

Town of Pine Plains Zoning Commission Minutes
June 28, 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: (8) members of the public

Meeting called to order at 5:30 PM.

Caldwell motioned to approve the June 14, 2006 minutes. Seconded by Soracco. All in favor.

DePreter stated that he called Don Bartles, Chairman of the Planning Board, to possibly move the Planning Board meetings back to 7:30 p.m. on the nights that the Zoning Commission has a meeting just prior to the Planning Board to try to squeeze in another half hour. DePreter asked the Commission if that would be alright with them. All members agreed that it would be alright. DePreter asked the Commission if they will also be agreeable to changing the start time of the Zoning Commission meetings to 5:15 p.m. rather than 5:30 p.m. DePreter stated that the time change would give the Commission an extra 45 minutes at each meeting. Brief discussion ensued. All members were agreeable with the time change.

DePreter explained that the Commission is possibly going to incorporate into the use schedule, some of the Site Plan Review Law or Design Standards that the Planning Board has already reviewed. DePreter stated that it would be a good idea to have copies for every member of the Commission. The Commission's secretary, Pineda stated that she will provide copies to all Commission members.

Chase stated that Anne Saylor, who is a planner and housing person with Dutchess County Department of Planning and Development, will be coming to the Commission's August 9th meeting. Chase stated that he told Saylor that it would be something like 15 minutes to present any kind of justification study that needed to be done, as well as discuss alternative ways of implementation and how programs are administered. Chase stated that then there will probably be 20 to 30 minutes of questions and answers. DePreter stated that he was thinking that it would be a presentation for the whole meeting. Discussion followed.

DePreter asked McQuade if she can secure the school for August 9th for the speaker on Affordable Housing as well as the night of August 14th which is when the Commission is going to have Harry Willis, the Planned Unit Development (PUD) speaker come down and speak to the Commission, the Planning Board and the Town Board. DePreter stated that the public will also be invited. DePreter stated that the PUD presentation will be on August 14th from 7:00 p.m. to 9:00 p.m. and would need the school cafeteria for that time. DePreter further stated that the Commission will need the school on August 9th from 5:30 p.m. until 7:00 p.m. for the presentation by Anne Saylor.

The Commission discussed the Frequently Asked Questions that will be posted on the website. The Commission reviewed the list of questions and answers for accuracy. Stolzenburg noted all corrections and modifications suggested by the Commission members. Caldwell stated that we want to get the FAQs posted as soon as possible so why not just authorize Stolzenburg to make the changes and have it posted. The Commission further discussed corrections to the list of questions and answers. Stolzenburg will make the corrections and forward the FAQ list to Pineda to post on the website. DePreter advised the community that there will be a Frequently Asked Questions link on the Town's website starting approximately next week and there are currently 54 questions that have come up from the public at meetings or through the surveys and the comments from the surveys.

The Commission discussed the timeline for development of the zoning ordinance. Stolzenburg distributed a sheet consisting of the suggested steps and timeframes to keep in mind as the Commission moves along to keep the process moving. Stolzenburg stated that tonight the Commission will discuss uses and when that discussion is completed, the Commission will have gotten through the major decision making. Stolzenburg stated that if the Commission can get through the uses tonight and gives her some direction in which to head with those then she will start pulling all of the pieces together and filling in all of the detail section by section. Stolzenburg stated that then she would get that over to Replansky to look at from a legal point of view and if there are any legal changes to make, then those changes will be made and if it's a technical policy type of change that Replansky has a comment on then the Commission can consider it in their deliberations. Stolzenburg stated that she is hoping to have that done sometime in mid-August. Stolzenburg stated that one of the things that can be difficult is how to move through the document section by section, line by line to make sure it's understandable and make decisions.

