

**TOWN OF ULYSSES
STEERING COMMITTEE FOR ZONING UPDATES
MEETING MINUTES
Thursday, 06/01/2017**

Approved: June 22, 2017

Call to Order: 7:01 p.m.

Committee members present: Chair Liz Thomas, and Committee members Michael Boggs, Rod Hawkes, Darby Kiley, Sue Ritter, and George Tselekis; CJ Randall of Randall + West

Other board/committee members present: Sue Poelvoorde and Roxanne Marino from the Town Sustainability Advisory Committee; Bob Howarth from the Town Board of Zoning Appeals; Chaw Chang and Greg Reynolds of the Town Agriculture Advisory Committee; David Blake of the Town Planning Board; Rich Goldman, John Hertzler and Nancy Zahler from the Town Board

Agenda Review; Minutes Review (05/25/2017)

Ms. Thomas gave a brief introduction and said the Steering Committee was interested in hearing from stakeholder groups on specific problem areas within the zoning pre-draft. Minutes for the May 25, 2017 were not yet available.

Ag Advisory Committee Presentation

Mr. Chang, chair of the Ag Advisory Committee, began his presentation, which included a series of Powerpoint slides outlining problem areas. He said the Ag Advisory Committee has reviewed the pre-draft very carefully and has strong concerns with the plan, namely that it is not an improvement on current zoning and contradicts parameters within the Town's Ag and Farmland Protection Plan (AFPP). Reiterating feedback sketched out in a previous memo to the Steering Committee, Mr. Chang said State Ag and Markets has reviewed parameters of the pre-draft, calling it unreasonably restrictive. The Ag Advisory Committee believes there will be individual requests for review of the pre-draft, if adopted as written. There is no ag representation on the Steering Committee, he said, and the formation of the Ag Advisory Committee was requested too far along in the zoning rewrite process. Further, NYSERDA is not the appropriate source of funding for the zoning work, considering zoning priorities were laid out within the application. The AFPP was a far more flexible document, the Ag Committee feels. There has been a lack of study and discourse concerning current land-use patterns, and the proposed renaming of the Ag District to "Ag/Rural" contradicts the AFPP. You get open space and rural space by protecting ag lands, he said.

Mr. Chang reviewed several definitions that the Ag Committee identified as needing further improvement. They were:

Ag Commerce – Much of the changed wording negatively affects ag. The definition is incoherent and confusing, whereas the current definition deals mainly with non-farm uses of a farm in a commercial sense. If, for example, Mr. Chang were proficient at fixing farm equipment, he can start a small business with that aim. However, within this update, a small, on-site business specializing in equipment maintenance would be considered an accessory use of farm operations. How can farm operations be accessory uses of farm operations? he said. The Ag Committee suggests clearly stating that Ag Commerce specifically entails non-farm operation activities only. Further, there is no clear public policy purpose for putting all marketing activities of farm operations under the site plan review process. Parking and lighting standards for the majority of any farm marketing activities – farm stands and CSA distribution – would be considered unreasonable by State Ag and Markets, he said. Requiring site plan review for retail activities of a farm deters new ag operations from setting up in Town, particularly small farms and those run by immigrants, and Amish and Mennonite farms.

Animal Waste Storage Facility – The Ag Committee recommends the Town use the Natural Resources Conservation Service definition. Additionally, the Town BZA has suggested CAFOs be considered under special use permit, which Ag and Markets would consider unreasonably restrictive. An Ag and Markets representative has confirmed this.

Silviculture – The Ag Committee recommends removing the sentence “Tree removal in preparation for development or other conversion to a non-forestry use is not silviculture”, which, they contend, assumes every tree has a forestry use and preferentially encourages the development of open farmland over that of a wooded lot.

Right to Farm – The AFPP recommends citing the Agriculture Data Statement, which could be used in site plan review, special permit, as well as help inform potential buyers of the importance of agriculture to the Town via the Right to Farm law.

Uses Allowed by Site Plan Review – The ag uses that require site plan review and approval need to be streamlined, and State Ag and Markets provides such a model. The Ag Committee strongly recommends the Steering Committee use this model. The section should then specifically refer to a streamlined site plan review process, he added.

CAFOs – The Ag Committee argues that both the BZA’s and Sustainability Advisory Committee’s arguments about public health concerns over CAFOs seem tenuous at best in the view of State Ag and Markets. They suggest moving CAFOs to the section for special permits.

Reduce Minimum Lot Size – Reducing minimum lot area and yard setback requirements to the smallest possible size is recommended in the AFPP, the Ag Committee cited. They also question the maximum footprint size of 20,000 square feet for ag buildings.

Limitation to Subdivisions – The Ag Committee does not approve of restriction to development rights of any kind. They also view the BZA’s proposal for subdivisions to be a deterrent for family farms and small farms.

