

## TOWN OF NORTH EAST ZONING REVIEW COMMITTEE MINUTES January 11, 2021

The Town of North East Zoning Review Committee meeting took place on Monday, November 23, 2020 via Zoom at 6:00 PM. Members present were Chair Edie Greenwood, Dale Culver, Ed Downey, George Kaye, Bill Kish, Julie Schroeder, and Dave Sherman. Also in attendance were Will Agresta, Chris Kennan, Sam Busselle, Rob Cooper and Deb Phillips, secretary to the ZRC.

Chair Greenwood opened the meeting at 6:00 PM.

Chair Greenwood asked Agresta his take on the Boulevard district.

Agresta: There were some highly constrained properties with regards to achieving any kind of density based on lack of septic capacity and challenges for storm water management. There were some good examples of development that could be replicated. His recommendations are looking at the area as a single entity, being as a transition out of the village and have uses that are supportive of the village.

Kish: There are water constraints with Kelsey Brook, the ore pit and water that comes from Connecticut. His concerns are what the risks are and what needs to be done to the properties to make them suitable for development. Suggested getting a hydrological analysis.

Sherman: From looking at the wetland maps and flood zone maps, there are limitations in some areas that are zoned as commercial. Those areas should be looked at to see if they are addressable as to how the property might be developed or whether the zoning districts ought to be drawn back from the problem areas.

Kaye: Those areas that are currently designated within the 100-year floodplain are going to cause problems down the road in trying to do anything. We may be looking at a 150-year floodplain in the future to do anything. We need to find out which areas can be useable.

Schroeder: We need to take into consideration the wetlands. Can the current mapping be used, or do we need to hire outside help to update maps? We need to put limitations on the whole area.

Chair Greenwood: Asked Agresta how to move forward effectively.

Agresta: Suggested we first look at the current BD districts and assess if the current thinking is sound. He suggested the ZBA talk about how to go forward with what they want the districts to be.

Chair Greenwood: Agresta's idea of two districts in the boulevard makes sense.

Downey: We should think of the Boulevard District as a prototype for how we approach the other districts. It should be thought of as both commercial and residential.

Culver: The Boulevard District has shown us what can go wrong if things aren't designed right.

Culver: The Town wanted the commercial development to go to the Boulevard District; most of the development that has been beneficial to the Town has happened north of the light on Route 22. When the recent supermarket was proposed in the Boulevard District, we had a large commercial entity put on a piece of land that was barely suitable because that's where zoning said it was able to go.

Agresta: The recent supermarket site was constrained in many ways, but he questioned if it happened because of the zoning or for other reasons.

Culver: The land wasn't suitable for the size project and the commercial use. It didn't happen because of the court cases.

Agresta: **When we have better mapping of the different resources, we can look at moving the boundaries if the ZRC wants to be more protective of those resources.**

Sherman: In flood areas, is it a matter of whether something can be built to constrain the flood area, or will it be too costly for the kind of development?

Agresta: There are some limitations in the flood zone. **You can develop in flood plains, but some issues are use-specific. Some towns have overlays for flood zones that can exclude some uses that can be problematic. It's costly to build in those areas.**

Kish: Asked about getting all the maps that show all the floodplains and impacted areas of the Boulevard District.

Agresta: The County can do that.

Chair Greenwood: We need to spend time going through uses, standards, and parking.

Agresta: **If you did a district-by-district analysis, focusing first on what the purpose of each district is. From there, you go to the density and then whatever changes you want to do to the district.**

Kish: Two questions: he's noticed in North East zoning that a great deal of effort it spent defining uses that the Town doesn't want. By defining them and shunting them off some place where you can never have them and by making extremely difficult special-use permit requirements for them, it's highly unlikely that they'll occur. He questions if there is any other way to accomplish that besides wasting a lot of time.

