

TOWN OF NORTH EAST ZONING REVIEW COMMITTEE MINUTES June 13, 2022

The Town of North East Zoning Review Committee meeting took place on Monday, June 13, 2022, via Zoom at 4:30PM. Board members present were Chair Edie Greenwood, Dale Culver, Ed Downey, George Kaye, Bill Kish, Dave Sherman and Julie Schroeder. Also in attendance were Will Agresta, Kathy Chow, Laurie Kerr, Lana Morrison, Paul Bengston and Deb Phillips, secretary to the Zoning Review Committee.

Chair Greenwood opened the meeting at 4:30 PM with a review of the Kerr/Chow summary. She noted that their setback numbers are from the curb.

Agresta: When it comes to the code, it's best to measure from the property lines.

Kish: There's a few things that we have to be concerned about.

- **We have to decide whether we want to have the buildings close to the street which is what I believe the Comprehensive Plan calls for.**
- **We need to figure out how traffic circulation can be embodied in the code so that we don't get a curb cut for every single use.**
- **We should talk about how we want buildings laid out, how close we want them to be to each other, how much space we want between them and how we want traffic to flow.**

Sherman: On the north side you have a lot of sites that have developed access already. We should acknowledge our current environment and how much of that can change. He likes the south side setbacks proposed by Kerr and Chow. The south side has the potential for redevelopment or additional development if allowed to come closer to the road. There we need code to create what we wish to see happen in these fill-in spaces.

Kish: The Comprehensive Plan speaks very specifically about extending the Village concept through the Boulevard District. We envision sidewalks and we have to figure out a mechanism of how those sidewalks will be constructed. We envision some kind of a front lawn for these buildings, although in the Village itself, many of the buildings are directly on the sidewalk. If we look at the northern side of BD West, those are so shallow that may be how we actually want to play out.

If we have the parking behind the buildings, we also have to be aware that there will be two potential ingress modes for these stores and businesses; one for people who are parked and one for the front who are pedestrians. It's really important that all of these buildings have a pedestrian entrance facing the street. We need to figure out how we're going to have sidewalks, where the parking is going to go, where the buildings are going to sit and how we're going to put these cross-connections in the back.

Chair Greenwood: Asked Agresta about **sidewalks** and if there is a need to create a sidewalk district.

Agresta: You don't have to create a sidewalk district. Usually, you pass a law that the sidewalks become the responsibility of the property owners. A condition could be if you want to get funds to improve them.

Kish: Asked Agresta what's the mechanism by which we would put in the zoning a requirement that when a site is developed that a sidewalk be installed. How do we determine the position of that sidewalk, so we don't get disjointed sidewalks.

Agresta: You can acquire it outright. Typically, DOT doesn't want sidewalks in their right-of-way, they want them on private property. As far as connectivity, you're doing it one property at a time. Either you

get grants and build them as a large project. A sidewalk district is for purposes of taxing. Most towns leave the maintenance to the property owners.

Sherman: One thing to consider in BD West is that you're going to want to have **street lighting** where there are sidewalks. In most cases, that's creating a town street lighting district.

We were told previously by DOT that there is a **lack of storm water collection basins** between CVS and the supermarket parking lot. They said if you're going to put in curbing, a storm water system had to be put in. DOT wanted the sidewalk to be subgrade to the road so there isn't runoff into the road. If we're looking to require proper curbing at these properties, it's going to require storm drainage be installed. I don't think the state would do it. These are public improvements that the Town may wish to do, and we should identify them.

Kish: We have two possibilities right now. I think we're all in agreement that sidewalks are necessary on both sides of the street. One possibility is that we require it as part of site development and the other one is that we reserve it as part of site development but there is some other mechanism for building the sidewalk. The latter option we have no control over, it belongs to the Town. Do we want to refer it to the Town and ask if they will create such a district? If they're not going to create a district, we have to do it the other way.

Sherman: We need to ask the Town what they want to see out there. Are they willing to try to move forward to provide more services to BD West?

Agresta: At the very least, the regulations should require a sidewalk. Whether you implement that on a case-by-case basis, depending on where you are with the second part.

Kish: **Curb Cuts**. How do we write code to reduce the number of curb cuts and to ensure that the parking lots that are going to be created behind these buildings are interconnected so you can get from one business to another without going back onto Route 44.

