

Town of Pine Plains Zoning Commission Minutes  
March 28, 2007

Members Present: Jon DePreter, Peter Caldwell, Helene McQuade, Vikki Soracco, Scott Chase (via telephone) and Nan Stolzenburg.

Absent: Gary Keeler, Margo Jackson

Guests: (4) members of the public. Register Herald.

Meeting called to order at 5:30 PM with Chase on speakerphone.

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

DePreter stated that he gave a copy of the new draft of the proposed zoning law to Warren Replansky for his review. DePreter further stated that Keeler is not present this evening but that Keeler will sit down with the building inspector, Drew Weaver and together they will come up with a list of comments.

DePreter suggested that the best way to begin the review of the new draft is to first go through Stolzenburg's comments and then go through the comments from each Commission member.

The Commission began their discussion with Caldwell's list of comments while awaiting Nan Stolzenburg's arrival.

Caldwell suggested including an item in the Table of Contents directing people to a page that contains the Environmental Control Formula.

Chase called in and DePreter brought him up to date on what has been discussed so far.

Stolzenburg arrived and the Commission began their discussion of Stolzenburg's comments and questions on the new draft zoning law. Caldwell suggested again, adding an item for the environmental control formula in the Table of Contents. Stolzenburg will add the environmental control formula to the Table of Contents. The Commission further discussed format changes.

Stolzenburg asked the Commission if they are going to change the density in the Hamlet Residential Area if sewers are put in. Caldwell stated that it is his recollection that the Commission had wanted the  $\frac{3}{4}$  acre density in the Hamlet Residential Area because it would be more appropriate with what already exists there. DePreter stated that is what he remembers also. DePreter further stated that unless somebody wants to discuss it again, he thinks that was what the Commission wanted. Stolzenburg asked if we are keeping the  $\frac{3}{4}$  acre. DePreter stated yes. Brief discussion followed.

The Commission discussed the footnote on the bottom of Page 13 that specifies that Wellhead Protection Overlay subdivisions must be clustered. Caldwell stated that the Commission also made this rule for the Ag Open Space Overlay and for the Ag and Rural area and asked if that should also be included in the footnote. Stolzenburg stated that it can be but it is repeated later on. Discussion followed. Chase stated that if they are going to be treated the same then he thinks they should both be in the footnote. DePreter stated that the Ag Open Space Overlay should be in the footnote.

The Commission had a lengthy discussion about whether or not they want to include a cell tower section in the zoning law. The Commission members agreed not to include a cell tower section as part of the zoning law but will add something to the special use section that says, "see local law on cell towers, should one exist."

The Commission had a lengthy discussion about whether or not to leave it to the Planning Board's discretion when making decisions about subdivisions. The Commission members agreed that clustering for subdivisions of 5-14 units will be at the discretion of the Planning Board, using the guidelines set forth in the zoning law. The Commission further agreed that clustering will be mandatory for subdivisions of 15-29 units in the Rural and Ag Area with discretionary power to the Planning Board for putting it into a rural hamlet and subdivisions of 30 units and above will have mandatory clustering in a traditional neighborhood design. Stolzenburg stated that she will include a description that defines a rural hamlet.

DePreter stated that in the larger traditional neighborhood of 30 and over, we are saying that 75% of the homes have to be in the hamlet and 25% can be spread out. DePreter stated that he thinks there should be that same kind of language in the rural hamlet description to add some flexibility. All agreed.

The Commission had a brief discussion on the clarification of major subdivisions. Stolzenburg stated that she can add something to the definitions.

Stolzenburg stated that she has no information on what laws currently exist for flood hazard in the Town of Pine Plains. Stolzenburg stated that she will either have to reference an existing law or she will have to put something into the zoning law. Pineda stated that she will do some research and forward any existing local laws pertaining to flood hazard to Stolzenburg.

Stolzenburg stated that she rearranged some of the items that Ray Jurkowski sent on stormwater control to make it more organized.

Stolzenburg stated that she looked over the material that Dutchess County finally sent on Affordable Housing and she liked how they used the term "moderately priced housing" instead of "affordable housing." McQuade agreed that moderately priced housing is a better description. Stolzenburg explained that Dutchess County had incredible detail that she doesn't necessarily think needs to be in the zoning but should be attached and available and that the Planning Board should know that it exists. Discussion followed regarding whether the responsibility of setting up the administrative structure for affordable housing should be with the Town Board.

Stolzenburg asked the Commission if they want to specify a minimum lot size for cluster and conservation subdivisions. The Commission discussed whether or not to include a regulation for a half acre minimum lot size for cluster and conservation subdivisions. Chase suggested striking the half acre reference from the minimum lot size regulation and leaving it to the Health Department to determine what the number will be.