Agresta: **He doesn't agree with writing uses to segregate them some place, so you don't get them. If there are uses you don't want, you need to define those.**

Kish: Question Two: Zoning is too static when you define something that just popped up. Instead of defining a huge table of specific uses should we go into the impacts of the uses and define what types of impacts are allowed in these districts.

Agresta: Asked Kish if he was talking about a use-performance standard.

Kish: Yes. He's concerned about the zoning code becoming obsolete before it gets adopted.

Chair Greenwood: We should have sufficient flexibility not to deter economic activity.

Agresta: Your code has an abundance of uses that are listed that are a permutation of the same thing.

He asked the ZRC if it makes sense to go district by district and define a purpose for the district and then build on the uses.

(Sherman and Greenwood agreed)

Agresta: The consensus seems to be that it would be one or two districts separated by the Kelsey Brook. The Boulevard District was envisioned originally as the extension of the Village with a concentration of the commercial development for the Town with maybe not understanding the environmental constraints of the area as much as it could have been. Asked the ZRC if their purpose of this area is the concentration of development for the Town. There is land in the Boulevard for opportunities.

Culver: **We should look at the other possible uses; possible mixed use with residential.**

Kish: The Village has turned into a tourist destination. A common complaint is that you can't buy the things you need in the Village. The Boulevard District should be the place where people can get stuff that doesn't satisfy the needs of the gift buyer or the antique shopper.

Sherman: We need to think about where retail is. Everything downtown has small spaces; other businesses need a larger floor space that is not available on Main Street. The boulevard concept was to supplement and not to compete.

Culver: With it being an extension of the Village, we should be looking at the possibility of buildings that are closer to the road. More of an emphasis on having sidewalks would help create that extension of the Village image.

Sherman: Suggested having consistent streetscape concepts with the Town and the Village.

Agresta: There are two modes there: transitioning and supporting of being more the same. You should focus on the convenience of the pharmacy, the banks and those kinds of stores that are needed as well as for the visitors. It gets to the question of opportunities for lodging and inn-like structures that result in making the Village bigger and that will increase tax dollars.

Busselle: We should be defining a policy. The Comprehensive Plan mentions mixed use buildings in business districts and economic development as well as agriculture. It would seem you should begin to develop an over-arching kind of way to look at all of that. I would not preclude housing in the Boulevard District. There's some beautiful land behind the supermarket that could easily supplement and add a huge amount of housing. It is a critical aspect for you to include some criteria as to where you put housing and economic development or jobs. Then you're changing the orientation of what zoning should be. All of that is the granular work to do after we come up with a reasonable description of what we want.

Agresta: This is what your Master Plan was about. It is supposed to define what you all wanted to do with the vision of the Town.

Culver: The Comprehensive Plan is a little light in the Boulevard District when it comes to specifics. I think figuring that out and going forward with what's in the Comprehensive Plan should be a guide.

The Comprehensive Plan did identify the need for housing, etc., we didn't solve that, we identified that need. Look at the Boulevard District as the opportunity to have both commercial space and some residential that brings the Village concept out to the Boulevard District. The Village has commercial below and residential above.

Kish: Mentioned mandating housing.

Culver: If we created the mandate and had someone come in who wants to do a food market but they're not in the apartment building business, do we say that they can't come in? We need to be flexible and encourage development.

Agresta: **You can't mandate someone to build something unless they are proposing to build. Then you can mandate something about what they are doing. Example: Someone is building housing (e.g., multi-family), you can mandate a certain percentage of the units be affordable. It could be inclusive, or incentive based.**

Kish: His concern is we won't get anyone to build a mixed use structure since there are no incentives offered.

Agresta: Apartments make more money than retail. Other than it having to have the septic capacity, he finds it hard to believe that someone wouldn't want to build apartments on second stories.

Kish: Asked if there was any risk having residential that we would only see residential development. If so, should we keep five or six districts.

Agresta: If you allow stand-alone residential, then there is a risk. Forgetting sewer for a minute, would you want the Boulevard district to look similar the Village as far as density, scale, and use?

