

Town of Ancram
Zoning Revisions Committee
19 March 2012

Members Present: Hugh Clark, Terry Boyles, Barry Chase, Donna Hoyt, Don MacLean, Bob Mayhew, Jim Miller, Bob Roche, Jane Shannon, Dennis Sigler

Members Absent: Barbara Gaba, Bonnie Hundt, Kyle Lougheed

Others Present: Ann Rader, Ron Rader, Steven Sorman

The Chair convened the meeting at 7:10 p.m., determined no recusals were necessary, and committee members congratulated Donna Hoyt upon her appointment to the ZRC by the Town Board on 15 March.

Upon reviewing draft minutes of the 12 March meeting, Mr. Sigler urged deletion of the phrase “not owned by the applicant” from the decision that “all cell towers shall be set back from all adjoining property lines [not owned by the applicant] a minimum distance of 1.5 times the tower height.” After deliberation, consensus was to remove the phrase. Mr. Sigler also inquired whether the Town was unnecessarily including NYSDEC regulated wetlands in its list of properties from which cell towers should be set back. After discussion, consensus was to retain the current text. Mrs. Hoyt requested that “power line” be clarified to ensure that any reader understands that the type of power line cited is a large scale commercial transmission line. The committee agreed to have the power line wording amended for clarification. Pending such changes, the minutes were approved.

The committee then reviewed setback revisions resulting from 12 March decisions:

After thorough examination of varied scenarios, the committee accepted the definition of “habitable structure:” Any building, whether a principal structure or accessory structure on a parcel, that is used for living purposes, which includes sleeping, eating, cooking, recreation, assembly; or use as a regular work site; or a combination thereof; and which contains one or more of the following to support those human living or working purposes: operational electricity, heat, sanitation, running water and protection from the elements.

The committee also approved revised Subsection F (Setbacks) text about measurements from the edge of the tower base, and approved revised setback text in (1), (2), (4), (5), (7), and (8).

However, in (3), the committee prefers to delete “the placement...on any adjacent parcel.” Also, in (3), consensus was to merge the first and second sentences to read: “The Planning Board shall ensure that at least one building envelope must be available outside the 500 foot setback from the tower on any adjacent parcel.”

In (6), the committee requests insertion of “written” in line 4, so that the sentence reads: “Further, the Building Department shall provide *written* notification to any landowner applying for a building permit....”

After discussing additional notification options and triggers, the committee decided to add a third means of triggering notification by amending Section XIII, Site Plan Review, to include proposed building of a habitable structure within 500 feet of a cell tower as an action that requires SPR or ASPR as appropriate. Text should be worded to make clear that such building is allowed, provided it meets all other criteria, but is undertaken at the applicant’s risk.

Responding to previous concerns about other features of the current law that may merit revision, the committee examined:

Section 1. Purpose and legislative findings: Given the enduring nature of the law, the need to avoid implying approval as an automatic outcome of review, and to avoid unnecessary repetition, consensus was to:

- Condense the first sentence as indicated in the attached revision;
- change “to attract” in line 5 to “to make available;”
- delete “as soon as possible” from line 6;
- delete “and approval” from line 10;
- delete the last sentence (“Further, the Town also finds...impact on the community.”)

To enhance clarity and comprehension, the committee also approved changing the format of this section to bullets as indicated in the attached revision.

Subsection 8C, Bond, on page 12 (and related Subsection I, Removal, on page 9): Upon reviewing the text of these subsections, Mr. and Mrs. Rader’s January 8 letter, and Nan Stolzenburg’s February 25/10:34 AM email answering cell tower questions, discussion initially focused on suggested deletion from the bond text of “and the owner of record of any proposed property site” and “jointly.” However, Mr. Sigler contended that the landowner always remains “on the hook” for anything involving his property and posed several questions, which prompted deferral of further deliberation until answers are received from Nan and John Lyons:

1. Who is “the applicant?” Dennis contends that the landowner must always be the applicant for any land use matter, or in this instance must be the applicant along with the tower company, because the tower company does not own the land and has no standing with the town. He contends that the tower company alone cannot be “the applicant.”
2. If the landowner must be the applicant (or at least the co-applicant along with the tower company), then Dennis contends that the landowner is properly required to jointly execute and file the bond. He contends that, even if the landowner has a legal agreement with the tower company whereby the tower company executes and files the bond, the landowner must remain on the hook because the landowner is the sole entity to whom the town can turn to recoup removal and restoration costs if the bond proves insufficient or if the tower company evaporates and there are no successors or assigns. The question: is the landowner the only entity that the town ultimately can turn to?
3. Painting a scenario in which the tower company erects the tower, puts on its antenna, but then attracts other carriers who also install their antennae on the tower: those extra antennae increase the amount of hardware that would have to be removed if the town ultimately is forced to remove the tower. Those extra antennae may increase removal costs beyond what the bond was supposed to cover. Is there a way to require “the applicant” or tower company to automatically plus up the bond for each antenna or other hardware added?
4. How does the town know how much of a bond is adequate to cover removal and restoration costs when one is projecting forward many years? Is there a mechanism whereby inflation can be factored into the bond?

Noting that Subsection 4C6c(6) on page 5 requires applicants to provide owner names for all parcels within 200 feet of the property on which the tower is located, Ms. Hoyt suggested that 200’ be changed to 500’ to coincide with the setback requirements. The committee is inclined to favor this change, but seeks Nan’s thoughts before doing so.

The meeting adjourned at 8:58 p.m.