Stolzenburg stated that one idea she had was to give the Commission some sort of table or sheet that lists the different section numbers of the zoning and the Commission members can read the sections and note whether they agree or not or add comments and questions. Stolzenburg stated that then the Commission will fill that out as they read along and get it back to her so she can compile a master list. Stolzenburg stated that by doing that, we will know which sections everyone agrees on and we can concentrate our time on those sections where there are questions and policy decisions that the Commission needs to make or change. Stolzenburg stated that she thought that if we can do that then the Commission can be reviewing that toward the end of August. Stolzenburg stated that by the September 13th meeting, we should be able to start a section by section review. Stolzenburg stated that it is somewhat unclear how long this will take but we will try to be efficient and see how it goes and once the Commission is done reviewing each section and reaches an agreement on the sections we will have a full draft. Stolzenburg stated that the draft may have to go back to Replansky to review to make sure everything is legally correct in preparation for presenting it to the public and having a public hearing. Stolzenburg stated that there was some discussion about having some sort of fact sheet or executive summary or some sort of bulleted highlights of the zoning as a supplement to the actual draft so people can have something a little condensed to read if they choose to leading up to the public hearing. Stolzenburg stated that once the public hearing is done, the Commission will need to decide if any adjustments or changes are needed and then send the document along to the Town Board to start their adoption process. Stolzenburg stated that if the Commission can keep to that

then we are hopefully targeting September to start the section by section discussions.

Stolzenburg stated that the Commission is going to have the August 9th and the August 14th meeting, then instead of having whatever that last August meeting is, the Commission can use that time to read the document on their own and get any comments back to her. Pineda asked if the Commission is canceling the August 23rd meeting. DePreter and Stolzenburg stated that it is what we are talking about. Stolzenburg stated that there will still be two meetings in August. Pineda stated that she just needs to know if the August 23rd meeting is definitely cancelled because she will need to do a legal notice. DePreter stated he will be away then so it is up to the Commission.

DePreter referred to the handout Stolzenburg distributed and stated that it says "Stolzenburg to write full draft zoning". DePreter asked Stolzenburg if the Commission still has time to discuss some things and if she will be showing the Commission what she is writing as she goes along. Stolzenburg stated that she can if the Commission wants her to. Soracco asked if the Commission is not going to have a public hearing until November. Stolzenburg stated that there will not be a public hearing until the Commission has a draft to show to the people. Stolzenburg stated that she has most of the pieces that she needs except for the uses. Soracco stated that she thinks it's too bad that we can't do something before November for the public. DePreter explained that there really aren't any further questions the Commission can answer other than the 54 on the FAQ list and what people are asking us. DePreter further stated that the Commission really needs to flesh this thing out so we will have something else for the public to respond to because all the Commission can offer now is basically what was already offered in the presentations. Stolzenburg stated that if she has it done before the end of July, she will certainly send it along and then we can move up the public hearing date. Chase stated that he thinks this timeframe is aggressive and that the Commission will have its hands full trying to stick to the schedule. Soracco asked what happens if we fall behind. Chase stated it will take as long as it takes. DePreter stated that the Commission has to complete the process and this timeline is only a goal. Brief discussion followed.

The Commission moved on to discuss the Use Schedule. Stolzenburg stated that the uses is one area that the Commission has not had any discussions on and for each district that the Commission has designated, the zoning needs to address what uses would be allowed. Stolzenburg stated that there are several issues related to uses. Stolzenburg explained that there are three categories of uses such as permitted uses that are allowed, prohibited uses which are not allowed and uses subject to a special use permit. Stolzenburg stated that the premise is that anything that is not listed in the use table is considered prohibited. Town Attorney, Warren Replansky confirmed that is correct. Stolzenburg stated that we concentrate on the things that we want to permit in the use table so we really need to start thinking about the different districts and what the Commission wants to permit.

Stolzenburg stated that we already have the Site Plan Review Law that establishes which uses would be subject to a site plan review. Stolzenburg stated that the Commission may want to change that but stated that the Planning Board has gone through it and identified which uses should go through site plan review. Stolzenburg stated that mostly it is commercial uses or a change of use that goes through a site plan review. Stolzenburg explained that a use table usually identifies what is permitted by right, what needs a site plan review and what needs a special use permit.

