

**TOWN OF NORTH EAST ZONING REVIEW COMMITTEE  
MINUTES  
July 12, 2021**

The Town of North East Zoning Review Committee meeting took place on Monday, July 12, 2021, at the North East Town Hall, 19 North Maple Avenue, at 6:30 PM. Board members present were Chair Edie Greenwood, Dale Culver, Ed Downey, George Kaye, Julie Schroeder and Dave Sherman. Bill Kish was absent. Also in attendance were Will Agresta, Chris Kennan and Deb Phillips, secretary to the ZRC.

Chair Greenwood opened the meeting at 6:30PM and started with a discussion of the Purpose Statement for the LC District.

Chair Greenwood: She read Kish's comments which started with using Gretchen Stevens' purpose statement in its entirety. His comments also mentioned establishing a 200-foot buffer that could be reduced if an applicant could demonstrate that it would not harm any important resources if a smaller buffer were granted; however, 100 feet should be the minimum.

Schroeder: Preferred Stevens' purpose statement but suggested deleting the first paragraph and she questioned the need for a 200-foot buffer.

Sherman: Doesn't agree with a 200-foot buffer. Said he needs to understand the map of Significant Habitats in the Town of North East (in the Comprehensive Plan, Part 1 at the back).

Chair Greenwood: Doesn't think the definition of the buffer should go in a purpose statement.

Sherman: Doesn't know what selected tributaries are in the second paragraph of Stephens' purpose statement; suggested taking that out. We need to be careful with our definition or the whole town will be in the LC district.

Agresta: Wetlands should be mapped property by property. The map should say what streams and selected tributaries are included.

Sherman: We need to consider what effect a newly defined LC district will have on existing structures, this being relevant in the Boulevard and Irondale business districts.

Culver: A lot of the land in the Boulevard District would have real problems being developed any further; it overcomplicates the entire process.

Agresta: It's not clear where Gretchen's 200-year buffer applies. It also depends on what it is you can do there.

Schroeder: All of this could be dealt with much more completely under SEQR.

Culver: SEQR allows you to deal with the realities of each parcel. One size does not fit all.

Chair Greenwood: Said she had a conversation with Devin Rigolino, head of Dutchess County G.I.S. Department. He will provide the Committee with overlays. He looked at the map that was prepared by Don Meltz for the Comprehensive Plan. Rigolino said more land will go into the Land Conservation District. There are also areas that are currently in LC that shouldn't be in LC.

Chair Greenwood: Asked Agresta what other towns do regarding criteria for buffers?

Agresta: Other towns have a wetlands and water course protection law which the Town of North East does not have. You have something in your zoning code but it's not quite as effective as a separate law which has a separate permit process in the site plan and subdivision process. Typically, those laws recognize the federal criteria for delineation of wetlands, and they are identified piece by piece as the property comes in with an application containing LC district land. It would be put in a survey based on the criteria. There is usually a buffer that's regulated as well and that varies from 50 to 200 feet in different communities. It means you need a permit to do work in those areas. That seems to be how Gretchen was drafting her purpose statement. It included these certain things and then you would map them at the time of development and that would act as an overlay over that portion of the site.

He read Zoning Law Section 180-11(E) that states "Lots bordering major streams. No building permit shall be issued for the construction of any permitted principal or accessory use in any district within 75 feet of the normal water edge of the main stream and within 40 feet of the normal water edge of tributary branches of any streams in the Town of North East, unless specifically permitted by the Board of Appeals."

Agresta: He quoted Section 180-36(H) of the site plan section of the Zoning Code, "Wetlands and watercourses. Where wetlands and/or watercourses are located on or adjacent to the lot, provision shall be made for their protection in a natural state unless modification is approved by the Planning Board and, when subject to regulatory jurisdiction by a Town, county or state agency, is approved by such agency prior to site plan approval." Most towns have gone to a separate wetland law.

Agresta: He will send references to wetland laws done by other towns and noted they are readily available online through eCode360 which is easily searchable.

Agresta: He felt these two current sections address the LC concerns in a different and unique way.

Agresta: One of the major questions is do we map it and have definitive boundaries which would be a little difficult or is it something you can define as what's included in it and then it gets mapped, treated as an overlay and gets mapped case by case and the standards apply if you have land in the overlay.

Sherman: He asked Agresta if he is talking about not having a land conservation district and not mapping it.

Agresta: The question is not whether to map or not map but what to map. The streams you can probably map and then you don't have to have the edges defined. You talk about what you include in the LC zone. Once you go outside the streams, you're getting into wetlands.

Sherman: Asked Agresta why we don't map current NYS DEC wetlands or the federal wetlands as they are mapped today and use them as part of a land conservation district boundary.

