

**TOWN OF ULYSSES  
PLANNING BOARD**

**12/02/2014**

**Minutes**

**Approved:** 12/16/14

**Present:** Chairperson John Wertis, Sarah Adams, Andy Rice, David Blake, Environmental Planner Darby Kiley, Town Board Liaison Richard Goldman.

**Members of the public present:** none

**1. Call to Order at:** 7:00 p.m.

**2. Agenda Review; Minutes Review (11/18/2014)**

No additions made to the agenda.

Mr. Wertis MADE the MOTION to approve the 11/18/2014 minutes. Mr. Blake SECONDED the MOTION as follows:

Mr. Wertis AYE  
Ms. Adams AYE  
Mr. Rice AYE  
Mr. Blake AYE

**Result:** Minutes for 11/18/2014 approved

**3. Privilege of the Floor:** No members of the public addressed the Planning Board.

**4. Continue Zoning Law revision work**

Mr. Wertis passed out a separate sub-agenda to help guide the Planning Board in ongoing zoning law revision work. The sub-agenda read as follows:

Continuing Zoning Law Revision Work

- A. Planning and Zoning Officer update on Zoning Revision: Update Grant, Engineer, and Town Project on "General Codes"
- B. Feedback to P and ZO re: "Family Definition" and "Site Plan Reordering"
- C. The Land Disturbance Dilemma
- D. A case before us: Minor Excavation and Wall Building...Miller Property
- E. Other Zoning Revision Proposals...Sarah Adams
- F. Longer Term Planning for a Zoning Consultant...Direction from PB? Input into Selection of Consultant? Participation in the Revision Process?

Mr. Wertis MADE the MOTION to approve the sub-agenda and Mr. Blake SECONDED the MOTION.

The vote was unanimous.

Mr. Blake suggested the Planning Board jump to Agenda Item No. 6, the Town Board Liaison Report, so Mr. Goldman could provide his report. The Planning Board agreed.

**Town Board Liaison Report:** Mr. Goldman said the Town Board received two applications to fill two vacancies on the Planning Board. The Town Board interviewed both candidates and hoped to appoint both at the Town Board's next meeting. The Town Board will also interview two applicants for the Town's Board of Zoning Appeals on Wednesday, December 3.

**A. Planning and Zoning Officer update on Zoning Revision: Update Grant, Engineer, and Town Project on "General Codes"**

Ms. Kiley said she is waiting to hear back from the State in regard to a grant in which the Town applied in June. The grant would fund a consultant who would aid the Town in revamping certain aspects of zoning law, specifically agricultural land, the Jacksonville Hamlet and the Route 96 corridor. Some of the work, like design standards, was not laid out in the Town's Comprehensive Plan. Guided by a Town scope of work, the consultant would take a year with the work. Even if the Town fails to secure the grant funds, the Town has already set aside half of the necessary funds, for one year, to hire a consultant.

Ms. Adams requested a copy of the project scope, saying it makes sense for the Planning Board to develop its own scope of work for the prospective consultant. Additionally, in talking with the Town Supervisor, Ms. Adams suggested the Planning Board pass a resolution onto the Town Council requesting the budgeted funds for zoning revisions.

Ms. Kiley said the Town sent out a Request for Qualification for engineering services for municipal review in early November. The Town received seven letters of interest. A member of the Planning Board will be a part of the interview process.

Ms. Kiley gave a presentation on General Code, a company that works to codify Town codes and make them searchable in one online resource. General Code tracks any code changes and updates them accordingly. In September, the Town submitted its laws to General Code, which organized a manuscript and completed an analysis recommending changes to law language. The Town must review the manuscript by March, so any recommendations for zoning changes should be sent to the Town Board by the end of January. Based on General Code's recommendations, Ms. Kiley requested direction from both the Planning Board and the Town Council on how the Town defines a family.

**B. Feedback to P and ZO re: "Family Definition" and "Site Plan Reordering"**

**Existing Zoning Law Definition of Family:**

An individual or two (2) or more persons related by blood, marriage or adoption, or including foster children, occupying a dwelling unit and living as a single household. For the purpose of this Zoning Law, a family may also consist of not more than three (3) unrelated individuals occupying one dwelling unit. The two definitions can be combined.

### **General Code analysis**

The definition of “family” limits the number of unrelated persons living together to “not more than three,” without limiting the number of related people living together. Recent case law finds that the rights of a municipality to regulate the number of unrelated persons living together is restricted. Because defining a “family” of unrelated individuals is a factual decision, a municipality desiring to limit the number of unrelated individuals in its definition must do so in a way that does not exclude unrelated individuals who function as the equivalent of a traditional family, despite exceeding the limit. Some municipalities provide for discretionary review of groups of unrelated individuals greater than a specified number to ensure that they are the functional equivalent of a traditional family. This is accomplished by providing criteria for when a group functions as the equivalent of a traditional family, which the zoning official uses in his review and determination. For this reason, the Town may wish to revise the definition of “family” to match one of the sample definitions below:

Decision options:

- Revise definition of “family” to read as follows:

Option 1 FAMILY — One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

Option 2 FAMILY — One person or two or more persons, related by blood, foster relationship, marriage or adoption, and, in addition, any domestic servants or gratuitous guests thereof; or one or more persons who need not be so related, and, in addition, domestic servants or gratuitous guests thereof, who are living together in a single, nonprofit dwelling unit and maintaining a common household with single cooking facilities. A roomer, boarder or lodger shall not be considered a member of the family.

