

TOWN OF NORTH EAST ZONING REVIEW COMMITTEE MINUTES January 10, 2022

The Town of North East Zoning Review Committee meeting took place on Monday, January 10, 2022, via Zoom at 4:30 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, Lana Morrison, Tom Parrett, Chris Kennan, Sam Busselle, Meg Winkler, and Eliot Ramos.

Chair Greenwood opened the meeting at 4:30PM beginning with a discussion of the Land Conservation (LC) District.

Overview of Land Conservation District

Chair Greenwood: Asked Agresta it if was appropriate for the Committee to start by deciding whether they want a physically mapped LC or an overlay.

Agresta: It's a fundamental question as to how you are going to regulate it; if you're going to have a specific district or one that gets defined property by property at the time of application.

Kish: There are specific features that are always going to be there, and we can map them into the zoning. The other ones we would have overlays for and then describe in the zoning what the overlays are and how Planning and Zoning can take those individual features into account.

Agresta: Asked if you want to continue in the current vein of having a mapped district that includes specific resources that you want to protect and limit what can happen in that zone. That would be the easiest. If there is more that you are willing to let things happen in those areas, but you want to be more protective while it's happening, that's better handled as an overlay district.

Chair Greenwood: Asked to list the resources that are obvious. She listed surface water systems, 100-year floodplain, DEC wetlands and classified streams.

Agresta: DEC wetlands would be a subset of your surface water. The 100-year floodplain is obvious; the surface water systems are wetlands and streams. DEC wetlands and streams are a piece of that. Asked Chair Greenwood if the Committee was just looking to go at that level or bring it down to be more inclusive of wetlands. DEC is not going to regulate every lake or pond in the Town, they only regulate wetlands that are 12.4 acres or larger. They are not regulating anything less than that size unless it's a classified stream and, in some cases, vernal pools.

Kish: Asked Agresta to define Army Corps standards.

Agresta: Army Corps regulates wetlands based on three criteria: (1) hydrology; (2) vegetation; and (3) the soils.

Agresta: His experience is that towns stop short at state wetlands. Don't rely on Army Corps and DEC to enforce the protection of your wetlands. You will need to enforce their regulations locally.

Agresta: Stick to the resources. We know that wetlands and streams are important. You need to decide to what level you want to get to. The 100-year floodplain is important, and you have to regulate that anyway because it is required.

Kish: He had previously spoken to Gretchen Stevens and asked what she recommends that we map and incorporate to our zoning. She recommended two of the maps that show up in their North East report: the large contiguous undeveloped areas and the large contiguous forest areas. Gretchen offered to develop a top ten list for us of important environmental features in the Town that need special attention.

Agresta: You have a process in the EAF of the SEQR process. There are some towns that refer to the Hudsonia report.

Sherman: It would then be incumbent on the Planning Board to look at any application, even a single house, if it is included in the overlay district.

Schroeder: Asked about prime aquifer, thinking primarily of the Village water supply to the north.

Sherman: There are a lot of aquifers in the Town. There's still value in having something on the map relative to the water resources; maybe define a valuable recharge area.

Schroeder: An aquifer recharge area isn't necessarily a wetland.

Downey: I think which mechanisms to use will be the conclusion of the analysis. We are identifying the things we want to regulate.

Schroeder, Culver and Kaye: Likes the overlay; you're defining what you're protecting.

Chair Greenwood: Asked it if makes sense to ask the Town Board to pursue the creation of a wetlands protection law.

Agresta: There are a lot of towns that have **separate wetlands laws**. Most of them are administered by the Planning Board which is good because it goes in tandem with whatever else they're doing. It is a separate permit regulatory process, separate application and separate mapping. There is a whole process of what's regulated and how. Some towns identify features that require a minor level permit and a major level permit. The applicant has to do an impact analysis. Depending on that, you may ask for a subset of information in a more valuable wetland. You could have a wetlands law that deals with all the wetlands and that gets outside of the site plan because it also regulates residential properties that aren't coming to the planning board but are building houses or any other accessory components in and around wetlands. A lot of towns would have a regulatory buffer from 50' to 200' that is just as regulated as the wetland itself. It's another law that needs a level of enforcement.

There are other towns that do wetland protection as a section in their zoning code. In his experience this approach is not very effective. It comes down to do you want to regulate wetlands in a more regulatory process or more just as an aside to everything else you are doing. There are towns that don't do anything and leave it up to Army Corps and the DEC.

Review of notes regarding draft nonresidential district definitions and uses

Vape Store and Cigar Lounge:

Chair Greenwood: Vape stores and cigar lounge no longer show in the Boulevard District draft of uses. Asked why it needs to be defined if it's not permitted.

