineda stated that she gave a copy of the law to Stolzenburg. Stolzenburg stated that the draft language that was included in the site plan law also addresses junkyards but they don't prohibit them. Stolzenburg further stated that the local law of 1981 states *The use of any lands within the Town of Pine Plains as a dump or dumping grounds, storage, or disposal facility for any refuse, garbage, waste paper, rags, scraps of any kind or description or any discarded material commonly called junk or trash or of any description where such items originate from within the State of New York but outside the Town of Pine Plains is prohibited.*

Stolzenburg stated that the site plan law approaches is a little differently. Caldwell stated that the Commission already voted unanimously on prohibiting junkyards. Chase agreed. DePreter stated that he just wanted to get it on record that we checked to see if we already have a law. Stolzenburg stated that the law may not prohibit everything but she will have to read it further. Stolzenburg further stated that it may not necessarily prohibit an auto junkyard. Stolzenburg stated that it would depend on what the definition would be and that's what she has to look into. DePreter stated that the point is that if we have the local law then we can look at it and see if it covers everything, even though we prohibited junkyards, we still have to define it so maybe we can start from there. Caldwell asked if the Commission could act on auto junkyards. DePreter asked if the Commission wants to talk about it now. Jackson stated that we did talk about it and

maybe we can just add that to the description. DePreter stated that he just wants to be clear that we are adding auto junkyards to the existing definition. Caldwell, Jackson, Soracco, Chase and DePreter agreed. Keeler and McQuade were absent for the vote.

The Commission continued their discussion on lodging facilities. The Commission discussed the differences between hotels, motels, boarding houses and rooming houses. Stolzenburg stated that the Commission didn't get as far as saying whether or not they want a hotel or a motel. Stolzenburg asked if the Commission wants to offer some insight into either one of those categories. DePreter asked the Commission if anyone has any feelings on the subject. Caldwell suggested a special use permit so that they go through a full review process. Caldwell asked if size and scale would ordinarily be part of the review process if the Commission has it as a requirement for site plan review. Stolzenburg stated that as a commercial enterprise it would come under site plan review but the scale and size would probably be covered under regulations for a special use. Discussion continued regarding whether there should be a hotel or motel in Pine Plains.

**DePreter stated that he would want to allow a hotel or a motel with a special use permit if somehow it fit in. Chase stated that it really comes down to the scale and the character in which it is done. Soracco stated that if one did come to town, she feels it is needed because there is no place to stay in Pine Plains. DePreter stated that he would be in favor of having a hotel or motel if it is in character. Soracco agreed. Caldwell stated as long as it's regulated according to the very stringent special use permit requirements. Jackson agreed that a hotel or motel is needed and also agrees that it has to be in scale and character of the community and that there are stringent special use permit requirements.**

The Commission moved on to discuss where they feel a hotel or motel should or should not be located. Chase suggested having them in or around the hamlet center because they will be good for business. DePreter agreed, stating that he would be in favor of having a hotel or motel in the Business District. The Commission discussed the differences between hotels, motels and boarding houses. DePreter asked the Commission if they have some general idea about where they would want to allow hotels and motels if the scale issue is addressed. Jackson asked if there is a definition of hotels and motels. Stolzenburg explained that motels are often defined as a smaller number of rooms with no restaurant facilities and a hotel would be a larger facility with a restaurant facility inside of it. Discussion ensued.

Stolzenburg stated that she thinks the Commission's decision probably depends on how the Commission defines hotels and motels. Stolzenburg stated that she thinks she would like to use this discussion as some input from the Commission as to whether or not these are desired uses and in general where and what kinds of things the Commission expects and then she can put something together and the Commission can say whether or not that is what they want. Stolzenburg stated that she doesn't think we can pin these uses down completely yet so it would be easier for her to get a general idea of what the Commission wants so she can put some things together and then the Commission can decide.

Discussion followed regarding the difference between a motel and a hotel and the areas in which they should or should not be located.