Option 3 FAMILY - One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that 4 or more persons living together in a single dwelling unit, who are not related by blood, adoption, or marriage, do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present:

1. The group shares the entire dwelling unit.
2. The group lives and cooks together as a single housekeeping unit.
3. The group shares expenses for food, rent, utilities or other household expenses.
4. The group is permanent and stable, and not transient or temporary in nature.
5. Any other factor reasonably related to whether the group is the functional equivalent of a family.

Ms. Kiley said some in Jacksonville have requested the Town tie down its definition of Family even more.

Mr. Goldman explained there have been a number of concerns from Jacksonville residents about some tenants living in dilapidated houses as well as issues of drug-use and loudness.

Mr. Wertis requested that Planning Board members review the three given options and present feedback to Ms. Kiley.

The Planning Board then discussed a possible reordering by Ms. Kiley of the Town's checklist for Site Plan Information Required. The updated checklist was done in an effort to satisfy the need to separate small residential projects from larger commercial projects.

After a discussion, the Planning Board ultimately agreed to accept Ms. Kiley's checklist with two changes: Two items – “proposed exterior lighting” and “number of parking spaces existing and required for all intended uses” – were moved from checklist No. 5 (“For all uses except single and two-family residences”) to checklist No. 2 (“A detailed site plan showing all integral elements within 300 feet of the proposed project site, including but not limited to”).

Mr. Wertis MADE the MOTION to approve the Site Plan Checklist with noted changes, and Mr. Blake SECONDED the MOTION as follows:

#### **3.4.4 Site Plan Information Required**

At or following the Sketch Plan conference, the Planning Board may request that the applicant provide more information, including, but not limited to any or all of the items from the following list. In determining the information it will require, the Board may consider the type of use, its location, and the size and potential impact of the project.

Site plan checklist:

1. Names and addresses of all owners of record.
2. A detailed site plan showing all integral elements within 300 feet of the proposed project site, including but not limited to:
  - a. property lines for the site, including metes and bounds;
  - b. locations of adjacent public and private streets and highways;
  - c. approximate size and locations of all existing and proposed buildings and structures, including locations of access drives, parking and pedestrian facilities, and off-street loading facilities;
  - d. existing vegetation and proposed landscaping;
  - e. existing and proposed overhead and underground utilities;
  - f. location and design of all water and sewerage facilities;
  - g. location of all existing streams or drainage ways, water bodies, wetlands, and drain tile (if available); and
  - h. elevation plans at an appropriate scale for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features
  - i. proposed exterior lighting
  - j. number of parking spaces existing and required for all intended uses.

3. Stormwater Pollution Prevention Plan, as required by local law.
4. Site topography showing contours at an interval appropriate for the site, two (2) foot interval is recommended.
5. For all uses except single and two-family residences:
  - a. proposed sign(s) including size, height and location;
  - b. area of building to be used for a particular use, such as retail operations, office storage, etc.;
  - c. maximum number of employees;
  - d. maximum seating capacity, where applicable;
  - e. estimated type and volume of traffic.
6. Proof of applications to or approvals from any federal, state or county agency from which a permit may be required.

In addition to the above, the Planning Board may require other information related to the proposal, including but not limited to:

7. a detailed traffic study for large developments or developments in heavy traffic areas, to include:
  - a. the number of motor vehicle trips projected to enter or leave the site, estimated daily and peak-hour traffic levels;
  - b. the projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
  - c. the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities (existing and proposed daily and peak-hour traffic levels as well as road capacity levels shall also be given).
8. a historical and cultural resources study completed to standards set forth by the State Historic Preservation Office.

Mr. Wertis AYE  
Ms. Adams AYE  
Mr. Rice AYE  
Mr. Blake AYE

**Result:** Site Plan Checklist passed.

Mr. Wertis asked Ms. Kiley about her progress in updating zoning language in regard to streams. Ms. Kiley said she had met with Scott Doyle of the Tompkins County Planning Department about which data set the Town should be using. She had nothing else to report on the subject.

### **C. The Land Disturbance Dilemma**

Mr. Wertis handed out copies of Article X – Conservation District 10.2 Permitted Uses and Article IX-Lakeshore Zone 9.2 Permitted Uses. Both are nearly identical in language but poorly

written. He said the intent of both was to prevent possible land-damaging disturbances, spurred by tree cutting, grading, and driveway construction on a property north of the Glenwood Pines. It was disturbing at the time that the property owner could bulldoze land and cut down trees without any oversight. The two zoning stipulations were inadequate because they did not address land disturbance on the property after construction had been completed. Mr. Wertis noted that 9.7.3 (Soil and sediment control) within the Lakeshore Zone document and 10.6.3 (Soil and sediment control) within the Conservation District document are also similar in that they both prohibit land disturbance and allow for exceptions, namely if the Planning Board determines that the activity would prevent erosion and/or protect the shoreline or the activity is in conjunction with construction pursuant to a building permit and reviewed by a licensed engineer.

