

TOWN OF NORTH EAST ZONING REVIEW COMMITTEE MINUTES March 8, 2021

The Town of North East Zoning Review Committee meeting took place on Monday, March 8, 2021 via Zoom at 6:30 PM. Board 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 Zoning Review Committee.

Chair Greenwood opened the meeting at 6:30PM.

Chair Greenwood: The workshop meeting on February 22, 2021 made good progress on Boulevard West. Gas station should be dropped under Automotive. Convenience Store is controversial, and it would drop down to Retail.

Agresta: Asked if the Committee was zoning away gas stations.

Chair Greenwood: No, we considered it an accessory use.

Kish: That should be discussed more because there is a lot of infrastructure that goes with a gas pump.

Agresta: You have an existing gas station with a retail component. Asked if we are zoning them as a non-conforming use.

Chair Greenwood: Replied yes and asked Agresta what the impact would be in the long run.

Agresta: The main thing is that the result would be **a non-conforming use. It can continue as is, changes to it would be more difficult and no new one could come in.**

Schroeder: We have a definition for convenience store that includes gasoline pumps and then we have the Getty site. There is a definition for automobile service that encompasses the classic gas station. There are several different definitions. She asked Agresta if he was referring to the convenience store.

Agresta: He said there are probably conflicts in the code. Convenience store talks about selling retail goods and may sell gas. Motor vehicle station is also a use for the sale of gasoline and motor fuels.

Kish: He listed the following types of uses: **Stand-alone gas station, a gas station with a convenience store, a gas station with an automobile repair facility.** He asked which of those are being proposed for the Boulevard District.

Agresta: You have a convenience store with a gas station.

Kish: Asked which of those three uses does the Committee want to add to their table of allowed uses.

Chair Greenwood: The issue is whether we want to create non-conforming uses when we have an existing use. Referring to Ed Downey's point of market forces, she doesn't think anybody would want to invest in a second convenience store with gas station in the Boulevard West district.

Sherman: His concern is where retail is going, mentioned food products carried in CVS. If you are talking about it being a stand-alone use, that may be a way of defining it. The use may appear within the confines of another permitted use in the district.

Agresta: Asked if the Committee was worried about the convenience part or the gas.

Kish: We've already determined that there probably won't be a stand-alone gas station.

Sherman: Maybe somebody would want to put one in the shopping center.

Culver: If somebody wanted to come forward to put in a supermarket with two gas pumps to go with it, he wouldn't fight them that hard because we aren't on a road to a food market unless we are willing to listen. Making it (gas pumps) not okay would limit our opportunity for what we really want.

Kish: Then that could be an accessory use.

Culver: Agreed with Ed's thought that the market will determine whether anybody has an interest in a gas station. We need to be flexible enough to have the Boulevard have a mixture enough that people want it to be an extension of the village.

Agresta: If a grocery store wants to come in, it's going to sizeable. You can make an amendment to the code if they want to have a gas station included.

Kish: A convenience store with a gas station is what people are going to build. We already have two convenience stores with gas stations on that strip; we don't need another one.

Chair Greenwood: My issue is making what we have non-conforming.

Kish: If we rule that out everywhere, we're not going to make any significant changes to our zoning.

Schroeder: Asked about automobile repair shops.

Agresta: Asked Kish if they don't belong on either side or just one side.

Kish: They don't belong on the west side. Agresta and Greenwood agreed.

Schroeder: There's a real need for repair shops as supported by the demand with the shops that are there. She mentioned whether it's north of the Village or on Boulevard East. We should not eliminate that use; it should be allowed somewhere.

Agresta: His rationale in the draft for the vehicle repair was because on the east side you have the car dealerships. It makes sense to have those repair shops and those types of uses on the east side. They could also go in the HB III District. They should not be in the west where you want the most extension of the Village.

Kish: Would like to get Agresta's reading on the question of non-conforming uses.