Replansky stated that most zoning laws have all of the panoply of uses whether they are permitted in a specific zone by special use permits or the matter of right or if they are prohibited. Replansky explained that the Commission will not be able to think of every conceivable use and the ones that are not in the schedule will be prohibited. Replansky stated that if the Commission is going to go that route he thinks it should be as specific as possible. Stolzenburg explained that a special use permit can be considered a use that is an allowable use but has certain characteristics that may make it difficult to be in a particular district and requires a special review to assure that the use can coexist with the other uses in that district. Stolzenburg stated that there are some fundamental questions that the Commission has not discussed yet such as the whole special use system and what the Commission's philosophy is and what we are going to bring forward in terms of uses. Stolzenburg stated that we have the Rural District, the Ag District, the Wellhead Protection Area, the different hamlet districts and the Business District.

Replansky explained that the standards for use variances are the harshest standards set forth in the town law and will have to be embodied into the Commission's local law and you have to show that the property can not be used for any viable economic purpose for any of the uses that are permitted in the zoning law and for that district before you are entitled to a use variance. Stolzenburg stated that is if the Zoning Board doesn't work. Replansky stated that realistically, that would have to go for a re-zoning and go to the town to amend the zoning law. Caldwell stated doesn't that argue for a more general schedule for uses because we are not going to be able to anticipate and list all of the potential uses which impose this kind of hardship on someone who comes in with a use that hasn't been thought of. Replansky stated that there is some benefit to categorizing the uses as retail, service and more generic categories and maybe having some guidance as to what constitutes service use or retail use but there is some merit to that because lots of ordinances have specific uses and then they have a catch all category of retail or service. Replansky suggested that the Commission take a look at some examples of good zoning laws that have schedules of uses. Replansky stated that he would be hard pressed to do anything without looking at a couple of zoning laws. Discussion followed.

Stolzenburg stated that the Commission needs to make sure that each use that is on the table is defined in some manner. DePreter stated that he thinks the Commission is looking for a general direction and asked if the Commission would want something that is more descriptive in terms of general things like retail. DePreter stated that it might gel if the Commission actually starts going through some of the districts and talking about them. Stolzenburg stated that she thinks some of the big issues would be things like home occupations and whether they will be allowed everywhere or only in certain places and whether the Commission is going to allow apartment buildings and multi-family dwellings in all areas or only some of the areas. Stolzenburg stated that those are things that haven't been discussed yet.

Replansky suggested that the Commission take a look at the Towns of Warwick and Goshen's zoning laws as examples of good zoning. Replansky further stated that the Commission should also take a look at some bad zoning laws like the Village of Rhinebeck where, Replansky stated, there was a lack of thought given to allowable uses. Discussion followed.

Stolzenburg stated that there are a lot of zoning codes in rural areas that are quite restrictive for agriculture with a lot of restrictions on farm stands and other farm businesses. Stolzenburg further stated that those are the things that need discussion. Stolzenburg stated that she thinks it wouldn't hurt to start with one chunk and look at the residential uses. Stolzenburg stated that typically there are single family residences, two family residences, multi-family residences and then there are a whole set of other things like group homes, senior citizen housing which then adds a whole subset of those like nursing homes and things like that and whether or not there should be any restrictions on those anywhere. The Commission discussed single family residences. Stolzenburg asked if there is any district where the Commission would want to restrict single family residences. DePreter stated that he thinks the Commission had a discussion about the Business District being primarily businesses. Jackson asked what about the businesses where the owner lives. Stolzenburg stated that would be a mixed use and would be defined differently and wouldn't necessarily be a single family. DePreter stated that the properties that were put into the Business District were properties that were coded primarily business by the assessor's office. Discussion followed.

DePreter asked if everyone is in agreement that the Business District would be an area where the Commission would allow a dwelling as a mixed use only and not single family residences. All agreed.

