TOWN OF ULYSSES
JOINT MEETING OF THE TOWN BOARD AND PLANNING BOARD
MEETING MINUTES
Tuesday, March 20, 2018

Approved: April 17, 2018

Present: Town Planning Board Chair David Blake, and board members Jon Ferrari, Benjamin LeWalter, Katelin Olson, Rebecca Schneider, and John Wertis; Town Supervisor Liz Thomas and Town Board members John Hertzler, Nancy Zahler, and Rich Goldman; Town Planner Darby Kiley.

Public in Attendance: Nancy Emerson, Roy Luft, Linda Dresser, Bryon Moore, Shaffer Schulman, Deborah Gever, Jenny Stevenson, Krys Cail, Karen Hollands, Meredith Kimir, Tom Myers, and Reba McCutcheon.

Call to Order: 7:02 p.m.

Agenda Review; Minutes Review (02/20/18, 03/06/2018)

Two new members were welcomed to the Planning Board. Mr. Ferrari grew up in Aurora, traveled extensively, and now is a licensed architect in New York and Oregon, where he served in a head of planning capacity. He currently works in architecture and building, and both he and his brother have a small design company that builds two to three homes per year. Ms. Olson has lived in the area since 2012. She arrived to attend graduate school in 2007 and fell in love with the area. She is currently pursuing a PhD in planning and teaches in the preservation master’s program at Cornell.

Ms. Thomas said the joint meeting stemmed from many comments at the Town Board’s recent public hearing on the Moore’s proposal. The Town Board wished to hear from the Planning Board on a number of issues. There will be at least one follow-up public hearing on the matter.

Ms. Schneider MADE the MOTION to accept the February 20, 2018 Planning Board meeting minutes, and Mr. Wertis SECONDED the MOTION. The motion carried 4-0, with Ms. Olson abstaining from the vote.

Ms. Schneider MADE the MOTION to accept the March 6, 2018 Planning Board meeting minutes, and Mr. Wertis SECONDED the MOTION. The motion carried 4-0, with Ms. Olson abstaining from the vote.

Planning Board members made note to review an item from Mr. Wertis concerning the minutes approval procedure.

Privilege of the Floor
Ms. Cail read a prepared statement opposing the proposed rewrites of the Development District, citing a number of negative impacts to the surrounding neighborhood, including noise and visual impacts.

Ms. Kimir lives directly next door to the Moore’s. Though she does not want to affect the Moore’s ability to make a living, she does have safety concerns, since she has small children. Currently, there is no restriction on when customers can come pick up their boats, which means pick-ups often take place outside of business hours. The Moore property has views into Ms. Kimir’s backyard. Working from home, she deals with the noise. Extending hours on weekdays and weekends would infringe on quiet time with family.

Mr. Myers read the remaining parts of Ms. Cail’s statement and added that boats are often stored on the south side of the property, near the creek, for extended times, though the Moores say boats are stored there for only a few hours. Some boats have been parked near the creek since the last public hearing a month ago. He said it bothers him when people actively violate zoning.

Ms. McCutchen said she bought her current house in 2004, and she believes it has lost at least $10,000 in value due to activity at the Moore’s. In reviewing the Development District, she believes the business was meant to be small and to stay small. Perhaps the Moore’s have outgrown their location. When she bought her home, the business had fruit trees that served as a buffer. Those are gone now, and there is no visual buffer. Instead, it is only a big parking lot with boats. The Moore’s business has a major impact on the surrounding neighborhood, she emphasized.

Ms. Hollands lives across the street from Moore’s, who she said are great neighbors. However, she has a problem with changing the zoning after years of being out of compliance. Having boats serviced creates noise, and allowing such work at 8:01 a.m. on a Sunday does not make sense. If I get pulled over for speeding through Taughannock, I cannot request the police officer to raise the speed limit, she said. Where there once was an orchard to serve as a buffer is now only clear views to boats and blue tarps. Homes are the property owners’ largest investment, and it seems those investments are headed in the wrong direction.