Ms. Adams said the current zoning language does not give Planning Board members any guidance on things like soil disturbance, excavation and conditions. She agreed with Mr. Wertis, adding that guidelines would provide Planning Board members a way to evaluate whether or not a proposed project aligns with Town Zoning.

Mr. Wertis said he'd like to review zoning laws in other towns that have Finger Lakes lakeshore areas. His long-term solution to the language issue would be to change the language, or, in the short term, the Planning Board could develop and use a building permit for land disturbance following an abbreviated site plan review. A third option would involve approval of proposed land disturbances via Planning Board resolution.

#### **D. Resolution: Miller Stone Wall**

Ms. Kiley informed the Planning Board of a proposed landscaping project. Nelson Miller of 1379 Taughannock Blvd, located within the Lakeshore District, has proposed building a roughly 50-foot long stone wall. The Miller residence is located in a slope overlay area due to the types of soil, but it's not within a unique natural area. Ms. Kiley and Mr. Wertis visited the property and sent several questions along to Mr. Miller, who responded back with information about scheduling, equipment and amount of removed material. Soil from the project will be removed and replaced with crusher run.

Ms. Adams said she felt she did not have the background to fully evaluate the project. She asked about diverting water and whether or not there was a need for drainage.

Mr. Wertis said there is little space between the proposed wall and the residence and does not foresee any real drainage issues. Ms. Kiley agreed.

Mr. Wertis MADE the MOTION to approve the Miller Stone Wall at 1379 Taughannock Blvd and Mr. Blake SECONDED the MOTION as follows:

#### **WHEREAS**

1. The Town of Ulysses Zoning Law Lakeshore District includes provisions that within the Slope Overlay Area "there shall be no excavation, grading or filling unless it is determined by the Planning Board that such excavation, grading or filling is necessary to prevent erosion and/or protect the shoreline. The Planning Board may seek

recommendations from a licensed engineer selected by the Town and paid for by the applicant;” and

2. Nelson Miller, owner of 1379 Taughannock Blvd, wishes to construct a stone wall that will include excavation, and the property is located in the Slope Overlay Area of the Lakeshore District; and
3. Mr. Miller submitted materials that describe the construction schedule, types of equipment to be used, and amount of soil excavated; that address soil stability concerns; that provide a bird’s eye view, a cross section, and a map and photos of the area; and
4. The Zoning Officer and Planning Board Chair visited the site and conclude that the project is not likely to result in any erosion or sedimentation or compromise the structural stability of the slope because of the relatively low height of the slope to be excavated and the proximity of a wide, flat grassed area between the proposed stone wall and steep cliff to the lake;

THEREFORE BE IT RESOLVED, that the project does not need to be reviewed by an engineer;

AND FURTHER RESOLVED, that the property owner can move forward with the stone wall project as proposed without any further review by the Planning Board.

Mr. Wertis AYE  
Ms. Adams NAY  
Mr. Rice AYE  
Mr. Blake AYE

**Result:** Miller Stone Wall approved.

### **E. Other Zoning Revision Proposals**

Ms. Adams led the discussion on cottage industries and home occupancy. In the Town’s Agricultural District, cottage industries are allowed with up to 10 employees. With that comes the possibility of 10 vehicles along with day-to-day customer traffic. She offered that perhaps the Planning Board should examine whether to limit the maximum number of employees at cottage industries located within the Town’s Lakeshore District. A larger concern was the Agricultural District has too many allowable uses. She referenced the Town of Dryden and its two-tiered home occupancy definition based on number of employees. If a cottage industry begins taking clients, and there’s a subsequent increase in customers coming and going, neighbors may want some kind of review. A home occupancy with one client at a time fits the Town’s definition, but a business being run out of a residence with other employees does not. She said one could argue that such a situation changes the residential environment.

Ms. Kiley said the property owner would then receive a notice of possible violation of Town Zoning Law.

Ms. Adams said she would look into the subject further and craft some proposals.

**F. Longer Term Planning for a Zoning Consultant**

On the subject of working with a consultant to improve Town Zoning, Ms. Adams suggested the Planning Board prioritize its top-five items of focus. She said Town Zoning needs more design guidelines for Site Plan Review and additional work on definitions. She suggested the Planning Board craft and approve a resolution to the Town Council, stating the importance of the work to be done and the need for the funds.

**Review Agenda items for 12/16**

Ms. Kiley handed out information related to the subdivision at the Ithaca Antique Mall. She also informed the Planning Board of a couple of Lakeshore issues that have popped up recently, one concerning a property in which all the trees were taken down. Ms. Kiley advised the contractor that they had to stop the work to avoid a stormwater and zoning violation.

Meeting adjourned at 8:31 p.m.

Respectfully submitted by Louis DiPietro on 12/9/2014