Agresta: If you're not allowing it anywhere and it will be on the prohibited list, it should be defined.

Agresta: The new title "Vape Stores and Any Tobacco Specialty Businesses" is fine; the definition provides what you need.

Chair Greenwood: Asked what the **difference is between establishment and facilities** when you're dealing with zoning code language.

Agresta: It doesn't really have a definition; it's basically telling you it's a thing. You could change it to a use.

Sherman: Establishment or a facility sounds like a structure. The use is much broader; it could be how the land is being used.

Schroeder: Likes changing it to use.

Filling:

Agresta: The definition of fill comes in if you're going to have an excavation fill permit that's outside of ancillary filling and excavation associated with an otherwise approved project. Then we establish a threshold and create permit process which you don't currently have.

Kish: Asked if we can regulate it based on the amount of the area that is being filled so that's easier to see as opposed to trying to calculate how many yards that are brought it.

Agresta: You have to calculate the area. You put it in the code when you're dealing with non-residential property. No matter what they do, they need an approval unless you say they don't in the code. When it comes to commercial property, I would not accept filling in their property over time without a permit.

Kish: Asked Agresta for existing regulations that the Committee could review and adopt.

Agresta: He would get some examples.

Sherman: Asked if that would all be done under zoning or a separate code provision in the Town law.

Agresta: You could do it either way; he doesn't like having multiple laws with the exception of having a wetlands law.

Construction and Farm Vehicles and Equipment and Sale Rental:

Chair Greenwood: We agree with Agresta, the definitions for Construction and Farm Vehicles and Equipment Sales and Rental and Motor Vehicle Sales and Rental are duplicative.

Agresta: He would do just Motor Vehicle Sales and Rental for any kind of motor vehicle. The definition that you currently have boiled it down so far is automobiles, trucks, boats, cargo and other vehicle trailers, recreation vehicles, farm machinery, or similar motorized vehicles (does not include motorized bicycles). It doesn't say construction vehicles; you could add those.

Kish: We also have a third definition that confuses it even further which is Farm Equipment Sales and Rental.

Agresta: They should all be in one definition if you're going to let the use be in any commercial district. If you're going to segment a portion of those to one place and not another place, then you should separate them.

Kish: I would propose keeping and fixing Farm Equipment Sales and Rental, keeping and fixing Motor Vehicle Sales and Rental and then we have our two different types of uses that we can parse out into different zones. Then we have to fix the contradiction that is built into Farm Equipment Sales and Rental.

Schroeder: Agrees.

Agresta: Asked if farm equipment sales and rental is just equipment or is it also vehicles.

Kish: It can't be a vehicle; it has to be a unique category of vehicles and motor vehicles need to be its own thing.

Agresta: Asked if a farm tractor is a vehicle or equipment.

Kish: Equipment.

Agresta: Asked how we differentiate the fact that it's a motor vehicle; how do we define that differently.

Kish: We take tractors, farm machinery and construction equipment out of motor vehicles, motor vehicles sales and rentals. We take the word motor vehicles out of the definition for Farm Equipment Sales and Rental.

Agresta: It's clear that there are two separate uses. That means that you're going to allow them in different places in the commercial districts.

Chair Greenwood, Schroeder and Kish agreed.

Gas Station and Convenience Store

Chair Greenwood: Kish was concerned about cooking or not allowing cooking. All our convenience stores have microwaves. We thought they should be allowed to do some minor cooking. The suggestion was to drop the word "cold" in cold sandwiches.

Storage of Alcohol, Gasoline, Crude Oil, Liquefied Petroleum Gas or Other Highly Flammable Substance

Revised definition: The bulk of alcohol, gasoline, crude oil, diesel fuel, liquefied petroleum gas or other highly flammable substances, within either in-ground or above-ground storage containers, excluding gasoline at permitted gas stations or storage of fuels as required by a permitted business for consumption onsite.

Farmers' Market

Revised definition: An occasional use of property and/or building and structures where two or more producers of local and regional farm food and beverage products offer those products for direct retail sale to consumers.

Museum

Chair Greenwood: Kish was concerned about the lighting of an outdoor sculpture garden. His suggested an outdoor exhibit space needs to be subject to site plan approval or a special permit.

Agresta: That's for you to decide; I don't think it needs one.

Sherman: It's all subject to site plan review.

Kish: The second part of this definition contains a lot of standards which is what kicked off my interest in adding lighting as a criterion for outdoor displays.

Agresta: It's only as good as your enforcement of it.

Sherman: All of those performance standards could be right into the code.

Medical Clinic/Rehabilitation Center

Kish: We don't want a rehabilitation center; we want a medical clinic.

