Town of Ancram
Zoning Revisions Committee
4 February 2013

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

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The committee convened at 7:07 p.m, approved minutes of the 17 December meeting, and considered feedback about Package 4 from the 17 January public hearing:

*from Bill Hunt, two questions re: passage on page 3 of Supp Regs (Section V A1d1):

"Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established. In no instance shall an accessory building or use be established on a vacant lot. Such accessory apartment shall not be subdivided from any parcel containing a single-family dwelling for any use."

If someone owns a vacant lot next to the lot on which their house stands, why can't they put a garage on that vacant lot?

Answer: The owner of the vacant lot may put a garage on the vacant lot. However, as the sole structure/use on the lot, the garage would not be an accessory use, it would be the principal use. By definition, an accessory structure or use cannot exist in a vacuum. To be accessory, there must be a principal structure/use to which the accessory structure is subordinate. If the lot is vacant, the garage would be the principal use. The garage might become a subordinate accessory use if, at some point in the future, the lot owner properly built a house on the lot, which would thereby become the principal use and the garage would then become an accessory use.

If someone owns a vacant lot and intends to build a house and a garage on that lot, why can't they build the garage first?

Answer/Nan's Comment: "If you read the first sentence ('or the principal use is established…'), I would consider that getting approval from the PB or a building permit does establish that use. I would not think the town would have a concern about the garage going up first in that circumstance….If both [the house and garage] are approved, then the principal use is established."

The ZRC affirmed that the answers are correct and no change to text is necessary.

*from CAC in 16 Jan 13 Memo to TB and ZRC [previously forwarded to ZRC members on 16 Jan 13. See also Wetlands Protection summary previously forwarded to ZRC members on 16 Jan 13].

The ZRC affirmed that draft responses to CAC comments are correct, no changes to text are necessary, and definitions for "heritage tree" and for "pollution" will be provided as the CAC suggests.

When considering a definition of "heritage tree," ZRC members noted Nan's comment in a 4 February email:

"Both [heritage tree and pollution] are terms that are more complicated than you would think. A true definition of heritage trees really depends on many factors including size, species, age, historic significance, ecological value, location and aesthetics. Many definitions for heritage trees are based on size only, but I feel that misses some of the other features that make a tree important to preserve. I have tried to give you a 'well-rounded' definition that goes beyond just size, but the ZRC will have to determine and decide what it wants. It is important to note that ordinances and regulations designed to protect individual trees are typically not well suited to the protection of woodland or forest areas where there may be whole stands of such trees. The term heritage tree is usually used in reference to a single tree. If the concern is larger patches of trees, then this term is not really appropriate. And the 24 inch diameter is not set it stone - different locations have different sizes. A good healthy tree around here that is 60 or 70 years old would probably be at least 24 inches. Some of the really old maples that are over a hundred years could well 36 or more inches. I picked a number in between. You should adjust that diameter to capture what you think would be a tree worthy of being singled out and saved. So - see what you think about the following:

"**Heritage Tree:** An individual specimen having a diameter measured at 54 inches above natural grade of 32 inches or more or notable because of its size, form, shape, beauty, species, color, rarity, genetic constitution, location, historic significance, and location. It also is any tree specifically designated by the Town of Ancram Town Board for protection because of its historical significance, special character or community benefit."

Reflecting upon Nan's comment and draft definition, several members conveyed their belief that a person or agency existed within Columbia County government or within NYS government that identified and catalogued such heritage trees. If so, members were inclined to define a heritage tree as one identified and registered by such person or agency. The Chair solicited help from the CAC to determine whether such person or agency exists. Decision is deferred until information is received from the CAC.

When considering a definition of "pollution," ZRC members noted the definition suggested by the CAC **(**"The presence in or introduction into the environment of a substance or thing that has harmful or poisonous effects') and also considered Nan's comment: *"As for 'pollution'...that is very broad. Are we talking air pollution, water pollution, soil pollution, all of the above? Even the US Pollution Prevention Act does not define pollution. It defines toxic substance, and other specific kinds of pollutants, but not the broad term. I think the definition needs to be very broad: "*Pollution: The presence of matter or energy, or the discharge of a toxic or contaminating substance that is likely to have an adverse effect on the natural environment or life."