Agresta: The reality is that if you zone it out, it will become a non-conforming use and an issue you'll have to deal with politically. Having multiple gas stations isn't going to help you; they're not as tax friendly and not as attractive as other things.

Chair Greenwood: This will be discussed at the next workshop and let Agresta know the Committee's decision. She said there wasn't any debate in the Entertainment section.

Agresta: That covers the gas component more than the convenience store. He asked if people see convenience stores as something less than a retail store. Asked if they would allow just a convenience store without a gas station.

Kish: There's a restaurant component to it so that would have to be figured out.

Agresta: Asked if the Committee was good with the other automotive.

Chair Greenwood: We are fine with the other three not being allowed.

Chair Greenwood: We didn't think a facility such as a hotel (under Lodging) should be in Boulevard West but could be allowed in Boulevard East.

Chair Greenwood: There was no problem with the Restaurant category except for the naming of the types, which currently include excluding drive-in.

Agresta: That comes with the understanding of opening the door to every national chain.

Chair Greenwood: That has to do with the standards that we set.

Agresta: You can have standards to reduce the impact but it's still going to be a lift. His understanding of the code is to avoid McDonald's, Burger King, Wendy's and those types.

Schroeder: Mentioned the drive-thru at the bank and CVS. It's accepted that they have a drive-thru.

Agresta: That's a policy decision for the Committee. The difference with banks and CVS is that they don't have such a hard time of giving you an aesthetic that you will like. That fast-food restaurants take a lot of prodding to get that. They will change if you push hard and strong enough. The banks and CVS will do it a lot quicker; they tend to want to look like everything around them.

Agresta: You want to have an aesthetic over time as well. It's a double-edge sword trying to get someone to come in and bring other businesses with them and then also maintain that nice charm.

Chair Greenwood: If we leave this excluding drive-in, that solves it?

Agresta: It doesn't necessarily solve it but you're going to be hard pressed to get a fast-food restaurant without the drive-thru. Almost 80% of their business is through the drive-thru.

Agresta: There is a definition for drive-in business and there is no definition for drive-thru.

Chair Greenwood: **Drive-in and drive-thru will be discussed at the next workshop.**

Chair Greenwood: Banks and financial institutions go under Retail and can go on both sides of the Boulevard. She said Agresta answered the question of the difference between general merchandise, retail furniture and consignments had to do with parking standards. We discussed the garden center retail and see it in the East but whether something like an Agway would simply not be in keeping with the extension of the Village theme in the West.

Schroeder: There is a possibility we could get something like Agway without the animal feed and the fencing but have plant sales.

Agresta: Asked about what type of garden center retail would be accepted on the West.

Schroeder: A business with plant sales customarily has a greenhouse, not a grow house.

Agresta: Asked if the garden center would be on the East side.

Chair Greenwood: Yes, that's what we were thinking. We agreed with everything except hardware store. If it has a lumberyard, we think it should only go in the East. Asked if we had to define it twice.

Agresta: If you wanted a hardware store in the West that was all inside, then on the East you could have an outside added component.

Kish: Asked if hardware store could be rolled into retail and define hardware store and lumberyard as a use that's allowed in the East.

Agresta: **A hardware store doesn't necessarily have to include a lumberyard. If the hardware store we're thinking of has outdoor storage and lumber, that could be something you allow just in the East. Just the hardware would fall under retail.**

Sherman: Asked if general retail should on both ends of the Boulevard, East and West.

Agresta: Those are your primary uses and should be throughout the entire Boulevard.

Sherman: We talk about the East and the West, with the West being closest to the Village with a walkable distance to the Village. That should have smaller retail and high uses like grocery store. Other things that don't have to be there like automotive related should be out further.

Agresta: You're going to have some primary uses that go throughout the entire Boulevard and on the East side you're going to allow some bigger uses.

Schroeder: We need to stay as flexible as possible. To limit these uses to such a small area is a mistake.

Agresta: Asked if Kelsey Brook wasn't an impediment to crossing over with the sewer line and you didn't have a couple of the uses on the East side of the Boulevard like the car dealership, wouldn't your long-term vision want to be to extend the entire Boulevard to be more like the Village.