Ms. Emerson said she is sympathetic to the Moore’s, but we are all subject to current laws. There should not be any zoning change without commissioning studies to examine impacts on air, water and soil, as well as lighting and noise. When the Development District was established in 1991, the business was intended to handle small motors only. That has changed, and the list of zoning changes is extraordinary.

Privilege of the Floor concluded at 7:28 a.m.

Ms. Schneider thanked residents for their comments and explained that the Planning Board did not have such information from neighbors when first reviewing the Development District rewrite. Non-compliance from the Moore’s has been going on for years. Why were there no comments from neighbors during that time? she asked.
There were not 100 boats being stored there, Ms. Cail said. When there was excessive noise about a year ago, Ms. Cail called and emailed Ms. Kiley to inform her. Ms. Cail also mentioned dirt fill at the Moores site. How the boats were stored also changed, Ms. McCutchen added. Before, a fruit tree orchard provided a buffer. The number of boats stored at the site has increased since 2004, she said.

Responding to a resident’s question, Mr. Wertis said the Planning Board does not have a particular position or opinion on the matter until it passes a resolution. The Planning Board’s process up to this point is outlined in previous meeting minutes.

At this time, Town Board members expressed their concerns. Mr. Goldman began by addressing the principal concern of changing zoning for a non-compliant business. He thought Ms. Hollands’ analogy of speeding to be apt. Though he has sympathy for people doing business, the Town’s job is to enforce zoning, not reward 25 years of ignoring zoning. If I bought a property in that area, and the neighborhood changed as it has, I would be furious, he said. He does not see how it is possible to expand provisions within the Development District and hold no one accountable.

Ms. Schneider said nothing has yet to be decided. When the Planning Board was first brought this, the issue was presented as having been going on for many years. The Planning Board did not know about any concerns from neighbors. There is also an environmental concern, since many boats from the 70s and 80s used anti fouling paints that likely leached into the soil over the course of many years. Toxicity and clean-up are different from zoning, Mr. Goldman said. Just because there were not complaints does not mean you rewrite zoning law. If you do that, what is zoning for? he asked. Bryon and Kim Moore recognized they were out of compliance, Mr. Blake said. Based on complaints, their only redress was to come before the Planning Board and apply for a zoning change. They are pursuing their options. The original complainant has left the area, and the Planning Board was not aware that anyone else was concerned, he said.

Mr. Hertzler cautioned not to exaggerate what is happening at the Moore’s business. Having visited the site, he counted roughly 80 boats total – not 100 – and four parked on the south side of the building. The house to the north side of the business should never have been split off, since a mere 10 feet or so separates the Moore’s property from the house. To lessen the visual impact, perhaps Moore’s could use a material greener in color – rather than blue – to wrap the boats, he said. Mr. Hertzler also asked about the process of decommissioning a Development District.

The history of the Moore property was discussed. Ms. Cail said the business used to be a packing house for the orchard, and it was eventually used to repair engines. We were promised that Town zoning law would protect neighbors permanently from further development at the site, she said. When the orchard was there, you did not have any complaints? Mr. Blake asked. No, the orchard was fantastic, Ms. Cail said in response, and it provided a sufficient visual buffer until the fire. Mr. Moore explained the fire, beginning by saying burning rags, cardboard and pallets was what people did 27 years ago. At the time of the fire, it took responders 45 minutes to get to the site. The trees were not burned, he said.
Toxicity of the site was briefly discussed. Mr. Moore reported the State Department of Environmental Conservation visited the site when the Moore’s opened up almost 30 years ago.

Conservation then turned to process. Does the Town Board want to hand this issue back to the Planning Board? Ms. Thomas asked. She would hate to see a business that has been in that area for a long time be unable to continue due to Development District changes. Some of the concerns include things like buffering and hours of operation, and the Moores could live with some changes and still thrive.