The ZRC prefers Nan's suggested definition because its reference to "energy" also encompasses noise and light pollution. After noting that any human action has an adverse effect on the natural environment (e.g. walking a woodland path crushes the grass or plants underfoot, or building a structure disturbs the natural environment), the committee decided to approve Nan's suggested definition, but change "an adverse effect" to "a significantly adverse effect."

Turning to comments about ridgeline protection, the ZRC first considered comments by Erin and David Robertson that a short ridgeline whose southern end crosses Fox Hill Road is not topographically prominent and of scenic importance and should not be designated for protective measures. The Chair noted that he and Mr. Chase had again driven the routes taken by the sub-committee and had viewed the site in question (and others) from near and far. Also considered were photographs submitted by the Robertsons. While acknowledging that the viewscape from the ridgeline in question was certainly scenic, the committee concluded that the ridgeline in question was not itself prominent when viewed from various vantage points throughout the town. Its designation apparently resulted for miscommunication about the ridgeline above it and the viewscape from it. Accordingly, the committee concluded that the ridgeline in question should be deleted from the Ridgeline Identification and Protection Map.

The Chair then summarized comments made at the 17 January public hearing by Ron Steed and Drew Hingson. One theme of those comments challenged ridgeline designations; another focused on the 35' setback. Subsequently, the Chair and Mr. Chase summarized the origins and process of ridgeline designation. After deliberation, the committee concluded that the selection process was rational and unbiased and that the nominated ridgelines had repeatedly showed themselves to be topographically prominent and scenically important. Deliberating again about the 35' setback and related features, committee members noted that the recommended protections do not prohibit principal or accessory structures from being built on parcels that contain designated ridgelines. The sole intent is to implement Comp Plan guidance and minimize the negative effects that such structures would have on the scenic, rural character of the town. It was noted that Gallatin and Hillsdale both have ridgeline protection overlay districts and protective measures within their zoning codes.

The committee concluded that an introductory paragraph similar to the Purpose paragraph in the Gallatin and Hillsdale laws would help to clarify the intent of this section. Subject to consultation with Nan, the following paragraph (or similar verbiage) should be inserted at H1:

"H. Ridgeline Protection

1. Consistent with its Comprehensive Plan, the Town of Ancram seeks to maintain the rural, scenic character of the town by preserving important scenic views. The purpose of this section is to protect the town's scenic, rural character by minimizing the overall disturbance and visual impacts of development that occur on ridgelines that have been designated for protection based upon their topographical prominence and scenic importance. These protective measures especially seek to ensure that any development not produce a "notched out" area in which trees and native

vegetation have been removed to the extent that the structure is silhouetted against the skyline or fails to substantially blend with the surrounding environment. These protections do not prohibit principal or accessory structures from being built on parcels containing designated ridgelines."

During substantial debate, the committee again considered the 35' setback from the ridgeline, the 500' limit, and other features of the previously recommended verbiage. Mrs. Hoyt objected to any provision that precludes building on the ridgeline itself. She contended that such a measure prevents a landowner from deriving maximum value from the property. While acknowledging her opinion, the committee decided that all features of the recommended protective provisions should remain in place.

Mr. Sigler reminded all that on 10 December 2012 the ZRC "agreed that text about structure placement must be clarified to state that the top of a structure must be 35 feet below the ridgeline [and that] to attain that placement 35' below, the relatively rounded or flat topography of some ridgelines may indicate that a structure be set back some distance from the ridgeline. However, in no case must a structure be set back more than 500 feet laterally from the ridgeline in order to be placed 35 feet below. If the size of the parcel and/or its topography would render the lot unbuildable, the PB may waive the 500' setback and establish compensatory measures to ensure that all features of the structure blend into the ridgeline to the maximum extent practical." He requested the Chair check to ensure such verbiage is incorporated into the ridgeline protection passages in the Supplementary Regulations.

As other business, Mr. Sigler noted that the proposed definition of "building envelope…includes the building, driveway, and any lands disturbed for well and septic systems." Citing previous instances in which the USA COE and/or NYS DEC permitted driveways to be built through wetlands (albeit with appropriate culverts or drainpipes in some instances), he requested that Nan advise whether it is necessary to include "driveway" within the definition of "building envelope."

The meeting adjourned at 8:30 p.m.