

**Town of Ancram
Zoning Revisions Committee
10 May 2010**

Members Present: Hugh Clark, Barry Chase, Bonnie Hundt, Kyle Lougheed, Jim Miller, Bob Roche, Jane Shannon

Members Absent: Terry Boyles, Barbara Gaba, Don MacLean, Bob Mayhew, Dennis Sigler

Others Present: Nan Stolzenburg, Donna Hoyt

The Chair called the meeting to order at 7:00 p.m.

The committee approved minutes for the May 3d meeting.

The committee discussed with Nan Stolzenburg questions and lingering concerns about draft Section VII (Administration and Enforcement), the new Planning Board Section, and draft Section VIII (Zoning Board of Appeals). Among the main discussion points:

Mr. Chase and Mr. Miller inquired about the Zoning Enforcement Officer as portal to the Planning Board, expressing concern that such a role may give the ZEO too much control over a proposed project and eliminate the peer-to-peer relationship between the applicant and the Planning Board.

Ms. Stolzenburg explained that such a role for the ZEO is similar to the role currently played by the Building Inspector and does not interfere with any necessary contact between the applicant and the Planning Board. As a portal, the ZEO simply determines if a site plan, subdivision, or special use permit is needed and, if so, he/she is obligated to send that application to the Planning Board for their review and approval. The ZEO will review the proposed project to determine whether it complies with the Zoning Law. For a residence or other project that is not commercial or does not need any kind of subdivision approval, if all is in compliance (lot sizes, density, setbacks, etc.), the ZEO will inform the applicant that all complies and will initiate the necessary permits. If some feature of the project either does not comply with the Zoning Law, or if the project is commercial or a subdivision requiring Planning Board approval, the ZEO will inform the applicant about those features that require review by the Planning Board and will inform the applicant about how to obtain PB review. She also noted that most communities have such a portal because the ZEO maintains relatively frequent office hours, is thereby much more accessible to potential applicants than is the PB, and serves as an expert point of information about the Zoning Law and about the approval process. In sum, the ZEO as portal is a significant component of a simple, user-friendly review process that saves time and money, especially for a small-scale residential applicant.

At the suggestion of Ms. Hoyt, the ZRC agreed that if the ZEO or BI notes that some feature of the project does not comply with the Zoning Law and that further review or action is needed, the application should have a space where the ZEO or BI can state what the applicant's next step should be.

The committee also agreed that the revised Zoning Law should include a flow chart illustrating steps for an applicant under various circumstances. Nan also agreed with the ZRC's suggestion for a text box that explains the role of the BI and Code Enforcement Officer vis a vis the ZEO.

While discussing paragraph C of the PB draft as amended, Nan opined that the PB's practice of designating the Vice Chair and of calling meetings comports with NYS law. It was agreed that verbiage will be changed to clarify that oaths administered by Chair/Vice apply to applicants, witnesses, and others appearing before the PB, rather than to PB members.

Re: para C (2) Voting—Nan noted that the Ancram PB vote to override a County PB vote must be a majority plus one. She also noted re: para H Conflicts that Article 18 spells out conflicts of interest and they do include more than just the PB member's economic interest.

Among points of discussion about draft Section VIII, Zoning Board of Appeals, was that Nan will draft a paragraph describing the ZBA's purpose, which will go at the front of this section and help to

make it parallel in structure to the Admin & Enf and PB sections. Similarly, she will prepare a few lines about the TB appointing the ZBA Secretary pursuant to ZBA recommendation after coordination with the PB. She will also draft a line or two specifying attendance and training requirements, similar to those for the PB. Chairperson duties will be amended along the lines of the PB chair/vice, and references to BI at H (4) and (5) (b) will be changed to ZEO. The specific fee at (5) (b) will also be changed to “fee as determined by the TB.” Paragraph (7) (e) may also warrant revision if it is deemed to be insufficiently clear.

Moving page by page through the draft Site Plan Review, Nan gave a very helpful tutorial about site plan review and identified several questions for the ZRC to debate and decide.

She began by opining that site plan review is the most critical part of any zoning law because it is where the Planning Board and the applicant can work together. To be most helpful and user-friendly, the section about site plan review should clearly identify the expectations and procedural ground-rules for both the PB and the applicant. She noted that the current ordinance, while mentioning the PB at several points, offers very little specific guidance for either the PB or the applicant about procedures to be followed, information to be submitted, criteria to be met, guarantees for performance, and other issues.