Agresta: The DEC wetlands are only a small portion of the wetlands in North East. The Federal NWI maps are not complete either. You're not getting a full picture of what might be a wetland. These maps are only there to give you guidance.

Sherman: If we go forward and we're not using the state and federal government information, what will the land conservation district actually show. What resources would we use to define where we will put that district on a zoning map.

Chair Greenwood: Said streams, lakes, water courses.

Agresta: You have to decide what are the resources that you want to include in an LC district. We can all agree the map should include the 100-year floodplain. There are different ways to look at wetlands. There

are DEC regulated wetlands which are 12.5 acre and larger and are defined as “lands and waters of the State as shown on any Freshwater Wetland Map which contain any or all of the following: wetland vegetation, hydric soils, and indications of soil saturation or inundation.” Then there are Army Corps wetlands which are defined as “Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.” Most towns that have a wetland law follow the Army Corps definition while some towns only follow the DEC definition. Streams are part of the wetlands. Sometimes they are separated but you can define them together. You could regulate classified streams like DEC does or you could regulate all streams.

Schroeder: Asked how streams are classified.

Agresta: The big difference is if the stream flows perennially or intermittently. Classification is based on the quality of the water, whether it's suitable for trout, drinking water or swimming. The difference between Army Corps and DEC is that DEC regulates the bigger water bodies and the 100-foot buffer around them. Army Corps only regulates the wetlands; it doesn't regulate anything around them. The County can provide maps and give you the NWI map, the DEC map, the classified stream map, 100-year floodplain map from FEMA. The other map they can give you is the hydric soils in North East. Hydric soils are wetland soils. The soil maps come from the U.S. Department of Agriculture. The hydric soil maps are one of the criteria for the Army Corps. Soils maps are not definitive; all soil types are mapped by the primary soil of the area.

Agresta: Compare Figure 7 in the appendix (page 94) of the Comprehensive Plan titled “LC District Map is described in the 1990s plan” and the “Town of North East Water Resources” done by DLC in March 2019 at the back of the Comprehensive Plan Part I and you will see they are very different. The DLC map also includes the aquifer recharge area.

Downey: He's comfortable with the purpose statement that appears in the materials from Agresta on June 10, 2021; it strikes a balance, it identifies the various resources that we are concerned about. The last sentence seems to say that the value that should be recognized is the value of preservation vs. the value of development. In these sensitive areas, that's a reasonable balance. The areas of focus that are described in the earlier sentences is pretty comprehensive. This should be done a parcel-by-parcel basis. We ought to take a look at the data that we are gathering to give us a sense of how wide a scope we're talking about. If there's a need for more specificity, then we can look at an approach such as developing a wetlands and watercourse laws. If we need to add more specifics in the regulations, we develop them. We have a purpose code to guide us through our process.

Schroeder: Thinks Will's draft purpose statement is too broad when we include critical wildlife habitats, sensitive ecosystems, and other open space resources. It is way too subjective. We need to stick to water resources.

Dale: If we get a better understanding of the maps, we could write a tighter purpose statement.

Chair Greenwood: As per Agresta's recommendation, we need to identify what we want to protect.

**The Committee moved to a discussion of Will's March 5, 2021, document - Working Draft Schedule of Permitted Land Uses – Non-Residential (except Boulevard) Districts) changes:**

It was confirmed that there will be no M (Industrial District) going forward.

### **M-A Light Industrial**

- Data Center with Planning Board approval to be added in both Irondale Business and M-A districts.
- Indoor Agriculture with Planning Board approval added.
- Wholesale and Distribution Business with Planning Board approval added.

### **LC – Land Conversation**

- Forestry Services as a permitted use has no definition and was removed from LC.
- Golf Course as a permitted use has no definition and was removed from LC.
- Logging Camp as a permitted use had no definition and was removed from LC.
- Public Utilities Installation, including Electric Transmission Lines as a permitted use with no definition was changed to requiring Planning Board approval.
- Recreation, Outdoor as a permitted use has no definition. Add “of a passive nature to the land” and leave in LC.
- Rod and Gun Clubs with ZBA approval was removed from LC.
- Shooting Preserve had ZBA approval was removed from LC.
- Storage, Open with ZBA approval was removed from LC. It is an accessory use to be covered elsewhere in the code.
- Wholesale and Distribution Business with Planning Board approval was added.

Schroeder: She believes we should not remove Rod and Gun Clubs and Shooting Preserves from the LC district. It was noted these uses are allowed in the residential areas. The Committee consensus was these uses should not be left in the LC district.

### **Public Comment**

Chris Kennan asked if a solar array is considered a public utility. Will said that utilities were beginning to develop solar facilities and it should be covered in the Town’s solar law.

Chair Greenwood adjourned the meeting at 8:45PM.

Respectfully Submitted,

Deb Phillips  
Zoning Review Secretary