

Town of Ancram
Zoning Revisions Committee
2 April 2012

Members Present: Hugh Clark, Terry Boyles, Barry Chase, Barbara Gaba, Donna Hoyt, Bonnie Hundt, Jim Miller, Bob Roche, Jane Shannon, Dennis Sigler

Members Absent: Kyle Lougheed, Don MacLean, Bob Mayhew

Others Present: Will Lutz, Ann Rader, Ron Rader, Fred Schneeburger, Nan Stolzenburg

The ZRC convened at 7:00 p.m., determined no recusals were necessary, and approved minutes for the 26 March meeting.

Members addressed final revisions of the cell tower law and decided to:

-approve text prepared by Nan Stolzenburg for Subsection E (Renewal and Inspection of Facilities).

Wanting to ensure a reasonably fail-safe system so that no renewal application gets delayed within the Building Department, the ZRC decided to add to E(i)a that the owner must provide a copy of the renewal request to the Planning Board.

Also, the ZRC decided to explicitly state in text that the owner's failure to submit a timely renewal request resulting in expiration of the 5 year term will prompt the PB to determine abandonment and expiration of the permit. If the PB neglects to act upon a properly submitted renewal request by the time the permit expires, the permit shall be automatically renewed, unless extension of review time has been mutually agreed upon.

In addition, the committee opted to insert language overtly stating that the applicant must inspect before filing annual certification that maintenance and inspection procedures, RF emissions, and other standards are being met.

[Note: Since the meeting, Nan has inserted such language into the text on page 12.]

-approve Option D concerning PB waiver authority. This option incorporates the essence of waiver authority from Section XIII (Site Plan Review), with the essence of subsection 6b, and also the last sentence from 5E, whereby waiver authority shall not apply to changes to minimum setbacks, which will be considered by the ZBA through an area variance.

[Note: Since the meeting, Nan has inserted such language as 4C(vi)b on page 4.]

-approve a "sunset provision" for dormant cell tower applications. If there is a lapse in activity for more than 180 days on a tower application and such lapse is caused solely by the tower applicant and is not in any way due to the actions of the Planning Board, the Planning Board may consider the application abandoned and may require re-submission of the application.

[Note: Text has been inserted into Subsection F (Expiration and Lapses) on page 12.]

With these decisions, the ZRC determined that it had concluded review of LL#1 of 2011 and had identified and made all significant revisions that need to be recommended at this time.

Given the extensive amount of time that had been devoted to the preceding issues and decisions, the committee opted to forgo discussion of next steps leading to completion of the ZRC mission. Instead, Nan Stolzenburg presented a substantive overview of a draft section about density bonuses.

As background, the Chair noted that Comp Plan Detailed Strategy 8.4 states: “Density Bonuses—In addition to offering density bonuses and/or incentives to encourage developers to increase open space beyond the 60% target, consider offering an incentive when developers offer at least 20% of the homes in their development as ‘affordable homes’ to qualified Ancram residents.”

Nan explained that NYS requires that municipalities state explicitly why, when, and how such incentives are given...and when they are not.

She also noted that any bonus needs to be sufficiently significant to warrant the developer and the town undertaking the relatively rigorous process of review.

She cautioned that there should be no expectation nor implication that the Town would approve any application for density bonus or similar incentive.

Nan also observed that some counties authorize the Town to receive a payment in lieu of the developer providing some actual facility or other amenity in exchange for the bonus, and opined about the drawbacks of such a payment.

In addition, Nan emphasized that the Town must ensure the developer shows not just the value of the increased density, but also that the parcel will accommodate the extra units in terms of water, sewer, etc.

Noting that NYS law requires the TB to set up the bonus system and procedures, but does not require the TB to actually make the bonus decision, Nan inquired whether the TB, PB, or ZBA to be the decision-maker, and whether the decision should draw upon review and recommendations from one or more of the other panels.

After extensive discussion about the pros and cons of each body as decision-maker, consensus was that the TB is best positioned to make such a significant determination.

In reaching this decision, the ZRC noted that the process in the draft text calls for the TB to refer the proposal to the PB for review and advice about whether the TB should approve, approve with conditions, or disapprove the proposal.

Nan also inquired whether the TB “may” or “shall” refer the proposal to the CAC for comment. Consensus was that the TB shall refer the proposal to the CAC, which is consistent with a similar provision in SectionV(I), OSCS, requiring such referral.

The meeting adjourned at 9:00 p.m.