After some discussion Chase suggested that the Commission just use the term lodging facility of a small scale or large scale rather than defining facilities as motels or hotels. Chase suggested that large scale lodging facilities can have dining facilities. Stolzenburg stated that the Commission just needs to define the difference between small scale and large scale. DePreter asked if the small scale should be a certain number of rooms and no dining area. Caldwell suggested 15 or less rooms with no dining room for small scale and large scale would be more than 15 with dining room. All agreed.

The Commission discussed where small and large scale lodging facilities would be allowed. The Commission members agreed that small scale lodging facilities would be allowed anywhere and large scale facilities would be allowed in the Main Street, Agricultural and Rural Districts but not in the Business District.

Stolzenburg asked what about in the Rural and Ag District. Stolzenburg stated that she thinks there's a difference between a Days Inn kind of facility and a resort kind of facility. Stolzenburg explained that the resort type of facility needs a large acreage and it might be more feasible to put them in other places in the town, like a destination type of resort or tourist attraction versus transient hotels for a weekend. DePreter asked if Stolzenburg is saying that large scale resorts would be compatible with the rural area. Stolzenburg stated that they could be. Chase stated that maybe there should be a separate category or separate definition for a resort. DePreter agreed. Stolzenburg stated that we could have small scale lodging facilities, large scale lodging facilities as more of a transient kind of thing and then a resort, tourist, spa kind of thing. DePreter asked if the Commission members agree with that definition. All members agreed.

The Commission discussed offices. Stolzenburg stated that some use tables split out offices as a professional office or an office connected with a retail business or somehow connected with another use like a gym that has an office from which the gym is run. Jackson stated that she thinks it makes sense to keep it simple. Replansky read the definition for offices from the Town of Red Hook Zoning Law which read "*Office or an office establishment is a structure or a part thereof used for the purpose of conducting a business or providing professional services. The term office or office establishment does not include businesses that sell goods such as a retail store*". DePreter stated that kind of works for him. Jackson agreed.

The Commission discussed where offices should and should not be permitted. Jackson stated that she doesn't see any reason to restrict offices. DePreter asked the Commission if they would feel comfortable with offices in the Business District. All members agreed to allow offices in the Business District. DePreter asked the Commission if they are in favor of having offices in the Main Street Overlay. All members are in favor of having offices in the Main Street Overlay. DePreter asked the Commission if they favor offices in the Center Residential off Main Street within the half mile radius. Caldwell stated that the problem would be commuters that come to the office everyday and parking, etc. so that doesn't fit so well in the residential setting. DePreter stated maybe there can be a light impact office and a higher impact office. Discussion followed regarding offices in the residential area and the possible use of accessory structures as office space.

Replansky stated that if the Commission wants to go to a third category to include accessory structures, they can but he stated that he would caution against being too liberal in that area. DePreter stated that he agrees because when someone is building another structure on their property it is just one more level of intrusiveness. DePreter stated that if somebody is going to build an accessory structure and it is going to be used as an office or to store stuff in and sell, that really doesn't matter as much as the building itself and the site and how many people are coming in and out. Stolzenburg stated that the definitions for minor and major had differences based on the number of employees and the activity going in and out. DePreter asked if the Commission would be interested in seeing a third level of an accessory structure being built whether it's for an office or any of the other uses. Replansky stated that he would really discourage allowing accessory structures to be built for the purpose of a home occupation. Replansky further stated that the Commission should probably be thinking more of the conversion of existing structures to allow for home occupations otherwise you get into the area of someone building a house as an accessory structure specifically for something that would normally be a commercial or retail use. Replansky stated if the Commission is contemplating on accessory structures as somebody who has an existing house and wants to operate a business out of that house, a small scale business may not be feasible or may be better operated out of a garage converted to a business use. Replansky explained that if you start encouraging or allowing construction of accessory structures simply for home occupations you may run into some problems. DePreter asked what would stop somebody from building a garage and then coming back later and applying for it. Replansky stated that you can say that the accessory structure has to be in existence at the time of the enactment of the zoning law.

DePreter asked the Commission if they had any comments. Caldwell stated that he thinks Replansky's advice is good advice. All members agreed.