Sherman: Doesn't believe so; he wants to look back at sidewalk planning and other things done by the County. It's a matter of distance from the center of the Village Business District.

Chair Greenwood: This can be discussed more in the workshop.

Chair Greenwood: Asked the Committee if they are fine with the way Agresta presented the Municipal Uses.

Kish: Maybe move them to the East side.

Agresta: Asked when the Town does something if it goes to the Planning Board.

The response was no.

Agresta: Asked if that was going to change.

Kish: If it's in our zoning, then they might.

Downey: Asked Agresta if that are any municipalities that have any language in their zoning law that in any way encourages, recommends, or requires that municipality to go to its Planning Board.

Agresta: Almost all of them that he works with don't go to the Planning Board and most don't have emphatic statements. They don't say whether the uses are permitted or not. He asked why the Town would want to go before the Planning Board which it appoints.

Downey: It would be an exercise in consistency and reasonable planning.

Agresta: Technically, they're supposed to say they are exempt. A lot of towns don't say that in their code and exempt themselves anyway.

Kaye: If you put the Planning Board in the superior position here, you're putting an appointed board in a superior position to an elected board. He doesn't believe that cannot be done. The elected board is the one that is solely responsible to the voters.

Agresta: Another way to deal with this is that the Town Board would make this decision ultimately. You could make a referral just like an amendment.

Sherman: Asked if it would be a separate process other than site plan approval.

Agresta: **The Planning Board wouldn't be giving site plan approval; instead, it would be giving advice or recommendations. He asked the Committee if that's the direction they wanted to go in.**

All agreed.

Chair Greenwood: The Committee has not reviewed the uses in Agresta's outline for the Boulevard East.

Kish: The only change he would propose for the East side is to allow an artisan's studio/workshop without an educational component.

Schroeder: It should include at least a sales component.

Kish: It doesn't have to give classes.

Schroeder: We could put and/or.

Agresta: The and/or is fine. He mentioned seeing not wanting to limit lodging in the hotel.

Agresta: **Motel and hotel** are two different things. A motel has access to the rooms from the outside. A hotel has interior access. Not many motels are being built; many travelers don't like them because they are not viewed as safe. We can do country inn one and country inn two, depending on what scale. If you don't have a scale, hotel is more appropriate. The reason for ten was to evoke a smaller scale level.

Kaye: Asked if market conditions would determine the size of how many units would be appropriate for a town of our size.

Agresta: You could have more than one and they attract having more people.

Downey: Given the constraints that are in Boulevard East, asked it if was reasonable to assume that there would not a hotel built there unless there were a sewer system serving it. Asked if it would be a municipal system as opposed to an on-site one.

Agresta: It would definitely be a municipal sewer system.

Downey: So, this whole use is going to be a function of whether there is a sewer system or not. The market force mentioned by George Kaye would be relevant. The most relevant thing now is the existing constraints.

Agresta: The vision is that there will be sewer. We are writing this code with the vision that someday there will be sewer out there.

Downey: It depends on the time frame that we are writing for.

Chair Greenwood: Concerned about leaving the idea of a hotel in that ten units is so limiting.

Agresta: The thought process to a limit of some size was to evoke more an inn as opposed to a hotel. We will take the limit off.

Agresta: Mentioned the seats for **take-out restaurants**. That's a parking issue. If there are more seats, that changes the type of restaurant it is, and people stay longer and then take up the parking spaces. A take-out with fewer than 15 seats is more like a typical retail store and can carry a smaller parking requirement.

Kish: Asked if we want the 15 seats or less constraint on the West side.

Kish: The land on the west side of Kelsey Brook is more valuable to the Town and we want more of a variety of types of businesses there. We don't want to use up a tremendous amount of space in parking. Asked if we want some constraints on restaurants in the Boulevard West district and eliminate the constraint in the Boulevard East district.

