Town of New Lebanon

Zoning Rewrite Committee

Minutes – April 25, 2022

Present: Britt Buckenroth, Elizabeth Brutsch, Greg Hanna, Jim Carroll, Tony Murad, Donald Lamonaca, Steve Powers and Ted Salem. The meeting was live streamed.

The meeting was called to order at 7 PM.

1. Live Stream

Ted told the committee that information about the live stream will be inserted onto the ZRC webpage and may be announced via an email blast in coming weeks.

2. RVs as temporary housing – Jesse

Held over

3. Tiny homes – Jesse

Held over

4. Renewable Energy - Britt and Steve

Britt and Steve met with a representative from NYSERTA. The release of the updated model law is planned for this week. They will compare it with the Town’s present code. They also have obtained maps of current three-phase wiring that is essentially limited to the main corridors. It is unclear if a potential provider would invest in extending the lines to other areas. There was discussion about whether the current definition for large-scale solar is adequate in that it didn’t provide for middle-tier operations. The committee also discussed the rationale for the selection of the current allowable zones for such operations. Britt and Steve are working toward proposed changes to the current solar regulations that potentially could expand the areas in which “large-scale” operations are permitted.

5. Telecommunications - Donald

Donald reviewed other towns’ codes and other resources and looked for feedback on the following:

* review authority/site plan review should be transferred from the Town Board to the Planning Board - there was consensus on this point. Ted mentioned the “shot clock” concept that prevented lengthy, multi-tiered review processes. We need to clarify what triggers the clock and its length.
* prohibit the placement of cell arrays on or on the top of buildings - the committee was generally supportive of this restriction.
* specifically prohibit construction of these facilities in or close to wetlands - there was consensus on this point.
* clarify in the exclusions for site plan review that “local” = “Town” – should there be no exclusions and that requirements for special use permits and site plan review should apply to all.

Note: this may be a moot point. There is case law in NYS that puts a “balance of public interest” test on any attempt to apply zoning to another public entity. The Town Attorney opined that for something such as the 911 Tower, the Town would not prevail in an attempt to review its construction, i.e., the balance would favor the County.

* It is the committee’s understanding that local codes can not explicitly address facility emissions as a basis for denying an application or setting zoning requirements. Donald and Ted will seek technical guidance from governmental resources to more fully understand the grounds upon which zoning requirements can properly be established.

6. Event Venue - Greg and Elizabeth

The Town of Claverack has a code regulating such uses. Following discussion, there was consensus on the following points:

* use the term “events venue” rather than “special events venue” so as to avoid confusion with Chapter 101
* restrict this use to the commercial zones. Although there are potential sites in RA5 that could “host” such a use safely, the traversing of traffic through other zones and the potential noise could create adverse conditions for the community
* in general, this use could benefit the Town and should be pursued

7. Historic Overlay - Deb Gordon (absent)

Deb, via email to Ted, asked that the committee reconsider the adoption of a historic overlay that would permit certain commercial uses in the RA-2 zone in the Darrow Road area. This is different from a more traditional, preservationist-oriented historic district. Deb noted that The Abode property was for sale and she was concerned that the restrictions on uses for existing buildings may prompt a developer to tear them down. This matter was held over.

8. Zoning interface with other codes

Ted connected with the Town Attorney regarding the interface between various chapters and the zoning code / use table. The attorney explained that if both sets of codes are applicable to a given situation, the requirements of each can and should be applied to it. There is no need for explicit statements in the other chapters to enable zoning review. There are, however, apparent conflicts between some provisions in those chapters with the zoning code that need to be resolved. Ted will start to draft potential changes in coming weeks.

Ted also noted that there is no clear statement in current code that only one “principal” use is permitted on any given property. Tony believed it was once there and somehow was deleted over successive code revisions. The Town Attorney believes that, in context, this restriction is implied, but that it wouldn’t hurt to plainly state it. (He noted that the Town has the option to permit multiple uses on a property.) The committee agreed that with specified exceptions (such as “mixed use” and home occupations”) the one principal use rule should be retained and made more explicit.

The meeting was adjourned at 8:40 PM

The next meeting of the ZRC will be Monday, May 23 at 7 PM.

Respectfully submitted, Ted Salem, Chair

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