Chase stated that the Commission decided that offices would be allowed in the Main Street and Center Business District and now we are trying to figure out if we can go further. Chase stated that if someone wants to put a building the size of the town hall in the middle of a residential area on a vacant lot, he isn't sure he is comfortable with that. DePreter stated that he isn't either. DePreter explained that right now offices are a permitted use in the Business District and the Main Street Overlay but asked the Commission if they would be comfortable with an office building in a residential area. Caldwell stated no because it creates traffic in and out. Soracco asked what if someone takes a house and makes it into offices. Soracco stated that she thinks in the right spot it might not be so bad. Stolzenburg stated that conversion of an existing residence to an office use can be a separate category but then you have to ask if you convert a residential structure to an office is it different than converting a residential use to a retail establishment or restaurant. Soracco stated she doesn't think she would necessarily want to see a restaurant but an office might be OK. Stolzenburg asked if the Commission would want to add a line that allows the conversion of an existing residential structure for office use and have it subject to a special use permit that would limit the number of employees or traffic in and out. DePreter asked if the Commission feels comfortable with that. Discussion continued.

Chase stated that he thinks that the Main Street District and the Center Business District is plenty of space for offices for now. DePreter stated that there is something to be said for funneling and that the idea being that as the town grows there will be more use for office space and there will be a more dynamic business activity in the town and if we focus it for the Main Street Overlay and the Business District, we would be concentrating the business more which in a way is more consistent with the Comprehensive Plan and will probably make a more vibrant Business District. DePreter stated that he thinks we should just leave it at that. **DePreter suggested limiting offices to the Main Street Overlay and the Business District. Caldwell, Jackson and Chase agreed with DePreter. Soracco disagreed.**

The Commission discussed public utility facilities. Stolzenburg stated that public utility facilities are things like telephone switching stations. Stolzenburg asked Replansky if we can say no to public utility facilities. Replansky stated that public utilities are given preferred status in New York State. Replansky stated that they can come in and request a variance from the zoning law and the courts have held that the standard applied for a use variance for public utilities is a lower standard than what is prescribed in the town law or zoning law. Stolzenburg asked if they can be allowed anywhere but subject them to a site plan review or a special use permit. Replansky stated that can be done or they can be restricted with the knowledge that it is conceivable that they can come in and ask for a variance. Replansky further stated that restricting them is not going to be struck down as unconstitutional or illegal but the Commission needs to know that regardless of what they put in the zoning law, it may be something that a public utility has a way of circumventing. **DePreter asked the Commission if they had any thoughts and stated that it sounds like the option would be a special permit. Stolzenburg stated that a special use permit and a site plan review can be done concurrently and that gives the Planning Board the opportunity to view the siting on the lot as well as any issues like traffic, design or aesthetics of screening or whatever might be needed. DePreter stated that because it could be big or small, it could be hard to say so a special use permit would probably cover it. All members agreed with public utility facilities being subject to a special use permit.**

The Commission discussed recreational businesses. Stolzenburg stated that recreational businesses are often things like miniature golf, go carts, pool halls, gyms, racetracks, arcades, batting cages and things like that. Caldwell stated that recreational facilities cause a lot of problems for the neighbors and he would not want them in residential areas. Stolzenburg explained that they can be split into indoor facilities and outdoor facilities. Soracco suggested that recreational businesses be under special uses. Discussion followed regarding indoor and outdoor recreational businesses. Jackson suggested indoor recreational businesses on Main Street and outdoor recreational businesses in the Rural District. DePreter asked if a recreational business, like an arcade, is something that should be in the Business District. DePreter stated that it would be a business and a business is a business. Caldwell stated that the Commission should consider the scale issue also. Stolzenburg stated that anything in the Business District by its nature would be in scale because that is what the district was created to do. Further discussion ensued.