Site Plan Review – Mr. Chang said the proposed zoning law could require site plan review for any non-ag land action of sizable acreage on active ag land, thus requiring landowners to submit an ag data statement for a proposed subdivision or non-ag building project.

Ms. Kiley said the Town does require an ag data statement for site plan review.

This concluded Mr. Chang's presentation.

Planning Board Presentation

Mr. Blake, chair of the Planning Board, said the Board did not issue any language changes, but choose a more concept-oriented approach. Firstly, the Board feels there is a need for the Ag Committee to be more involved. The Board's chief concern centers on subdivisions. Citing the Comprehensive Plan, which discourages rural road frontage development, the Planning Board recommends further development of incentives to encourage smaller residential communities like Honey Bee Lane. Perhaps tax abatements for road development could make it more palatable. The Planning Board is concerned about the loss of property values in the Ag zone if density averaging is enacted; preserving a small wooded area that is unfarmable would affect the value of the whole property. The Planning Board believes the property owner should receive some zoning relief. Further, it believes any new zoning laws should mandate tree plantings to prevent erosion and protect viewsheds through screening.

Ms. Thomas asked how the Planning Board felt about 1- or 2-acre minimum lot sizes. Mr. Blake said it ultimately was not an issue whether 1 or 2 acres. The larger concern was road frontage development. Ms. Ritter asked if the Planning Board considered ways to curtail road frontage development. Mr. Blake pointed to Honey Bee Lane, crediting its small size and minimal impact on views, but expressed that the Planning Board sees financing for such a development to be biggest stumbling block. Ms. Thomas asked if the Planning Board considered density averaging, to which Mr. Blake reported the Board did discuss it but did not form any formal determination. He added the Board is mostly satisfied with current zoning parameters on storm water management but does have some concern about animal waste issues.

Board of Zoning Appeals Presentation

Mr. Howarth reported the BZA discussed zoning proposals over the course of two meetings, which included all members, and passed three resolutions unanimously. The first resolution directly addresses density based zoning, which was addressed in the AFPP. On the second resolution, the BZA feels a 1-acre minimum lot size is too small and would like to see the 2-acre minimum continue. The third resolution addressed CAFOs and animal waste. He said he works on ag pollution, was involved with pollution issues in the Chesapeake Bay project, has worked closely with the Department of Environmental Conservation and has had many interactions with State Ag and Markets, which regularly claimed the DEC cannot do anything about ag pollution.

Returning to the first resolution, Mr. Howarth said that, under the BZA's proposal, a portion of land above a total of 14 acres would be permanently deeded and preserved in perpetuity at the time of subdivision. As for minimum road frontage, the BZA suggests 200 feet as opposed to

400 feet. As for the third resolution, the Steering Committee's proposed changes are more welcoming to CAFOs. If the Town believes a CAFO affects public health, it can act, and State Ag and Markets cannot contend with that. CAFO operations are required to have manure and nutrient management plans, but until recently, there was no way to get public access to that information. Using manure as fertilizer is fine, but if CAFO waste is brought into our Town, the CAFO is required to file with the DEC. The BZA requests the Town file a Freedom of Information Act request for a copy of the manure and nutrient plans. This strategy promotes openness and transparency over regulation. The increase in ammonia gas pollution is more than offsetting other forms of pollution, and the source is CAFOs, he said.

Responding to Mr. Boggs's question over how CAFOs are defined, Mr. Howarth said CAFOs have more than 399 animal units, which would mean roughly 420 beef cattle or 1,000 chickens. Mr. Boggs said he is concerned about smaller farming operations and horse farms that may not have the resources to spread manure and instead pile it up. Mr. Howarth said this was not discussed among the BZA; he shared his opinion that the Town should not get into micromanaging small farms. CAFOs are a concern, and both the State and the Federal government have recognized that prior parameters for CAFO management were inadequate in protecting public health.

Ms. Thomas asked if Mr. Howarth knew of other municipalities that have been granted this extra regulatory authority for CAFOs. He said he was not up to speed on it. During work in developing the AFPP – Mr. Howarth was a committee member – there were some courts that affirmed towns have the authority to regulate CAFOs if Town leaders have a reasonable belief there is a health concern. Ms. Randall said Randall + West wrote in supplementary requirements for CAFOs into the Town of Catherine's zoning law, requiring submission of nutrient management plan and any documents to the DEC. Similar provisions were cut out of the Steering Committee's pre-draft.

