

**Town of Ancram
Zoning Revisions Committee
2 August 2010**

Members Present: Hugh Clark, Terry Boyles, Barry Chase, Barbara Gaba, Bonnie Hundt, Kyle Loughheed, Don MacLean, Bob Mayhew, Jim Miller, Bob Roche, Jane Shannon, Dennis Sigler

Others Present: Donna Hoyt, Nan Stolzenburg

The Chair called the meeting to order at 7:03 p.m.

Members approved minutes of the July 26th meeting.

Ms. Stolzenburg addressed questions about ZEO and CEO authority, responsibility, and procedures. Her points included:

- There should be no references to CEO/BI in the zoning law. Current references in Section VII, though well intentioned, should be deleted.
- The ZEO enforces only the town zoning law.
- The CEO and BI are authorized by entirely different NYS statutes.
- The BI enforces only the NYS Building Code.
- The CEO has different legal authority and enforces not only NYS Building Code, but also local law (though not zoning law), e.g. dumping laws.

She noted that in approximately 2007/08, when NYS updated its Building Code, most communities adopted a local law that adopted the NYS Building Code, specified the roles and responsibilities of the BI, and in smaller communities also made the BI the CEO. It should be determined whether Ancram adopted such a local law. If it has not been done, it should do so.

It was agreed that the draft definition of CEO should be changed, and the BI definition warrants review.

Other points arising from discussion include:

- Ultimately, the property owner is responsible for locating and building a structure in accordance with plans and conditions approved by the PB.
- The logical and proper sequence of permits is zoning permit before building permit before certificate of occupancy.
- The ZEO should check lay-out at the field site before digging starts.
- The zoning law should authorize the ZEO to conduct such inspections in the field, but should not be so detailed as to constitute a ZEO job description or policy/procedures manual.
- Fees should be determined by the TB. One method is to set and collect a fee for each permit; another method is to roll all fees into one fee paid for the building permit.

Training that could be helpful to the ZEO includes participation in the NYS Planning Conference and any training about site plan review. Because NYS does not offer training specifically for the ZEO, it may be best to require training “as directed by the Town Board” and “if such training is available in New York State.”

Concerning release of information about names of complainants, Ms. Stolzenburg noted that the NYS Public Officers Law protects the names of complainants, and that complainants' names are not subject to release under NYS FOIL. Also, each town is supposed to designate a Freedom of Information Officer, who is trained and knows what information in all town departments may be released. The TB should also establish policy and procedures for the public to gain access to public records, and for the Freedom of Information Officer and other town staff to follow.

She also explained that a tiered system of fees is not legal, and that the ZEO can decide among criminal and civil options for violators.

The remainder of the meeting focused on thoughts and considerations to keep in mind as the ZRC examines the new draft section on site plan review.

The PB reviews and approves site plans for non-residential uses. The ZRC may opt to include residential and agricultural uses in site plan review provisions. Site plan review examines where the structure is, not on what occurs within the structure. Site plan review examines the location of the structure, the location of signs (and their design and size), parking, landscaping, lighting, and other features that go on the ground and on a map.

Ms. Stolzenburg discussed features of the current site plan review draft, including:

- paragraph 2 on page 2, Exempted Uses. She urged the committee to examine closely items a-j and determine which to keep as exempt. She cited paragraph e and noted that clearing and grading may not be exempt if erosion is a problem.

- paragraph B2 on page 3, Sketch Plan, which is an informal—but very important—way for the applicant and PB to communicate without incurring extensive costs. The sketch plan conference gives the PB an opportunity to examine the proposal and to coherently and comprehensively tell the applicant all that the PB will be examining and to identify all that it does and does not require the applicant to provide.

- paragraph 5 on page 4, Site Plan Submission Requirements list all that could be on a site plan, including whether the proposed project is within an Ag District and owners of adjacent properties. Nan urged the ZRC to identify any additional points of information that the Ancram PB normally asks for and to include them in this list. However, she also underscored that the PB may waive requirements that do not apply to a specific proposal.

- paragraph 6 on pages 6-7, Additional Requirements, for bigger developments, Nan emphasized that the PB should clearly be authorized to get a Traffic Report, Visual Impact Report, and Stormwater Management Plan. She noted that a stormwater management plan is required if a commercial operation will disturb more than one acre, and if a residence will disturb more than five acres.

- paragraph 7 on page 8, Less Intensive Review and Waiver Requirements, give authority for the PB to waive or impose less intensive requirements for a particular project. However, when granting such waivers, the PB must deliberate openly, be fair, not arbitrary, state its rationale in writing, and file that statement with the application.

- responding to discussion, Nan noted that forms may be useful in many instances, but should not be made part of the zoning law.

-paragraph 11 on page 9, Referral to Other Agencies and Boards, prompted Nan to note that most site plans must be reviewed by Columbia County in accordance with section 239m of the General Municipal Law and also called attention to ag review provisions and to the review that CAC could provide, which could occur as one of the first steps in the review process.

-paragraph 12 on page 9, SEQRA Compliance, is mandatory; the PB should receive training on SEQRA because the PB determines whether the short or long form will be used.

-paragraph 13 on page 10, Costs Associated with Review and Escrow, assures that the PB may hire consultants paid for by the applicant via an escrow account.

-paragraphs 14-15 on pages 10-11, Extension of Time...and PB Action...: Nan noted that times are established by NYS law. She stressed that the time clock in para 15a starts when the PB determines that the application is complete and the fee is paid and the PB has gone through the first part of SEQRA—not when the application is submitted to the PB. After discussion, it was agreed that “Complete Application” must be better explained in this paragraph and/or in the Definitions. Also, fees should not be established in this law, but this law should refer to the Town Board’s establishment of fees.

-paragraph C on page 11, Criteria for Review, identifies what the PB will weigh when deciding upon an application. The ZRC has much discretion in determining how general or how detailed these criteria should be, but the criteria should clearly identify for the applicant the town’s expectations.

-paragraph C2 a on page 12 initiates ZRC consideration of commercial design standards. If the committee opts to incorporate commercial design standards within the site plan review section, they would appropriately appear in this paragraph. They could also be treated as a separate section elsewhere in the law. The sample standards indicated at this point in the draft are quite general and do not contain the specifics that would, in user-friendly fashion, characterize clear design standards. [See related discussion at second page, paragraph 3, of 7 June 10 ZRC minutes.]

-paragraph D on page 16, Guarantee of Site Improvements, incorporates a provision for bonds to protect the town if the project does not get built as approval requires.

-paragraph G on page 18, Administration/Enforcement/Fines, will be revised to be compatible with Section VII, Admin & Enf, and earlier discussion about ZEO, CEO, and BI responsibilities.

-paragraph H on page 19, Integration of Procedures, provides for integrating site plan and special use permit review and accomplishing them concurrently.

Follow-up questions and comments by Nan and committee members included:

-Yes, the community may decide what it wants to become and set design standards to get there.

-Commercial design standards typically deal with such factors as where parking is located, ensuring that windows rather than blank walls face the street, and height of lights.

-For most applications, the PB would like to accomplish reviews without additional engineers and consultants. The draft provides the ability to use experts, but not the necessity.

-Size alone (e.g. square footage) does not always indicate intensity of use and traffic.

-Site plan review does not negate SCOZ requirements; relationship of SCOZ law to zoning law should be examined. Consideration of SCOZ provisions may be incorporated into ZRC review.

-There are “industry standards/formulas” for determining parking spaces and other standards.

The meeting adjourned at 9:00 p.m.