Stolzenburg asked what about duplexes, a building that has two units. DePreter stated that he feels duplexes are a good opportunity for housing and should be allowed anywhere, except in the Business District. After some discussion, McQuade stated that all she can think of as a concern is whether there are any water issues. Stolzenburg stated that there are always water issues so there would need to be adequate water to handle a duplex. Stolzenburg asked if there would be any reason not to allow someone to take a single family house and either convert it into two or build a new two unit structure provided they meet the density requirements. DePreter stated that he would have no problem with that. DePreter further stated that it's a very good housing alternative, a flexible plan and to a certain extent, it is affordable housing. **All members agreed that duplexes will only be discouraged in the Business District.**

Stolzenburg stated that the next category is the multi-family unit which is usually defined as 3 or more units. Stolzenburg stated that some communities put a limit on how many units there can be per structure and sometimes the limit is different for different districts. Jackson asked what the rationale is for that. Stolzenburg stated that someone coming in with a 3 story, 300 unit apartment building may not be in the scale that you want for your community or for a particular district. Stolzenburg stated that it's complicated because senior citizens' structures could be considered a multi-family unit and they're usually 30 or 40 units. Stolzenburg asked if there is any location where the Commission would not want multi-family units and would the Commission want to limit them in some way to ensure that they are the right scale and consistent with the districts that have been set up. Chase stated that if it's exclusively multi-family structures he would discourage them from the Business District. Chase further stated that then it seems like the issue does come down to a scale in some fashion. Chase stated that he has mixed feelings because he can see it happening almost anywhere but then you have to kind of work in how it fits into the area that it's going into. DePreter stated that he thinks we have the density part controlled but thinks it's just a matter of the scale of the building. Stolzenburg stated that if someone has a large piece of property and they can get 40 single family houses in

there, then they can get 40 units in one building. Stolzenburg asked the Commission if they would want that kind of an apartment building type development. McQuade stated that the one thing that keeps popping into her mind is a vision of some ridiculous looking tower so there should be some design standards so we don't have something like a 20 story building. Chase stated that there will probably be some height restrictions based on what the fire company can handle which is probably about 35 feet. Discussion followed regarding multi-family homes.

Caldwell asked if the town currently has design standards. Stolzenburg stated that the existing Site Plan Review Law does get into some landscaping and things like that but doesn't really get into roof pitches. Caldwell asked if the Commission is going to set up design standards. Stolzenburg stated that she thinks the Commission really needs to see what the Planning Board has done with the Site Plan Review Law already. DePreter stated that Pineda will make copies of the Site Plan Review Law and Design Standards and she will email the commission members when the copies are available and they can pick them up at the Town Hall.

DePreter asked again how the Commission feels about multi-family structures. Caldwell stated they should need a special use permit, Jackson stated she thought that the Commission had agreed that the Main Street District is where we would want the multi-family houses, within the walking district so she would like to encourage that. McQuade stated that it seems like it's accounted for in the density because there is a higher density in that central area district. Jackson agreed that with a special use permit, multi-family structures would be OK. All members were in agreement.

Stolzenburg asked what about other kinds of multi-unit type things like senior citizen housing. Stolzenburg explained that there is a whole variety of different forms of senior citizen housing and most of the newer zoning codes are ones that have been updated. Stolzenburg further explained that the zoning codes used to just have group homes or nursing homes but have become more fine tuned and have defined senior citizen homes. Stolzenburg stated that senior citizen homes could be an assisted living center or a step up kind of home where they start off with single family homes and then they can move into the assisted living and then into a nursing home. Stolzenburg stated that from a realistic point of view senior citizen homes usually do not go into places unless there is infrastructure for them. Stolzenburg stated that a hamlet situation where people can walk to the post office or wherever would be better than a senior citizen home stuck out in the middle of nowhere where the people who don't drive would have to be either transported or stuck there. Stolzenburg stated that the question the Commission needs to answer is if someone has a large acreage of land and wanted to have a multi-unit senior citizen home, does that fit in with the goals of the districts that have been set. **After some discussion, Stolzenburg stated that what she is hearing the Commission say is to treat the group kind of nursing home or senior citizen facility similar to the multi-family which is not to be permitted in the Business District but needs a special use permit and site plan review in all other districts. All members agreed.**