Mr. Goldman reiterated that Moores is out of compliance and questioned why the Town would reward 25 years of non-compliance. Responding to a question from Mr. Hertzler about whether he wanted to eliminate the Development District, Mr. Goldman said no; only limit the number of boats to 20. Ms. Zahler said there are ways to find a compromise and added that it did not make sense to allow Moore’s to add additional buildings. No more development should be considered, she said. Elsewhere, concern over access during non-working hours could be solved inexpensively with a fence. A smaller storage tank size for oils and lubricants makes sense too, as does a fire suppression plan, she said. Mr. Hertzler and Mr. Wertis agreed that compromises could be found.

Mr. Ferrari said he sees the Development District as a way to allow for the use of a small business that historically existed. However, allowance was granted with the notion that the business resides in a residential district. He said he is not opposed to changes but feels the area where Moore’s is located is a residential neighborhood, with property owners who have rights to things like a quiet neighborhood and viewsheds. If a small business then turns into a larger business within existing zoning, it becomes problematic. All concerns voiced by neighbors are important to hear, he said.

Mr. Blake felt confident the Planning Board can come up with new language that takes into account both neighbors’ concerns and Moore’s right to run a successful business. There will be another public hearing to allow further comment on the draft Development District language.

A more general conversation ensued, and the need for better zoning enforcement was brought up. That would require more staff, Mr. Goldman said, though, as Ms. Thomas noted, recent changes have improved zoning enforcement. Mr. Goldman suggested the Town Board provide guidelines to the Planning Board in its future deliberations on the Development District. Both Mr. Blake and Ms. Schneider agreed with the suggestion.

Ms. Zahler MADE the MOTION to adjourn the Town Board portion of the meeting, and Mr. Hertzler SECONDED the MOTION. The motion carried unanimously.

The Town Board meeting concluded at 8:33 p.m., and the Planning Board continued with its remaining business.

Draft Zoning Discussion
Ms. Schneider requested Board input on the following zoning questions: Allow one primary house per lot or two? Thoughts on the 80/20 proposal? Thoughts on ZUSC’s original plan to use 15 as the divisor to determine number of subdivided lots? 200 feet or 400 feet minimum road frontage? Viewsheds?

Mr. Wertis felt the 80/20 plan from the BZA is where many things fall out of agreement among stakeholders. Ms. Kiley felt similar, that the 80/20 concept presents some key issues, namely the difficulty in tracking subdivision rights among parent and fragment parcels. The 15 divisor approach seems easier.

Ms. Schneider repeated her concerns with the proposal for a one-size-fits-all approach in the Ag/Rural zone. This proposal does not address the other 95 percent of the Town, she said.

Any amount of scientific data to help with zoning decision is helpful, Mr. Ferrari said. He also cited Oregon as a national model for smart planning; the state promotes urban growth boundaries around nodal areas like cities, villages and hamlets, and has strict rules about subdividing ag land. However, this creates equity issues, Ms. Olson said; because land is so restrictive, people get priced out of areas like Portland.

Ms. Kiley reminded the Board that the Town Board needs to adopt a new zoning law in August.

Minutes review process

Mr. Wertis readdressed his concerns with offering and accepting changes to draft minutes. The Planning Board reached a consensus to add the following language to its Rules and Procedures:

“The most efficient way of approving minutes is for the chair to assume the motion and obtain unanimous consent that the minutes be approved as distributed (or as corrected). The chair says, “The minutes have been distributed to you. Are there any corrections?” If corrections are offered, the chair handles each by offering the correction to the membership, just to be sure everyone agrees that the correction is accurate. The clerk then enters the corrections on the master copy. When no further corrections are offered, the chair officer says, “If there are no further corrections . . . (pause) . . . the minutes are approved as distributed/corrected.”

At this time, Mr. LeWalter raised the question as to why he was not made a permanent member of the Planning Board when Sara Worden stepped down. He had asked to be moved up into a permanent position and is uncomfortable with how the situation was handled. Nobody got back to him, he said, and the whole process moved too quickly.

Mr. Wertis suggested Mr. Blake contact the Town Board and ask about the situation. Ms. Schneider agreed with the suggestion.

Mr. Blake MADE the MOTION to adjourn the meeting, and Mr. Wertis SECONDED the MOTION. The motion was unanimously carried.

Meeting adjourned at 9:13 p.m.