**DePreter suggested that indoor recreational businesses could be in the Business District and Main Street Overlay in the Hamlets and in the Ag and Rural Districts. Jackson, Caldwell, Soracco, DePreter agreed. Chase was unsure.**

Replansky stated that the Commission might want to consider creating a floating zone for recreational businesses in order to deal with problematic uses. Chase stated that Replansky might be right. Chase further stated that the Commission can take those recreational businesses that are potentially more problematic and write down the criteria we would like them to have and then have them float. Chase stated that what it comes down to is sort of a scale type of thing because a small pool hall probably fits into the center of town but if it's a giant skating rink or a bowling alley then there are issues there. DePreter stated that if we are going to do it as a floating zone then do we still need to have it as indoor and outdoor definitions. Stolzenburg stated that she would suggest defining recreational business for the Main Street Overlay and the Central Business District and include arcades, pool halls, gyms, etc in the definition. Stolzenburg stated that it could be square footage or some of those uses mentioned that are not as problematic and that could fit in those zones. DePreter stated that he would be comfortable with that. DePreter stated that we would then have the Main Street District and then the Business District and we would have a definition for recreational businesses that are allowed in those districts and then everything else, indoor and outdoor, would go through a review process.

Jackson asked for some clarification as to what the Commission is agreeing to. Stolzenburg explained that we are going to define recreational businesses as allowed in the Main Street District and the Center Business District, include in the definition things like arcades, pool halls, gyms, and some smaller uses that would fit into those areas. Stolzenburg stated that they would also go under a site plan review and special use permit but only for the smaller scale uses. DePreter explained that the larger uses would have to go to the Town Board for rezoning. Caldwell stated that he would like to caution about racetracks. Caldwell suggested that the Commission consider prohibited uses for certain objectionable, racetrack type of facilities. DePreter asked if Caldwell is talking about automobile racetracks. Caldwell stated yes.

**DePreter asked if anyone had any thoughts on Caldwell's suggestion to prohibit racetracks.** Stolzenburg stated that racetracks can just be left out of the definition because anything that is not on the list or defined will be prohibited. Caldwell stated that he would suggest that racetracks be left off. Caldwell further stated that he has spoken to people in town who go to racetracks and they say that racetracks are wonderful things to have but not in our backyard. DePreter asked how the Commission feels about prohibiting racetracks. Stolzenburg suggested that the Commission think of it in the context of the Comprehensive Plan. Stolzenburg asked if racetracks fit in with the vision established for the town even though they weren't addressed in the Comprehensive Plan. All members agreed that it does not. DePreter suggested that the Commission consider Caldwell's suggestion and prohibit racetracks. All members agreed.

DePreter stated that Replansky submitted a letter to the Commission for review. Replansky stated that he created two documents for the Commission's consideration. Replansky explained that one document basically sets forth the rationale for limiting the time period for public comments, questions and dialogue during the Zoning Commission meetings. Replansky stated that the document explains why the Zoning Commission has decided to limit the public input but to also elaborate on why there will be plenty of opportunity for public input during the course of the work of the Zoning Commission and

the Town Board. Replansky recommended that the Commission read the document, digest it and then decide whether they want to adopt it. Replansky stated that there is also the Frequently Asked Questions (FAQs) and that he has given the Commission an introduction for that even though, Replansky added, that he is still of the mind that the Commission should not do this at all. Replansky explained that what he has done was explain why it's inappropriate or difficult for the Zoning Commission to respond to all of the FAQs concerning the zoning law and zoning in general. Replansky stated that part of the problem is that a lot of the FAQs relate to technical aspects of the zoning law which hasn't been created yet so to start responding to questions about certain aspects of the zoning law that hasn't been created yet, not even in draft form, is very inappropriate because they may be commenting on portions of the zoning law that may never come into existence. Replansky further stated that there are also some questions that are beyond the Commission's expertise. Replansky stated that the Commission is taking public comments at the end of each meeting, there will be written comments received for consideration, the Commission had two informational meetings, there will potentially be one or more informational meetings as well as one or more public hearings after the law is created in draft form, after which the law may be revised. Replansky stated that right now a lot of questions that people have about the law are premature. Replansky further stated that with all of that in mind, he has culled down the FAQs and changed some of the responses. Replansky stated that these are only his suggestions and that if the Commission disagrees, they can respond to all of the questions or change the responses. Replansky recommended that the Commission look it over and then decide what they want to do.