Agresta: You can write code that encourages it and incentivizes it with a bonus. A bonus describe a benefit, more square footage or some other sort of relaxation of standards.

Sherman: Perhaps reduce the amount of paved parking spaces they would have to have, particularly if they provide a drivable link and perhaps a pedestrian link between the sites.

Kish: In the plan that Kerr and Chow provided, and it's also in the 1986 corridor system plan, it looks like there were predetermined curb cuts and entry points for that secondary system. Asked if they could be defined now and when those sites are developed, require that they be put in place, or will it be done ad hoc and piecemeal?

Agresta: If those were coordinated entry points, they are on private property. Unless the Town is going to take the land and build it, you're at the mercy of the DOT. I don't know if they can mandate that you have a curb cut.

Kerr: The south side is much more complex, but on the north side we were imagining the zoning might encourage neighboring parcels to share an access. Asked if that could be written into the zoning.

Agresta: You could definitely encourage and write in the code that the desire is to reduce curb cuts and to have interconnections between properties through shared driveways. They could be given a bonus. If they share their parking, maybe get an overall reduction on their parking so that's less infrastructure. Another bonus is to give them another story, but you can't make somebody do that.

Kish: Asked if a developer with a curb cut can require adjoining developers on each side to have access.

Agresta: You can't require it. What you can do is have them investigate their willingness to share and maybe give them something for sharing. You have them look at potential connections to the neighboring properties. It could be designed to be shared and create an easement to do it. You can't mandate that they give access to their properties.

Chow: We were imagining down the road a traffic light at a central point. That's why we created a single access road on the back of the south side.

Agresta: Traffic lights require meeting certain standards that are based on the traffic flow that comes in and out of the intersection according to DOT.

After discussion, the committee agreed we would not meet the DOT standards for a traffic light. Dave Sherman suggested we retain the paved width that is on the Boulevard now to be able to accommodate a third turn lane at one of the entrances.

Kish: **The size of buildings and the distance between them.** We should do this as two separate discussions, one for the north side and one for the south. They are so different in the depth of the parcel. We should discuss if we want the buildings to be close to each other or have a big space between each other, how big minimum and maximum front yard setback and how big or small a side yard setback. That discussion will tell us whether it's going to look like the Village or more like what Lakeville looks like where there's a significant amount of space between the buildings.

Sherman: In previous discussions, we talked about the upper area of Main Street where you do have setbacks, front yards, landscaping. I think we're trying to continue the openness of the landscaped areas that we have in the upper part of Main Street going out onto the Boulevard, not to have buildings crammed up against each other.

Kish: Perhaps the best development model for the northern side would be to have buildings closer together because there is very little property there. Having these little shack-type buildings with large side yard setbacks hasn't served us very well. I can envision if there was a good sidewalk and there was good back parking area, it might be nice to have a set of buildings that are more or less adjacent to one another. That would give us more density. In BD West, I would be a proponent of seeing something that looks more like the middle of Main Street in the Village with buildings very close to one another. On the southern side, maybe have a model of more spacious development.

Agresta: You'd have to look at the tax parcels to see if they are bonafide building lots. **A development parcel is something that you create through subdivision that meets the bulk standards. A tax parcel simply determines who is responsible for paying the taxes.** An example would be a condo. One property for building purposes but taxes are allocated through common charges. The small parcels in BD West which Julie noted are illegal subdivisions, were probably created to have the lessee responsible for the taxes.

Kish: *(Doing a screen share of Boulevard District West)*. He did a review of what exists. Asks if we want to make a statement to have the north side look different than the south side or do we want to allow the same setbacks?

Agresta: What if you looked at the potential of the south side. Why wouldn't you want to have the frontage mimic the north side and then have less access into this larger land like maybe two accesses, one at one end and one at the other and create a private commercial street as a spine road inside and create another depth of block. A couple of blocks of similar developed buildings. Some are going to be on the interior, and you won't see them from the main street, but they would have the same flavor and feel as separation from the buildings next to each other, have sidewalks throughout.

Kish: One of the important parts is the topography of this area and the fact that you'd have to put a bunch of fill over here to have buildings close to the road.