Culver: If it provides housing and reduces limitations on that and if it gives us a food market and goods that we need, why not. You can't have a commercial space and say we don't want much there or else we've accomplished what we have now.

Sherman: There are two parts to the Village: downtown where buildings are close to one another and then there is the upper section where it's a different environment, a mix of residential and business. Having a grocery store and a viable one is the key to have the boulevard return to some health. You need something that's generating traffic.

Culver: Housing would generate traffic. You need to help make retail succeed. A supermarket would benefit if there were more people living closer to it. The previous proposed project looked at drawing from quite a distance for its overall population. If we're looking at something smaller and have mixed-use housing, then the Boulevard District is a little busier. A benefit in the Boulevard District is, even with the more density and reduced setback requirements, we have the option of parking behind which the center of the Village doesn't have.

Downey: Creating the opportunity to do multiple things in the Boulevard District is good for everybody. It's good for the owner of the property, it's good for the community in terms of meeting its needs and good for the tax base. Allowing for multiple ways for the property to be used is beneficial for all sides.

**Agresta: The only thing I see about the multiplicity of uses is when you glance at the current permitted uses there are some large-scale uses that if you had them, they're good on their own but they don't support the things we've been talking about. Looking at lumber yards, machinery sales and rentals, wholesale distribution services, warehouses, those are not generating traffic or people to come to the area. If you want the existing Boulevard District to be more of a transition from the Village, those things need to stay more far out, or they won't survive.**

Downey: In the original concept where there was a two-part Boulevard, the part farthest to the east was the area where the large area uses were to be. The automobile agencies there are successful.

Agresta: His take is that it's a less dense continuation of the Village concept because of the reality of the property. Asked the Committee if they really want to preclude more tourist-oriented facilities.

Kish: We want to encourage practical things and we are not sure how we do that.

Agresta: Asked the Committee if it's necessary to have a purpose statement for each district in the code.

Kish: Yes.

Downey: Yes. One of the things I think we realized when we were doing the Comprehensive Plan, there were a lot of things that have happened that we lost track of. One of the goals was to have the Plan memorialized our priorities so that someone working with our code will have some idea of what people are thinking about – both at the Town Board level, the legislative level and the regulatory level of the Planning and Zoning boards and the Building Department.

Kish: Zoning can seem arbitrary without a purpose behind it.

Agresta: Users don't care; they are only interested in what uses are allowed. From this discussion, I can try to craft a purpose statement.

Chair Greenwood: Asked if the purpose statement would be for the entire Boulevard district.

Agresta: Asked the Committee if they wanted to focus on one district or two.

Downey: We should talk about it as one district recognizing there are two sections to it.

Agresta: That causes a problem of how to implement that through zoning. You can't distinguish which side of the district you're on. That's two different districts. They would have different purposes. The closer district would be your Village concept with small-scale retail and the other would be allowing more of the same plus other uses.

Schroeder: Asked about outdoor recreational uses and personal services.

Kish: Mentioned going back to impact-based zoning. Listing uses on too granular of a level is trouble and prevents innovation.

Downey: To a certain extent in the past, if people wanted to do something, they proposed it. Just because it's there or not there, doesn't deter someone from seeking the use. I think we could have generalized terms that would cover a lot of things.

Downey: We got into this with the Watershed Center that's sort of an educational center. We should have terms general enough to give enough flexibility without creating problems and being taken advantage of. One concern of a performance-based approach is that it requires a level of administrative skill and time; we are still a community that's approaching that on a part-time basis. I get concerned about the management of it from an administrative standpoint.

Agresta: Even on a performance-based level, there's a lot of work that goes into defining the properties and what's possible. It doesn't get you the development and is costly.

Downey: A purpose statement should be laid out to some degree of clarity.

Sherman: Suggested a vision statement.