DePreter stated that he thinks it's important that people know that even though the Commission may not be responding we are still listening to what people are saying. DePreter stated that the only thing he would say pertaining to Replansky's document is that we are not really limiting public input to a 10 minute policy but that the Commission has always had the 10 minute public input period. Brief discussion followed.

Before the Commission continued with their discussion on uses, DePreter reminded the public that the next two meetings will be held at the high school cafeteria. DePreter stated that the August 9<sup>th</sup> meeting will be at the high school at 5:30 p.m. and that there will be a speaker on affordable housing and the meeting on August 14<sup>th</sup> which will consist of the PUD training by Harry Willis will be at the High School at 7:00 p.m.

The Commission discussed drive-thru restaurants. Chase stated that drive-thru restaurants do not do anything for him. Soracco stated that she thinks if it's designed right she would have no problem with a drive-thru restaurant. DePreter asked where she would like to see them if they were going to be allowed. Soracco stated the Main Street District and Business District. Caldwell stated that there is a traffic issue to consider. Soracco stated that there is always going to be a traffic issue but we want the town to grow. Caldwell stated that it will compound the traffic problems if drive-thrus are permitted at the crossroads of Church and Main Streets. Jackson stated that it would be OK if it can be done with design standards but her concern would be in terms of the character of the town. Jackson stated that she loves that Pine Plains is a place where businesses are run by people who live here and that look like unique businesses. Stolzenburg stated that maybe the Commission can separate out the "use" from the "impact" and asked if the Commission would not want a fast food restaurant or is the

issue that they don't mind that kind of use as long as it performs a certain way. DePreter stated that his problem with the drive-thru in the pedestrian hamlet is that the Commission is trying to create a pedestrian downtown so the businesses in that area should be more pedestrian oriented. Discussion followed.

**Chase stated that he is not in favor of drive-thru restaurants. Caldwell asked Chase if he wants to say no to drive-thru restaurants. Chase stated that he prefers that there be no drive-thru restaurants because he doesn't think they add anything to the community and that it would create a vehicular oriented development and he doesn't think that is what we are trying to have happen here in Pine Plains.**

**Caldwell stated that he seconds Chase's motion. Jackson agreed with Chase and Caldwell that there shouldn't be any drive-thru restaurants. DePreter and Soracco are in favor of drive-thru restaurants anywhere outside of the half mile radius. DePreter stated that the vote will be discussed again when Keeler and McQuade are present.**

DePreter asked if anyone had anything to say before opening up for public comment. There were no further comments from the Commission.

DePreter suggested that the Commission meet briefly at 5:15 at the August 9<sup>th</sup> meeting before the affordable housing discussion so that they can discuss the adoption of the minutes and the documents submitted by Replansky at this evening meeting. The Commission will meet at 5:15 p.m. on August 9<sup>th</sup> at the High School Cafeteria.

DePreter opened the public comment period by asking how many people had comments for the Commission.

Dale Mitchell – Mitchell stated that he thinks the concern that most people have is that once the document is finalized and accepted it is going to be that much more difficult to make any changes. Mitchell stated that sometimes he presents questions that are just questions that the Commission should listen to and think about and maybe in the process of doing what they are doing, they will pay attention to them. Mitchell further stated that is why he feels the public needs to be able to ask lots of questions because this is where the public can influence what is going on. Mitchell stated that otherwise it is just a matter of sitting here listening to Scott and Peter have conversations back and forth and make decisions. Mitchell stated that he needs to have more than that.

DePreter stated that he wanted to take a moment to acknowledge that Brad Mitchell sent 18 questions to the Commission prior to the last Zoning Commission meeting and that receipt of those questions weren't acknowledged at the last meeting. DePreter stated that he wanted to acknowledge them now. DePreter further stated that all of the Commissioners have received those questions and they are being thought about.