Conservation and Sustainability Advisory Committee (CSAC)

Ms. Poelvoorde began by saying the CSAC supports the BZA's proposal for transparency for CAFO animal waste and processing. Having reviewed guiding documents like the Comprehensive Plan and the AFPP, the CSAC focused on the reasoning for rewriting the Ag zone and concluded it is ultimately to support agriculture as commerce and to protect it as a resource. Given the rise in smaller farms and uncertainties with climate change, the CSAC views agriculture as a valuable Town resource and must find ways to protect the industry that puts food on the table. Having also reviewed the BZA's proposal – Andy Hillman is a member of both the BZA and CSAC – CSAC found it lacking in protecting road frontage. While the Planning Board reviewed the zoning pre-draft from the perspective of viewsheds and open space, CSAC focused on ag operations. Traffic including farming machinery and commuters illustrates the conflict between ag operations and rural residents, as large farming equipment and increased traffic meet on the roadways. She cited Perry City Road as one road where commuters are taking risks.

Not capping residential development in the Ag zone is not helping the zone, she said. There needs to be a fair and balanced approach in handling this conflict between ag production and rural, non-farming residents, she said, and the Town is not there yet.

CSAC reviewed the density-based averaging approach proposed by the BZA, and discussed whether 50 percent of road frontage should be withheld from development at the time of subdivision. In whatever the Steering Committee decides, there needs to be a way to minimize road frontage development, she said. CSAC also looked at a sliding scale model, similar to the Town of Seneca, which bases number of allowable subdivisions on various ranges of lot acreage. Has the Steering Committee talked with the Town of Seneca about this? She asked. Ms. Randall said she emailed the Town's County Planner and is happy to get back in touch with them.

Continuing, the CSAC reviewed several different sized parcels and concluded that both the Steering Committee's proposal and the density-based approach still allows for many houses to be built; the Town has not yet arrived at a sufficient solution with zoning. The Town should further explore the sliding scale model, similar to the Town of Seneca. The Town also needs to engage with the County and State. CSAC also recommends retaining the 2-acre minimum lot size, with Ms. Poelvoorde saying the Town does not have great aquifers and more density would further stress water issues.

Ms. Kiley said the Town of Seneca allows for just 1 subdivision on lots between 5 and 100 acres; 2 for 101-200 acres and 3 for 201 acres or more. Ms. Randall said previous zoning measures that included a formula-based approach coupled with density bonuses became long and convoluted and was ultimately pulled from the pre-draft. Perhaps the Committee should reexamine those parameters, she said.

At this time, the Steering Committee allowed for the remainder of the meeting to be an open discussion. A discussion ensued among Committee members and stakeholders regarding density-based averaging and road frontage development. Mr. Chang addressed several topics. Regarding road frontage development, he said farmers, when subdividing, usually subdivide up to the road in order to keep as much of the remaining land in production as possible. In regard to housing development potential, he said there is heavy demand for farmland in the ag core; when farmland is bought in Town, the land is usually bought by farmers. Compared to 2007, there are more than 1,000 more acres of Town parcels that are now in active ag production. Without any laws, the Town is seeing a strengthening of the ag community. More regulations discourage farmers from setting up in Town.

Mr. Reynolds said you have to protect farmers to have more farmers, economically speaking. A farmer's property is a "money battery", giving them the power to borrow, which is a far better option than selling off land.

In regard to definitions of Ag and Ag Commerce, Ms. Poelvoorde said the Steering Committee's proposal for no outdoor displays or storage for Ag Commerce seemed unreasonable. As for maximum ag building size of 20,000 square feet, Mr. Howarth said the BZA did not discuss it and felt that by choosing not to address it, there was implicit agreement on the part of the BZA. Mr. Blake said the same could be said for the Planning Board. In response, Mr. Chang said any kind of maximum building size would be considered unreasonably restrictive by Ag and Markets' standards, setting the Town up for a lawsuit. The State will challenge it, he said. But has the State ever actually done that? Mr. Howarth asked. Yes, Mr. Chang said, the State has challenged what they thought to be unreasonably restrictive municipal zoning laws and won.

From a farmer's standpoint, when the Town deliberately writes laws that they know to be restrictive by State Ag and Markets standards, that's antagonistic toward local farmers, he said. Mr. Howarth said State Ag and Markets is wrong in regard to CAFOs and would not challenge a Town if it were to regulate a local CAFO because it posed a public health threat.

Honey Bee Lane – its history, municipal services, costs of building roads and other topics – was then discussed.

The Steering Committee then addressed its process moving forward. Ms. Randall said she and Mr. West would attempt another draft at the zoning document, now with the evening's comments in mind. There are inherent conflicts with the document, she said, and it will be up to the Committee to finalize revisions. Previous drafts had included more robust language on major subdivisions and the conservation subdivision process, but it proved cumbersome. Perhaps there is a way to streamline it. Ms. Randall said she would work with Ms. Kiley and have something for the Committee's review before its June 22 meeting.

Ms. Kiley MADE the MOTION to adjourn the meeting, and Mr. Hawkes SECONDED the MOTION. The motion was carried unanimously.

Meeting adjourned at 9:03 p.m.

Respectfully submitted by Louis A. DiPietro II on June 15, 2017.