



Town of New Lebanon
Zoning Re-write Committee Minutes - Unapproved
April 29, 2013

Present: Bruce Baldwin, Committee Chairman
Greg Hanna, Committee Member
Tony Murad, Committee Member
Ted Salem, Committee Member

Absent: KB Chittenden, Committee Member
Ray Herrmann, Committee Member

Others Present: Jack Pandey, Dorothy Dooren, Kent Pratt, Cissy Hernandez

Call to order:

Chairman Baldwin opened the regular meeting of the Town of New Lebanon Re-write Committee to order at 7:00 pm.

Discussion:

Chairman Baldwin commented that tonight's meeting would be brief. The goal is to review some of the areas in the current zoning ordinance that may require review for possible amendments. The intent will be to discuss an end-game so that the committee meetings will not continue forever.

Tony Murad stated that he is the only member on this committee that was a member of the original Zoning Re-write Committee and can attest that one of the outstanding items from that time is the overlay districts. There was too much unknown to create them at the time. This may be an area that the Town Board may opt to hire someone with experience for assistance. This new Zoning Re-write committee, in his opinion, should be a standing committee for Zoning Ordinance issues that may come up in the future. The process of amending the Zoning Ordinance is less cumbersome now that the Town no longer is required to do a mass mailing of postcards to everyone in Town. Now notifying the residents is much easier via the Town's website and the two official Town newspapers.

Chairman Baldwin said that it is important for this committee to become familiar with our Comprehensive Plan and how it relates to our Zoning. We may even find that it too may need revision. Tony Murad said that it's standard practice to review a Comprehensive Plan every five years or so.

Kent Pratt said that one of the gray areas in the current Zoning Ordinance is the issue of 2-family dwelling units. 2-family dwelling units are currently listed in the Use Table as requiring a Special Use Permit. The Residential Building Code of the State of New York views 2-family dwellings units as it does single family dwellings. Multi-family (three or more) dwelling units are another level. He feels 2-family dwelling units should be permitted without the need of a Special Use Permit.

With regard to the coding used in the use table, "P=permitted", Kent Pratt asked whether the category 'permitted' required an actual permit or if it meant permitted without a permit. Tony Murad stated that there is nothing in the use table that is permitted without a permit. Some uses may only require a zoning permit but an application for permit is still required.

Other topics that were generally discussed:

Garage/Yard. The current ordinance lists them as requiring a permit. Tony Murad stated that the intent was to discourage perpetual garage/yard sales. The ordinance clearly indicates that only two garage/yard sales are permitted per year. Requiring a permit is a way to monitor compliance. However; it could be changed to a local law requiring a permit or license from the Town Clerk for a nominal fee.

Green Houses were discussed. Kent Pratt stated that current ordinance lists greenhouses for business use require a Special Use Permit and wanted to confirm if this was accurate. Tony Murad said: “yes”, unless it is part of a farm operation.

The Right to Farm Law. Tony Murad stated that the current Right to Farm Law needs extensive review. The original intent of adopting the law was to protect existing farmers from complaints about noises, odors, etc. However; the way it is currently written it doesn't protect existing home owners from new farm operations. Discussions ensued as to whether or not the Town had the authority in this instance to amend it with more restrictions/conditions. Ted Salem suggested that we reach out to the County for an opinion on how and if other Towns have modified their Right to Farm Laws.

Home Occupations. Kent Pratt suggested that the three levels of Home Occupations be based on verbiage from the NYS Fire Code.

Artisanal Uses: Tony Murad stated that he drafted a definition and the intent of what is considered Artisanal Uses and will distribute to the committee for comments (*outlined below*). He stated that some uses that would fit this category are uses that could potentially be performed as Home Occupations but would be performed in the commercial district. I.e.: soap making.

Artisanal Use

Proposal to create a new use category in the use table, because of recent applications to the ZBA requiring an interpretation of the CEO's denial.

Artisanal Use -a use similar to Home Occupation, except that it shall apply to all other zoning districts of the town. Manufacturing activities of limited nature (number of artisans or employees) are permitted.

Artisanal 1-No more than two artisans or an artisan and an employee. Use permit required , so as to allow the CEO to assess potential hazards.

Artisanal 2-Minimal impact. Is carried out by no more than three persons, artisans or employees, with most of the activities within the confines of a building. Retail sales are allowed subject to parking availability.

Artisanal 3 – Acceptable impact. No more than four artisans or employees. Does not produce offensive appearance to the street, undue noise or vibration, odors, smoke, heat or glare. Acceptable levels of the activity shall be determined by the Zoning Board of Appeals after careful consideration of impacts to surrounding properties.

Definition of 'Manufacturing'. Tony Murad stated that the definition of Manufacturing in our current ordinance needs to be reviewed for modification because the way it is written would seem to indicate that even preparing a salad or a sandwich could be misconstrued as manufacturing. Tony indicated that it would be a good assignment for everyone to do a little research and gather information that could be used as a reasonable definition for 'manufacturing'.