Downey: Asked if an urgent care facility be a medical clinic as opposed to a doctor's office.

Agresta: I think of urgent care as a doctor's office; it's just not the doctor that you go to regularly.

Downey: A rehabilitation center to me has a residential component; it may be two weeks, or it may be six months. I'm not saying we shouldn't have that use in the zoning law because that's in my mind a completely different thing; it's a Geer, Noble Horizons kind of concept. It's not an urgent care center.

Kish: We talked about rehabilitation centers in-depth previously and we all seemed to agree that we didn't feel that was an appropriate use in the commercial districts.

Agresta: There are five medical uses that I see.

- Medical offices of doctors, dentists, eye doctors, etc.
- Urgent care which does some of that but is also not a prescribe doctor per se.
- Inpatient facility that does same day surgeries. You could have an inpatient that is like the rehabilitation center where they stay.
- Outpatient where they go for the day and go home.
- Medical radiology diagnostic labs facility.

Downey: It seems you could define each of those separately; the issue is do you want them to be allowed.

Wildlife or Nature Preserve

Revised definition: A parcel of land maintained for the conservation, propagation, protection, safeguarding and/or preservation of fauna, flora and physical features of geological or other special natural resource interest or important.

Dwelling, Multifamily

Chair Greenwood: Question about Agresta's use of fee simple – doesn't that mean unencumbered?

Agresta: Fee simple means that it's a simple lot bound by its meets and bounds, a legally defined lot.

Revised definition: A dwelling or group of dwellings on one plot, containing separate living units for three or more families but which may have command shared joint services or facilities, or both.

Restaurant, Take-Out

Revised definition: An establishment where food and beverages are quickly prepared and sold a retail primarily to patrons at a counter or at a take-out window or drive-through window within an enclosed building for primarily off-premises consumption, and where the establishment includes no more than twelve (12) patron seats (total indoors and outdoors).

12/12/2021 Draft Uses

Chair Greenwood: Asked if we want grocery store and pharmacy allowed in BD East as there is concern about walkability.

Kish: We have discussed the idea that BD West would have the concentration of pedestrian friendly or pedestrian critical business.

Chair Greenwood: It would be preferable to have these uses in BD West. Do we not permit them in BD East if someone chooses to build there?

Agresta: It could be a catalyst for promoting walkability.

Schroeder: Agrees with Will; we're not in any position to start confining a proposed use to such a limited area. They should be allowed in both districts.

Kaye: If we had someone who was interested in putting a grocery store in the East section and we didn't do it, we'd be tarred and feathered.

Culver: I go agree but the sidewalk becomes an issue as it might cross other land that isn't owned by the people who want to do the building.

Agresta: Points out that the sidewalk would probably be in the state right of way.

Chair Greenwood: Asked for a consensus if we should allow a grocery store and pharmacies in both BD East and BD West or not.

Kaye and Schroeder: Agree.

Downey: Not persuaded yet that we should do it in both.

Sherman: Might be preferable to do in the West because of the walkability. Also agreed with Kaye's opinion. We need to leave both options open.

Chair Greenwood: I side with flexibility and allowing it in both.

Culver: We have identified needs for the community; one of the biggest being a grocery store. While we can wish to put it somewhere, if we were to block one from coming here simply because it was on the wrong side of the road, how foolish would we look.

Kish: Can I propose that we table this decision until we are much closer to delivering the draft zoning plan to the Town, so we have more information on changes in ownership and the possibility of sewers.

Chair Greenwood: It's tabled.

Chair Greenwood: One administrative update is the **Artisan Workshop and gallery** should be included in the Irondale. It was an oversight. All agreed.

Public Comment

Busselle: He is interested in a response on the comments he made from the last meeting.

Winkler: I think the term walkability is so subjective. It's strange to say that everyone's concept to know what one's walkability is to another. As for housing, we are going to give some definitions of housing and various types and we are working towards that goal. What is a realistic timeline of when you will be addressing housing; will you want it sooner rather than later.

Chair Greenwood: Our focus at this point is to put together the pieces for code changes in the commercial districts. The next step is we're going to be developing standards for the uses that we've worked through.

Ramos: The new focus on towns in Dutchess County is to revitalize their Main streets in general and that includes a great manner of different businesses, housing, etc. Now that so many people are hybrid working, it's a great chance for innovation. Were you considering housing in the Boulevard District?

Chair Greenwood: We are suggesting what the Village already has – apartments or housing above commercial spaces. We also have room for multi-family on BD East.

Chair Greenwood adjourned the meeting at 8:30PM.

Respectfully Submitted,

Deb Phillips
Zoning Review Secretary