Agresta: Restaurants can be a great draw. There are ways to overcome parking and be creative with parking. Shared parking can be done.

Sherman: Asked if some of that would fit in the definition of a shopping center or a commercial center where the parking is open and available to all the businesses located within that site.

Agresta: You don't make it specific; you put it in the parking section. You have different ways of either waiving or reducing parking based on uses having certain parameters. It's not tied to a direct use, it's more of a case-by-case basis.

Sherman: Asked if these uses would be sitting on separate sites and having interconnected drives.

Agresta: Yes, that could be done.

Chair Greenwood: Asked Agresta to explain **the March 5, 2021 document** he sent.

Agresta: **It's the uses in the four districts (HB3, M, LC, M-A). The M district doesn't really exist. The uses that are crossed out are ones that would go away. Some go away completely or get encapsulated in some other use. The blue double-underlines are the rewording of some uses. Some uses are crossed out and uses in black text are the existing language that stays. The ones highlighted in yellow are ones for discussion. He's putting everything in the Planning Board which is another discussion. The ZBA ones can be put into the Planning Board and for discussion also.** The last column has reference to HB1 or HB2 and the agency (PB or ZBA); that's a reminder that those were uses from those districts which were the Boulevard District.

Kish: Thinks we're in very great risk of doing exactly of what we're doing with the Boulevard District except expanding it. We're going around in circles, over and over again. We haven't agreed on the basic concepts, we haven't discussed the boundaries of the districts. Would like to talk about what the HB III District is, what the boundaries are, are we going to expand it. And the same questions about the Industrial District.

Agresta: Asked if the district is expanded, would the uses you allow in it be substantially different.

Kish: Yes. We have packed so much into HB III that there's no consistency to it, no idea of how it complements it or detracts from the Boulevard District.

Sherman: There were thoughts about expanding it in the 1994 Land Use Plan. Said to think about the uses that would be appropriate for it vs. being in a general business district in the Village or on the Highway Boulevard.

Agresta: Asked what the Comprehensive Plan says about it.

Culver: It was talked about but not in the detail Kish is talking about. We've already identified that the Comprehensive Plan was a little deficient with the Boulevard. Just because it's not in the Comprehensive Plan, doesn't mean if we identify the deficiency, we shouldn't look at tweaking the Plan at the same time. When we're the done, the Comprehensive Plan and the Zoning Code should be congruent.

Downey: Agrees with Kish.

Chair Greenwood: If you go back to the 1994 Comprehensive Plan, there was talk of taking this district up to Sawchuck Road. Beyond Sawchuck it becomes residential.

Sherman: There is some residential south of Sawchuck now but it's not the best use of the area. There has always been a problem with the older houses being close to the road with highway traffic.

Chair Greenwood: The other constraint in the area is the degree of wetlands and floodplains that are on the east side of Route 22.

Sherman: Everything in the 1994 plan was looking at the west side of the road. It didn't provide any way of addressing land conservation along the streambed in the center of the Irondale hamlet.

Downey: The other thing that has happened since 1994 Plan is the development of the Rail Trail; that is now a boundary of that district. He asked what the impact is, if any, on the uses and activities that should be encouraged.

Kish: Maybe there will be opportunities for businesses to serve the Rail Trail.

Downey: That's one issue; the other is whether there ought to be an encouragement of creating some parking up that way that would be for the Rail Trail and eliminate some of the congestion in the Village.

Culver: It's essential that we think about parking because if we don't help eliminate some congestion in the Village, we're not going to need an extension of the Village. That traffic will strangle growth from the Village.

Sherman: There's not much you can do in the Village because of the constraints of the streambed, wetlands, etc.

Agresta: The solution is municipal parking.

Kish: Asked if we want to encourage parking for the Rail Trail, can we provide incentives for businesses that we're looking to develop in the HB III district to add or allow public parking.

Downey: The logical place would be Flood Sanitation property in the Village if it ever becomes available. It could serve the recreation facility, the Rail Trail and parking for businesses.