Tom Toigo – Toigo stated that all of us struggle with trying to translate abstract comments into concrete terms so we can understand, so we are all looking around to see what exists as the Commission comes up with these sometimes simply esoteric things. Toigo stated that he was struck during the Commission's office building discussion and that just by a supreme sense of irony that we are sitting in a building that is prohibited. Toigo explained that the building we are meeting in tonight (Town Hall), would be

prohibited by the Commission and he thinks if the Commission is going to do that, the Commission needs to define why this building is inappropriate and why it shouldn't be here. Toigo stated that he thinks if the Commission is going to say this is a prohibited use, a building that we are all appropriately sitting in tonight, he feels they have to tell the public why it is inappropriate that this building is here.

Brad Mitchell – Brad Mitchell stated that it is hard in a few minutes to say everything that needs to be said. Brad Mitchell stated that he thinks he is struck by the lack of vision that he sees at this point stating that the Commission talks about business growth and that it is very important in the Comprehensive Plan but they don't really follow through with a serious vision of what that means. Mitchell stated that office space limited to where the Commission is limiting it to is absolutely insane because the Commission is limiting so much of the business growth to a very narrow corridor and there is no room for growth so basically what the Commission is saying is that there is going to be no growth in this town. Mitchell stated that is exactly contrary to the Comprehensive Plan. Mitchell explained that the Comprehensive Plan talks about growth in conjunction with preserving the rural character and that the Commission looks way too much at preserving the rural character and not enough at growth. Mitchell stated that the Commission really needs to get public input. Mitchell further stated that the Commission went so far along without public input of any substance that they are really heading down in a very poor way. Mitchell stated that he appreciates everyone's time but that the Commission really has to start listening to other people other than a very narrow focus because they are focusing way too much in one area. Mitchell stated that it is uncanny the way the Commission is designing the plan and that the vision is not there. Mitchell stated that this town needs a gym but asked where a gym is going to be placed. Mitchell suggested that the Commission think about where we are going to see these things. Mitchell stated that we won't see them and that it's very disappointing and he thinks that the Commission needs to refocus and think of some of those issues.

Rick Osofsky – Osofsky stated that he was also taken by the whole office discussion. Osofsky stated that he once spoke about very large buildings and barns outside of the town that historically have cows in them. Osofsky explained that some farms have 150-200 cows in huge buildings and if he stops doing business and wants to convert the barn into an office, he can't because it isn't permitted. Osofsky stated that was the same argument he had historically on the earlier proposed zoning ordinance when he wanted to convert a barn into a Mercedes service station or garage and he was told that he can either have a house there or a barn with lots of cows but nothing else. Osofsky stated that one of the things that struck him when we started the process of what we were going to do under this new ordinance, which he really supported, was to minimize these kinds of restrictions that we had. Osofsky stated that what he finds is that anything that is controversial is now going to be in a floating zone or prohibited. Osofsky explained that exactly what the Commission was trying to do is what they are not doing. Osofsky stated that he senses that the Commission's concern is scale and which Osofsky stated is not the problems of the zoning ordinance. Osofsky further stated that there is nothing wrong with having an office in a residential district and that there is no way that Myrtle Avenue will turn into 20 office buildings. Osofsky stated that can't happen unless the town grows substantially outside of the village but you prevent that by just having these large lot phenomena that's happening in Pine Plains right now. Osofsky explained that the growth in Pine Plains has been outside of the village and the hamlet itself has shrunk

significantly over time but the Commission is not going to have offices. Osofsky stated that they just don't happen but the market drives all of those things and he would suggest that the market historically has done a good job. Osofsky explained that if another office is needed, one will open but to assume the town is going to turn into an office, it will turn into an office maybe 100 years from now when we get that kind of pressure but before that we'll change the zoning ordinance 20 times. Osofsky stated that right now we are talking about today and keeping it vital today. Osofsky further stated that he read on the Pine Plains website that the population in 1877 was 400 less people than there are here today. Osofsky stated that he knows there are concerns about the potential of these developments but he thinks the market has done a decent job. Osofsky stated that the Commission should be planning and dealing with the issues at hand and further stated that form-based codes would have dealt with those issues but these don't. Osofsky stated that these are all telling us what we can't do and not what we should be doing.

DePreter asked if anyone else had anything to say. There were no further comments.

Soracco made a motion to adjourn the meeting. Seconded by Caldwell. 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.**