Cell Tower. It was noted that the current ordinates indicates that only Site Plan Review is required for cell towers in the majority of zones. However; the Telecommunications Local Law clearly indicates that the Special Permit is required from the Town Board. Chairman Baldwin suggested that these categories of items (Mobile Home Parks, Campgrounds, Cell Tower, etc.) on the use table could be clarified in the use table as requiring a License/Permit or Special Permit from the Town Board.

Columbia County Planning Board Referrals: Tony Murad pointed out that the ordinance should reflect and be clarified that interpretations of the Zoning Board of Appeals would be exempt from Columbia County Planning Board referral. See 3(c) below:

N.Y. GMU. LAW § 239-m : NY Code - Section 239-M: Referral of certain proposed city, town and village planning and zoning actions to the county planning agency or regional planning council; report thereon; final action

1. Definitions. As used herein:

(a) The term "proposed" as used in subparagraphs (ii) and (iii) of paragraph (b) of subdivision three of this section shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county comprehensive plan adopted pursuant to section two hundred thirty-nine-d of this article or adopted on an official map pursuant to section two hundred thirty-nine-e of this article.

(b) The term "referring body" shall mean the city, town or village body responsible for final action on proposed actions subject to this section.

(c) The term "full statement of such proposed action" shall mean all materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form and all other materials required by such referring body in order to make its determination of significance pursuant to the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. When the proposed action referred is the adoption or amendment of a zoning ordinance or local law, "full statement of such proposed action" shall also include the complete text of the proposed ordinance or local law as well as all existing provisions to be affected thereby, if any, if not already in the possession of the county planning agency or regional planning council. Notwithstanding the foregoing provisions of this paragraph, any referring body may agree with the county planning agency or regional planning council as to what shall constitute a "full statement" for any or all of those proposed actions which said referring body is authorized to act upon.

(d) The term "receipt" shall mean delivery of a full statement of such proposed action, as defined in this section, in accordance with the rules and regulations of the county planning agency or regional planning council with respect to person, place and period of time for submission. In no event shall such rule or regulation define delivery so as to require in hand delivery or delivery more than twelve calendar days prior to the county planning agency's or regional planning council's meeting date. In the absence of any such rules or regulations, "receipt" shall mean delivery in hand or by mail to the clerk of the county planning agency or regional planning council. Where delivery is made in hand, the date of receipt shall be the date of delivery. Where delivery is made by mail, the date as postmarked shall be the date of delivery. The provisions of this section shall not preclude the rules and regulations of the county planning agency or regional planning council from providing that the delivery may be a period greater than twelve days provided the referring body and the county planning agency or regional planning council agree in writing to such longer period.

2. Referral of proposed planning and zoning actions. In any city, town or village which is located in a county which has a county planning agency, or, in the absence of a county planning agency, which is located within the jurisdiction of a regional planning council duly created pursuant to the provisions of law, each referring body shall, before taking final action on proposed actions included in subdivision three of this section, refer the same to such county planning agency or regional planning council.

3. Proposed actions subject to referral. (a) The following proposed actions shall be subject to the referral requirements of this section,

if they apply to real property set forth in paragraph (b) of this subdivision:

(i) adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law, section 7-722 of the village law or section twenty-eight-a of the general city law;

(ii) adoption or amendment of a zoning ordinance or local law;

(iii) issuance of special use permits;

(iv) approval of site plans;

(v) granting of use or area variances;

(vi) other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.

(b) The proposed actions set forth in paragraph (a) of this subdivision shall be subject to the referral requirements of this section if they apply to real property within five hundred feet of the following:

(i) the boundary of any city, village or town; or

(ii) the boundary of any existing or proposed county or state park or any other recreation area; or

(iii) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or

(iv) the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

(v) the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

(vi) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

(c) The county planning agency or regional planning council may enter into an agreement with the referring body or other duly authorized body of a city, town or village to provide that certain proposed actions set forth in this subdivision are of local, rather than inter-community or county-wide concern, and are not subject to referral under this section.

4. County planning agency or regional planning council review of proposed actions; recommendation, report. (a) The county planning agency or regional planning council shall review any proposed action referred for inter-community or county-wide considerations, including but not limited to those considerations identified in section two hundred thirty-nine-l of this article. Such county planning agency or regional planning council shall recommend approval, modification, or disapproval, of the proposed action, or report that the proposed action has no significant county-wide or inter-community impact.

(b) Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a full statement of such proposed action, or such longer period as may have been agreed upon by the county planning agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the proposed action without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section.

5. Extraordinary vote upon recommendation of modification or disapproval. If such county planning agency or regional planning council recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

6. Report of final action. Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring

body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

(<http://codes.lp.findlaw.com/nycode/GMU/12-B/239-m>)

Chairman Baldwin stated that he thinks it would be a good idea to install signs in Town to indicate that there are Zoning Laws in effect in hopes to heighten public awareness.

Kent Pratt stated that he will review the Comprehensive Plan for the next meeting and informed the committee that he will be away from May 9 – 19, 2013.

The committee scheduled their next meeting for Tuesday, May 21, 2013 at 7:00 pm.

The meeting adjourned at 8:30 pm.

Respectfully submitted,

Cissy Hernandez, Planning/Zoning Clerk