Stolzenburg stated that the items listed under the design process for cluster/conservation subdivisions needs to be in the subdivision law and she is wondering if the Commission wants to take it out of the zoning law and just reference the subdivision law or should these standards be repeated in the zoning law. Chase suggested just referencing the subdivision law. Discussion followed. DePreter stated that he thinks it's OK to move the section to the subdivision law and just reference it. All agreed.

The Commission discussed shopping centers and mini-malls under the section on Supplementary Regulations for Specific Uses Subject to Special Use Permits. Stolzenburg explained that this is a carry over from the existing site plan law. Caldwell proposed eliminating shopping centers. Brief discussion ensued. The Commission members agreed to eliminate shopping centers from the section on Supplementary Regulations for Specific Uses Subject to Special Use Permits.

DePreter stated that Warren Replansky had mentioned that he would like to fuse the review process somehow because there are so many uses on the use table that combine the site plan review and special use permit process. DePreter stated that Replansky felt it would be helpful to combine the two processes for the Planning Board rather than have people go through two different reviews. DePreter asked the Commission how they feel. Discussion followed. Chase stated that the Commission is trying to make this process as user friendly for the applicant as possible. The Commission members agreed to fuse the special use permit application process and the site plan review process.

The Commission discussed agricultural buffers and if there needs to be any mention in the special use section. The section on Supplementary Regulations for Specific Uses Subject to Special Use Permits currently states, "*such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be a minimum of 200 feet*". Lengthy discussion ensued.

The Commission members agreed to remove agricultural buffers from the section of Supplementary Regulations for Specific Uses Subject to Special Use Permits since this is already covered in the Protection of Agriculture section of the draft zoning law which states that buffers need to be a minimum of 50 feet and may be larger if necessary.

Stolzenburg stated that all of the comments on pages 94 through 100 are all mining related issues that the Commission brought up earlier that she has sent to Ray Jurkowski to address so she suggested that the Commission wait for Jurkowski's response. Stolzenburg stated that she told Jurkowski that the Commission needs his response no later than April 11<sup>th</sup>. Caldwell stated that page 96, item 14 states "*Upon reclamation, no sharp and declivities pits, depressions or soil erosion problems shall be created and no slopes or banks shall exceed whatever slope is necessary in order to obtain stability*", and that Stolzenburg has a note asking to "please redefine declivities". Caldwell asked why not just say, "on reclamation, no slope or incline greater than 15% shall be created".

Stolzenburg stated that she is not sure if it is a 15% slope. The Commission will wait to hear from Jurkowski.

The Commission had a discussion on the maintenance requirements and limitations of livestock on residential (non-farm) properties. Stolzenburg asked the Commission if they intended this for any residential property or just in the hamlets. Caldwell stated that he would recommend that this be applied throughout the township because it has to do with proper care of animals. Discussion followed. The Commission members voted and agreed that maintenance requirements for livestock shall be throughout the township.

The Commission discussed whether commercial logging should go through site plan review and special use permit. Stolzenburg stated that a special use permit could handle what the Commission is trying to do and she doesn't know whether a site plan review is needed. Caldwell stated that the Highway Department has a requirement for road access from a logging site and a bond needs to be posted with the Highway Department to access the town road from a logging site so that may cover the site plan review. Stolzenburg stated that should probably be referenced. Discussion followed. The Commission members agreed to remove the requirement of site plan review for commercial logging and add a reference to a Highway Access Permit. Brief discussion followed.

The Commission discussed the list of questions that the Planning Board needs to ask when it is doing a special use permit in relationship to its impact on agriculture. Stolzenburg stated that she put this list in the Special Use Section but she isn't sure if these questions should be in this section or if they should be in the section where all of the other agricultural items are, or if it should just be referenced. DePreter stated that if these are specific questions that need to be asked for special use permits then he would like to see them in the special use permit section. Stolzenburg stated that when the Planning Board has to evaluate whether a proposal has any impact on agriculture, these are the same questions that you would ask in a subdivision. Stolzenburg further stated that maybe if the zoning is covering site plan review and special use permits, it's right to have these questions here but maybe we need to repeat these questions in the subdivision law. Discussion followed. The Commission members agreed to have Stolzenburg mesh the site plan review and special use permit sections.

The Commission had a discussion on nonconforming uses. Stolzenburg stated that Warren Replansky thought that the nonconforming use section of the draft zoning law needs a lot of work but Replansky was not specific about what work it needed. DePreter stated that Replansky can tell the Commission in his comments. Brief discussion followed.

The Commission moved on to discuss Caldwell's list of comments. Caldwell suggested grammatical changes on pages 6, 14, 20, 30, 43, 73 and 143.

Caldwell suggested that when referencing the Comprehensive Town Plan in the zoning law, the year of adoption should be noted as well. Caldwell suggested adding "adopted in 2004." The Commission members agreed.