Agresta: **It makes more sense to put a better focus on what you want to add to this district and if there's any uses here that you don't want.** The main difference is the constraints that some parcels might have.

Kish: Asked about putting in the introduction that states developers are expected to look at the constraints of the land and not come with an application that would require multiple variances.

Downey: Maybe that should be put in the application.

Agresta: There are legal avenues to deal with that. It's up to the Boards to what makes sense and what doesn't.

Kish: If we remove the front yard setback which we should, it lightens things up a lot.

Culver: If we do lighten up the setbacks, it might give us opportunity to see some applications.

Kish: A main complaint was there wasn't a place to buy stuff in the village.

Agresta: That's a common comment in several communities where they don't have as much retail development as others. That's a market issue, not zoning.

Culver: At the County level, we've heard them say some developers who have done work in the County might be interested in our Boulevard District if we had sewer and mixed use.

Agresta: **You can provide for the housing; you can provide for density based on with sewer or without sewer. The main key is getting it in your code to allow those uses. You may not be able to achieve the goal of having retail goods so every consumer in town doesn't have to go out of town to get things. You may also get commercial development that may ease the burden.**

Culver: The market will only bring what they believe to be viable here.

Agresta: If there's a transition going on in the Village where it's getting more touristy, do you turn your back on that or do you pile on.

Kennan: He likes the sense that flexibility of use is an important attribute to have for the Boulevard District and the opportunity for housing in the district would be important. Nobody can promise at this point that there will be a sewer but there is more going on at this moment in terms of getting a sewer. He mentioned the effect that Salisbury's transfer station is going to have on us. All that traffic that headed over toward Hotchkiss School is now coming over the hill and partway down near the Boulevard District. It's just a matter of a few hundreds of yards or more before they are in the Town of North East. It's going to result in an increase in traffic into our community, which we need.

Kish: Asked when we'll know the answer to the sewer question.

Kennan: The final answer won't be for a while but if the Village is able to secure engineering for a wastewater system, you then have a shovel-ready project. There's more funding around for water and wastewater than there has been. The Village is poised to move forward with the engineering.

Downey: Our conversations about setting up a zoning law that would contemplate and would prepare for the availability of development benefited by a sewer system would be helpful.

Agresta: Asked the Committee if he should craft a purpose statement for the Boulevard and maybe some framework for uses.

(Culver and Greenwood agreed)

Sherman: Asked when we should start thinking about the commercial uses in HB III north on Route 22.

Schroeder: Some of the uses that are currently in the BD districts should be in the Highway Business district. They are low traffic impact or other environmental impacts such as noise, lighting, possible soil contamination and they don't necessarily require sewer.

Agresta: Asked the Committee if he should draft a purpose statement for the HB III district as well.  
(Culver, Greenwood and Downey agreed)

Agresta: **He doesn't see a path that doesn't include listing the uses that are allowed in the district.**

Downey: It will help us discuss them in the context of the purpose statement. Linking those together makes a lot of sense.

Cooper: It's something Dale said, it struck me that commercial development gravitates where it ends up. Where people want to build, it seems like there's more room for it up north on Route 22. We are very limited on the Boulevard. Even on the north side of the highway, it seems to be pretty wet where he is. It's not from the stream but run-off from Traver Place. Maybe the focus should be north on Route 22.

Downey: It would be good if Cooper would suggest types of uses there since he (Cooper) works there.

Cooper: When I built, I was limited to mostly warehouse space. We fit some retail in there, about 40% was retail and 60% warehouse. Restaurants were not allowed at the time.

Agresta: **He will focus on the Boulevard and the HB districts and to the extent he can, the LC district. He urged us to review these sections in our existing code before our next meeting.**

Chair Greenwood: The next meeting will be February 8, 2021 via zoom at 6:30PM.

Greenwood adjourned the meeting at 7:56 PM.

Respectfully Submitted,

Deb Phillips  
Zoning Review Secretary