Stolzenburg asked what about accessory apartments. Stolzenburg explained that accessory apartments are when someone converts a garage or a back room of a house into an apartment. Stolzenburg stated that accessory apartments are a benefit in a sense that they can become added income and they are affordable. DePreter stated that he is

generally a big fan of these things because he feels they are a really good housing opportunity. Stolzenburg stated that these apartments would be reviewed by the Planning Board to check the water and septic and to make sure there is room for parking. Chase stated he feels they should be allowed anywhere as long as there is a level of review to make sure that they are done right. Discussion ensued. Stolzenburg asked if the Commission would want to require that the accessory apartments be subject to the density requirements. Keeler stated that as long as the footprint doesn't change, he doesn't see a need to. DePreter stated that he thinks that is a good point and that it is almost more of an issue about whether it is an existing building or not and if someone is going to add onto the footprint of the lot. Stolzenburg asked what if someone wants to put up a small separate building like an ECHO house or a little modular. Further discussion ensued. McQuade stated that the Commission really has to be careful about how accessory apartments are defined. McQuade further stated that putting an apartment in an existing barn gets tricky when you're talking about almost adding another house. Chase agreed and stated that if the Commission is not careful, that could double the density. McQuade stated that it should be defined either by a percentage or square footage so it's not a whole other 2000 square foot residence. Soracco stated that most lots in the center hamlet couldn't put another house up because if it goes before the Planning Board there would be certain setbacks and so on and so forth and the septic would probably not be big enough. McQuade stated that in the hamlet that would be true but asked what if it's in the rural district and someone wants an accessory apartment but if it hasn't been defined as being a fairly modest thing, it could turn into another whole house which would be doubling the density. The Commission discussed possibly having a size restriction for an accessory apartment. Stolzenburg stated that what she hears the Commission saying is that they are looking for a tight definition with a size restriction for accessory apartments and would allow them in all districts whether they are part of the building or a secondary structure. Discussion followed.

The Commission had a brief discussion on ECHO housing. Stolzenburg stated that she does not know all of the ins and outs but she knows that several of the communities that she has worked with have written ECHO housing in as an allowable affordable option but she does not recall all of the ins and outs of how that works. Stolzenburg stated that she will get that information for the Commission.

Stolzenburg stated that the Commission has finished a big chunk of the residential uses and feels it is relatively straight forward and pulled together. Stolzenburg further stated that she thinks that for industrial, business and agricultural uses, the Commission would want to be as open and flexible as possible and not have a lot of regulations related to farm stands and farm related businesses. Stolzenburg stated that she thinks the Commission needs to start really thinking about commercial and industrial development in relation to the zoning.

DePreter stated that at one time the Commission had talked about making those businesses inside of that half mile circle be more pedestrian friendly. DePreter stated that he feels that is something the Commission should think about while we are talking about the commercial uses. Keeler suggested that the Commission also keep parking in mind. DePreter stated that the Commission should think about what would be pedestrian friendly businesses. Brief discussion ensued regarding possible parking problems to think about.

Community Input - A member of the community, Jane Waters stated that there have been some buildings in town that have been split up into lots of small units and it has been problematic. Waters stated that she was wondering if there is some way to construct regulations to try to prevent some of the problems with multi-family units and apartment buildings. Stolzenburg asked what the problems were. Waters stated that there are lots of very small units with a large number of children per unit and doors were left open in the middle of winter and there were broken windows. Waters stated that she does not know what contributed to the problems and whether it was the owner not paying attention but there were issues. Chase stated that he knows that the Commission had talked about how we would love to see these buildings be owner occupied but doesn't think it would stand up to a legal challenge. Waters asked if there is some reasonable restriction in terms of the number of individuals in a certain size apartment. Keeler stated that there is a building code that says how many square feet per person and it's not very big.