Caldwell suggested that there needs to be a more complete description of the boundaries of the Hamlet Business District. The Commission members agreed to add a note directing people to see the map of the boundaries.

The Commission discussed whether to have car repair in the Wellhead Protection Area. The Commission members agreed to allow car repair in the Wellhead Protection Area with site plan review and special use permit.

The Commission discussed whether to allow car repair in the Bethel and Pulvers Corners hamlets. The Commission agreed not to allow car repair in the hamlets of Bethel and Pulvers Corners.

Stolzenburg stated that she wanted to point out that where the Commission talked about combining site plan review and special use permit, if you look at the use table, there are actually quite a few things that require either site plan review or special use permit. Stolzenburg stated that there are some things that having it combined would not work. DePreter stated that he didn't bring it up earlier to change the whole thing, he just brought it up because Replansky mentioned it and it seemed like a legitimate point but he wouldn't really know the implications of it. DePreter stated that maybe this is something that Stolzenburg can just call Replansky about. Stolzenburg stated OK. Pineda asked DePreter if the Commission is going to take another vote on this since they already voted to mesh the site plan review and the special use permit sections earlier in the meeting. Stolzenburg stated that she should talk to Replansky about it because if the Commission completely meshes the site plan review and special use permit sections and there are things that only require one or the other, it is confusing. Pineda asked for the Commission to have another vote for the record. Further discussion ensued. DePreter stated why don't we just do it in a minimum way so that we're really looking to expedite the two so the vote would now be, as opposed to using the word "fusing", we're going to have Stolzenburg look at some language to "expedite" the process between the two. All agreed.

Caldwell continued with his list of comments. Caldwell stated that on Page 14, item 2b is not clear. Caldwell asked if we really want to insist on ten foot contour intervals for flat land. Caldwell asked why not just restrict that requirement for steep slopes greater than 15%. The Commission members agreed.

Caldwell stated that on Page 15, under Allocation of Density, it might make more sense to say that *"all lots created or remaining from the original parcel shall have at least one allocated dwelling unit unless that lot is being joined to an adjacent parcel"*, rather than saying "unless that land or parcel is being permanently joined to an adjacent parcel..."

Caldwell stated that the Comprehensive Town Plan does not specify or mention archaeological sites. Caldwell further stated that this has been criticized because some developers are being required to assess archaeological sites. Caldwell stated that State Law also requires that this be done and suggested adding it into the zoning law. Discussion followed. Soracco stated that it is already part of SEQRA and does not think it should be added to the zoning law. Discussion continued.

Caldwell moved on with his next comment from his list. Pineda asked if the Commission was going to vote on the archaeological issue. No vote was taken.

Caldwell stated that in the incentives section for senior citizen housing it states that bonus units shall be distributed proportionately to the ratio of non-senior to senior units and it should be the other way around stating, “to the ratio of senior to non-senior.”

Caldwell stated in the incentives section for public access or recreational it states, “*for the creation of recreational lands or facilities...*” and he feels this item should emphasize that this incentive is for “public” recreational lands and “public” facilities. Stolzenburg stated that she will add in “public” before “recreation”.

Caldwell stated that the Commission hasn’t really discussed ridgeline protection and he asked if Section 6 is Stolzenburg’s section on ridgeline protection. Stolzenburg stated that it is. Caldwell stated that the Commission had discussed a requirement that perhaps roof tops should be some distance “below” the ridgeline and not only state that they should not protrude above the ridgeline. Caldwell further stated that the required distance below the ridgeline should be specified. Discussion followed. The Commission members agreed to specify that roof tops should be ten feet below the ridgeline to the greatest extent practical.

Caldwell stated that in the definition for affordable housing on page 143, it states that “a dwelling unit available at a cost of no more than 30% of the gross household income....” Caldwell stated that it should state that this cost applies to a renting price. Discussion followed. The Commission members agreed with Caldwell’s suggestion.

Caldwell stated that in the definition section of the draft zoning law there is one definition in agricultural use and one definition in agricultural activity and asked if there should just be one definition. Stolzenburg stated that the reason they are in there twice is because there is a difference between a commercial agricultural activity that meets the states requirements versus other agricultural uses. Caldwell stated that he is not suggesting to eliminate Agricultural Commercial, he just suggesting that we merge Agricultural Activity and Agricultural Use. Discussion followed. Stolzenburg will eliminate Agricultural Activity from the definitions but will leave in Agriculture Commercial.

Caldwell suggested adding in a definition on page 147 for Conservation Easement. Caldwell had no further suggestions.

Public input – There were no comments from the community.

Caldwell motioned to adjourn. Seconded by Soracco. All in favor.

Respectfully submitted by:

Karen Pineda  
Zoning Commission Secretary