Ms. Stolzenburg underscored that the Site Plan Review Section looks solely at “siting of things on the ground.” Whether a building, a sign, or something else, the site plan review examines “where is it going to go?” Regardless of how it is to be used, how will the structure “perform” on the parcel?

In contrast, she noted that special use permits are oriented to the use to which the structure will be put—“What’s the difference between a gas station and a bagel shop?”

She endorsed a concept contained in the Comp Plan: to be user-friendly, the PB should have the ability to review both site plans and special uses. All are tied to the Use Table. Examples of a change of use include converting a house to an office building or to a restaurant. Change of intensity focuses on continuing the same use, but “having more of it”—for example, an owner already operates a restaurant, but wants to double its seating capacity, hence needing both building expansion and more parking spaces.

She pointed out one question for the ZRC to decide about the Zoning Law’s organization: Does the ZRC prefer activities at A 1. a.1-7 to be listed narratively, as they appear in the draft, or should they be placed in the Use Table?

NOTE: Nan stressed that this draft Site Plan Review Section applies solely to commercial land uses—NOT to residential uses! If the ZRC desires, she could prepare a separate section on residential site plan review. Items for possible inclusion could include curb cuts, driveway permits, and the building envelope, which is “the disturbed land” that has been cut into for house, lawn, septic, etc.

Ensuing discussion focused on whether to include residences in site plan review. While exempting dwellings is most often done due to political concerns rather than valid land use considerations, it is certainly feasible to include residences, or as a smaller step, to include dwellings that exceed a specified number of square feet. The ZRC will discuss this issue when more members are present.

Nan stressed the importance of the Sketch Plan provisions at A.4. B. 2. as an informal opportunity to open communication and convey information without spending lots of money.

She noted that, while the PB has authority to ask for the information at B. 5. a-ee, on pages 4-6, the PB also has the authority to waive any of those requirements if they don’t appear to pertain to the application at hand. She also commented that the PB has authority to ask for the traffic study at B. 6., pages 6-7, and advised that experience has shown the benefit of articulating the requirements of such a traffic study, because without such detail the PB seldom receives the information necessary to properly accomplish its review.

Noting that waiver authority is too often abused, Ms. Stolzenburg explained the value of the provisions at B.7., which grant all necessary waiver authority to the PB, but which also balance that waiver authority with some safeguards for the community and keep all waiver actions by the applicant and by the PB open and transparent to the community.

Ms. Stolzenburg reviewed B. 9. Segmentation and stressed that SEQRA prohibits segmentation of a project. The PB must look down the road. While an applicant can certainly evade conveying a total planned project, the PB must apply their judgment and consider applications incomplete “where there is reason to believe” that the full extent of the project is not being portrayed.

She noted that B. 11. c., Required Agricultural Review, is the first time the committee has encountered text about the Agricultural data statement. [See too para 1.15 Land Use Laws of the 2010 Comp Plan.]

The decision time extension provisions at B. 14 suggest both user-friendliness in the manner in which the PB and applicant can extend decision deadlines by mutual consent and protection of the community by explicitly conveying that PB failure to act does not automatically indicate approval.

At page 12 and following, Nan noted that the ZRC could enter here all commercial design standards for the structure (not for the use of the structure), or could put those design standards elsewhere in the Zoning Law. The ZRC must resolve this question of placement within the document. She noted also that the standards indicated here are relatively general and do not contain the specific dimensions etc. that would, in user-friendly fashion, characterize clear commercial design standards.

At H, page 19, Nan included a provision for integrating site plan review and special use permits. During discussion, she noted that there are situations when an applicant may need site plan review, but not special use. She suggested that the ZRC deliberate and decide whether to have site plan review and special use review in one integrated section or in two separate sections. Whatever approach is preferred by the ZRC, the objective should be to tell the applicant what the procedure is, what to expect from the PB, and what the PB expects from the applicant.

Nan also observed that special use permits have a reputation for being “bad and hard.” She stressed that special uses don’t deserve such a reputation. They are uses that a town permits, but those uses have certain characteristics that need further looks before a permit is approved. When the ground-rules are spelled out beforehand—when the procedures, criteria, and expectations are clearly defined and followed—the process need not be onerous. Indeed, whether dealing with site plan review or special use permits, astute commercial applicants prefer knowing beforehand what is expected of them and what they may expect of the PB.

With thanks to Nan Stolzenburg, the meeting adjourned at 9:15 p.m.