Community member Dale Mitchell asked if he wanted to build, within the hamlet, a 100 unit assisted living center, would that be a permitted use and if so how much land would he need to build it. Stolzenburg stated that according to what the Commission discussed tonight, it would be a permitted use and it would depend on the district that it would be in. Stolzenburg stated for the sake of numbers, if you have a 100 acre parcel. Mitchell asked where a 100 acre parcel would be found in the hamlet. Stolzenburg stated that she was thinking of Mitchell's own property. Mitchell stated that he asked a specific question and asked within the hamlet, how much land he would need to build a 100 unit assisted living center. Chase stated that it's 2 units per acre without sewer. Stolzenburg stated that he would need 50 acres. Mitchell asked where he would be able to build that in the hamlet. Discussion between Dale Mitchell and the Commission continued. Mitchell went on to ask the Commission how they determined the size and location of the hamlet. Mitchell stated that arbitrarily using the stop light as the center of the hamlet and the half mile radius is most bizarre. Stolzenburg stated that is not the boundary of the hamlet but is the boundary of one of the districts within the hamlet. Stolzenburg further stated that the boundary of the hamlet is much bigger than that half mile radius. Jackson asked Mitchell if he had something else in mind or some alternatives that he was thinking of. Mitchell stated that he was just thinking of the bizarre consequences of what the Commission is proposing. Discussion ensued.

Community member Tom Toigo stated that with regard to the Commission's discussion about accessory apartments the Commission repeatedly referred to people converting garages and barns. Toigo stated that he would guess that probably 90% of the garages and barns in town would not be candidates. Toigo further stated that you can't just take a garage and make it into an apartment, even though it used to happen a lot. Toigo stated that he thinks the Commission needs to become a little more current with the habitable space requirements of the building code if they are talking about accessory apartments. Toigo asked if there is going to be no public presentation or discussion until the draft document is produced in September and then the only presentation of that will be at an official public hearing. DePreter stated that is what the Commission agreed on. DePreter further stated that he wants to say that right now is a public comment period. Toigo stated that he just wanted to clarify that he understood correctly what the Commission was projecting with the timeframes. Toigo stated that his other question is if in fact the Commission has a draft document by the end of August, when would the public's opportunity to look at that be. DePreter stated that it is his understanding that Stolzenburg is going to start writing the document in July and August, then in September

hopefully the Commission will start to see the pieces and go through those pieces and sort it out and then when the document is fleshed out the Commission will give it to the public. Toigo stated that he understands that but he was just wondering where the public presentation of the draft document would be relative to the public hearing as it sounds like they are in very close proximity. Stolzenburg stated that when the Commission is comfortable with the draft then we would set a public hearing a certain number of weeks out and put the document on the website as well as make paper copies available for people to get and read and then there will be a certain number of weeks to get it and read it before that public hearing. DePreter asked if everyone is comfortable with that. Soracco stated that she would not want it to end up being the week before the public hearing. Stolzenburg stated that the Commission can set the timeframe to give the public ample time to get copies and read it and formulate their questions. DePreter stated that Toigo's question is a good question and that it will go into the minutes that there was a request for this to be online before the public hearing. Caldwell asked Toigo how many weeks he would feel would be reasonable. Toigo stated that he would like to see it examined for a month because of the complexity. Discussion followed.

Brad Mitchell stated that he is glad that the Commission is coming to a conclusion and he welcomes seeing some fleshing out of the details of what the Commission is proposing, however, he is making formal request. Mitchell stated that it is not adequate to have 5 minutes of talk at the meetings for the few people who are interested. Mitchell explained that there are a lot of people the Commission needs to get input from and the only way to do that is through a series of Town Hall meetings where the Commission requests people to come in and have a question and answer, give and take conversation about what the Commission is doing. Mitchell stated that the Commission needs to think about the unintended consequences of what they are proposing and he really doesn't think the Commission is totally ready to flesh out all of the details yet. Mitchell stated that he doesn't think the Commission is going to get that without serious public input. Discussion followed.

DePreter asked for a motion to adjourn. Motion to adjourn was made by Keeler. Seconded by Soracco. 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.**