Kish: There's another general issue around HB III. Some of the uses that Will has in his table are duplicates of uses that we have targeted to put on the Boulevard. They should be somewhat distinct. Do we want to say the Boulevard is retail and we don't want to duplicate those retail uses in HB III? We want to be as flexible as possible, but we also want that Boulevard District to fill up with retail.

Sherman: The HB III was first identified for uses such as Dutchess Diesel, etc. It was looked at as being contractor offices and other business that have infrequent visitors. It was not meant for high traffic retail.

Chair Greenwood: The Rail Trail does provide a sidewalk to this area.

Kish: Asked if there was any kind of specific use we want to reserve for the Boulevard. Would like to know what Will's sound zoning practice is to this.

Agresta: **When you have uses allowed in a lot of places, you're competing. They also have different market draws on different attractions and different detractors. The idea is to stimulate economic development to some extent. When you limit it to more of the same, and the only place you can put retail is on ten parcels from the Boulevard District, you could be cutting your foot off.**

Chair Greenwood: Asked Agresta if he wants to talk about the industrial, **the M District that doesn't exist.**

Agresta: **If you're going to have an M District, and I'm not sure what the difference is in vision that would be different than your MA as far as use goes, but I'd just assume if you don't have a vision and I doubt the Comp Plan does, why are we keeping this?**

Sherman: The M District came about from the 1976 Comp Plan and nobody had an idea where to put it.

Chair Greenwood: **We will talk about that in the workshop.**

Chair Greenwood: Asked if the MA District was an overlay.

Schroeder: It's more of a floating zone. The MA was created when Hipotronics, later Harney Tea came in.

Agresta: The MA District does exist, it's one property, it is not written in the code as an overlay zone. It doesn't mean someone can't oppose to rezone their property to match that district, no different than any other district. It's not structurally written to be an overlay district.

Agresta: Asked if the Committee wanted him to wait for their workshop discussions to get feedback back from him. He said he can start working on definitions to some degree.

Sherman: Asked if Agresta could update the uses for the Boulevard.

Public Comment

Kennan: There is a parking lot on South Center Street that he feels is underutilized relative to Main Street for Rail Trail parking. There is an active conversation going on with the County and the State regarding additional parking for the Rail Trail that will be much further north, either on Rudd Pond Road or White House Crossing.

Cooper: Asked when the Committee was addressing gas pumps and gas stations, were they addressing charging stations for electric cars?

Chair Greenwood: We did have a discussion in the workshop meeting about chargers and felt that EV charging stations were a totally different than gas pumps.

Schroeder: Said it was possibly an accessory use.

Busselle: The discussion that I've heard tonight is about this concept of a process that describes the districts not the purpose statements. Currently, there is little detail in the purpose statements that relate to the specific goals articulated in the Comprehensive Plan. That says it all in terms of how the disconnect between trying to determine what happened in the district and the focus that that you can pick out in the Comprehensive Plan. I think we need to relate the Comp Plan in terms of housing or retail or economic recovery or even agriculture to the purpose statement for each district. As Bill said, we're just going around in circles. The idea of getting this concept and these purpose statements together without the contribution of the presence of the Village is really a shame. I would certainly welcome anybody who has received and read what I had to offer would let me know and have a discussion for the next informal meeting.

Agresta: Reminded the Committee that we did start talking about purpose statements. We do have draft purpose statements that we started talking about but didn't get through all of them. Recommended bringing those up at the next workshop meeting. That's based on the Feb. 19, 2021 document working draft for the different district where we focused mainly on the Boulevard purpose statement which was updated. **The next meeting should focus more on defining those draft purpose statements and coming to some agreement as to what your vision is for each of these districts.**

Chair Greenwood: The next workshop meeting will be March 22, 2021 via zoom at 3:30PM.

Chair Greenwood adjourned the meeting at 8:30PM.

Respectfully Submitted,

Deb Phillips
Zoning Review Secretary