Sherman: The slope varies in those areas. Everything drains towards Kelsey Brook. The landscape is viewable to the east and the southeast. It would be nice to retain the viewshed of a country setting.

It was agreed to organize a site visit to see the view sheds and visualize the setbacks.

Paul Bengston: I wonder if it would be beneficial to do a small area planning process for this area instead of trying to write a lot of these things into the zoning ordinance language specifically. I wonder if the Town should be looking at doing a planning process rather than trying to cram these things into the zoning ordinance.

Agresta: There are mechanisms for doing a special use district where you develop the zoning that goes with the parcel development. I've never seen it done on a small area like this other than through form-based coding. You could do the special use district with the shopping center and parcels next to it. You develop the appropriate zoning that goes with site development, so you do them together to get the best use of the property. In the end, you don't rezone it to that unless you like the plan.

Kish: We need to get input from the Town Board for what they want to do.

Definitions (May 20,2002 draft):

Kish: **Mobile Home.** The initial part of it seems it would allow tiny house to be a mobile home. Asked why we are asking about mobile homes when we are focusing on the business district.

Agresta: It's really more of the residential district.

Agresta: **Manufactured Home** is defined by its size and by state statute. A mobile home and a manufactured home are very different. Manufacture homes are built and then brought to a site. A modular home is brought to a site in pieces and tends to be much bigger. Most of the manufactured homes are what we call double-wide.

Sherman: Want to confirm that the storage of **Alcohol, Gasoline, Crude Oil, Liquefied Petroleum Gas or Other Highly Flammable Substances** would be a prohibited principal use in in the code going forward.

Agresta: These would be prohibited as principle uses. It does not prohibit these activities as an accessory use.

Sherman: **Agricultural definitions.** Because we now have **the cultivation of cannabis** as a licensed activity in North East, we may want to include it in our definitions.

Kish: To my knowledge, there has be no discussion at the Town Board level of cultivation and they don't have an option to opt in or opt out of cultivation.

Kish: NYS has currently granted three cannabis cultivation permits in the Town of North East. One thing that we will need to discuss is how to ensure that those operations are covered under our zoning. The state has explicitly said that cannabis growing operations are not agricultural for the purposes of Ag & Markets law.

Culver: The state has not given absolute concrete guidance or direction.

Sherman: **Definition for farm.** It seems to be very wordy, long and wondering whether we can simplify the section that has to deal with reference to the Ag & Markets law. The other question that relates to the last sentence in that large paragraph where it talks about "no prohibition about gardening or raising of animals or other agricultural activities conducted for private use or consumption as an otherwise permitted accessory use to a residential dwelling". We may end up with a large R-10,000 zone when we get to residential zoning. When you're talking about horses or cattle, it gets hard to do that on a small parcel.

Agresta: When you get to the residential district, you probably have some of those standards but that's where you would cover those. You're going to get arguments that you don't need limits on property.

Chair Greenwood: To Dave's previous point, I think that in terms of shortening the definition of farm, just take out everything that is trying to describe what Article 25-AA of the Ag & Market Law is and end it there.

Agresta: So, you want to define farm the way Ag & Markets does.

Chair Greenwood: Yes, and Schroeder agreed.

Agresta: If they change, you will have to accept their changes no matter what they are. Ag & Markets does not supersede zoning. We should look at some other towns' definitions.

Public Comment:

Paul Bengston: I'm a little concerned about the proposed height of building for the supermarket, the larger building that's contemplated on the south end of the site. If that were to have two levels of residential above, it would make a lot of sense because it would be the most financially feasible way to get a lot of density out of it. However, that's going to push the roof height to above the 40 ft proposed now. Forty feet is what was proposed but that's to the midpoint of the roofline and when you have a wide building, it's going to push that midpoint up above 40 feet. It might be something to look at to just make sure we don't lose that opportunity of having a full built-up mixed-use building on that grocery store.

Kerr: Asked Agresta if the zoning could allow a certain amount of latitude in terms of size, height, location or any number of other things if the building was used as a grocery store.

Agresta: Technically, yes. We have to do it carefully because you don't want to be accused of being preferential to somebody as opposed to an applicant with some other use. You limit the size of certain buildings except for this use.

Chair Greenwood adjourned the meeting at 6:00 PM.

Respectfully Submitted,

Deb Phillips
Zoning Review Secretary