

SPECIAL TOWN BOARD MEETING

Town of Ulysses

November 25, 2019

Audio of the minutes are available on the website at ulysses.ny.us.

The meeting was held at the Ulysses Town Hall at 10 Elm Street, Trumansburg.

Notice of Town Board meetings are posted on the Town's website and Clerk's board.

ATTENDANCE:

TOWN OFFICIALS PRESENT:

Supervisor- Liz Thomas

Board members- Nancy Zahler, Richard Goldman, Michael Boggs

Town Clerk- Carissa Parlato

Environmental Planner- John Zepko (via conference call)

OTHERS PRESENT:

Lawrence McCann, Cheryl Chalmers, Tim Fallon, Roxanne Marino, John Wertis

ABSENT:

John Hertzler

CALL TO ORDER:

Ms. Thomas called the meeting to order at 4pm.

DISCUSSION OF ZONING LAW- Comments from NYS Dept. of Agriculture & Markets:

Ms. Thomas led the discussion by going through the comments that the town received from NYS Dept. of Agriculture & Markets (see attached) on various section of the proposed zoning local law.

Section 212-5(B) Building Permits:

Ms. Thomas noted the Mr. Somers from the NYS Dept. of Ag mentioned the Town could have a zoning permit for the agricultural district.

She stated that the main concerns from Tompkins County Planning Department regarding the proposed zoning law were that it should include wind energy regulations and that the stream setbacks were not stringent enough. Ms. Sokoni noted that if the town wants to change the stream setbacks, 4 votes would be necessary to pass the law since this would be a substantive change to the proposed law, but adding wind turbines would not be.

Ms. Thomas said that most of the NYS Ag & Markets comments were suggestions only and that they found many of town's proposals to be reasonable except for regulation of manure storage lagoons.

The board discussed the difference between building permits for farms and a zoning permit.

Mr. Zepko clarified that Ag & Markets is referring to a zoning compliance permit and not a building permit. Mr. Goldman felt that implementing a zoning permit would give the town an opportunity to see a building before it gets built since a building permit would not be required.

Ms. Thomas and Mr. Zepko re-iterated that there are many changes that could be added to the current proposal and the board will need to decide whether to pass the law as is and circle back to these or work on them now and extend the time-line for adoption. Either option will require all the notifications and public hearing, etc.

Section 212-19(M) Site Plan Review:

Ms. Thomas responded yes to the question that Ag & Markets posed as to whether the town has a stream-lined site plan checklist in the state adopted ag district.

Section 212-5(E) Building Permits:

Ag & Markets finds this section to be reasonable.

Section 212-19(A)(5) Site Plan Review:

Ag & Markets find this section to be reasonable. Mr. Zepko responded that a building permit is needed for signs bigger than what is proposed. He re-iterated that all building permits get signed off by the zoning officer prior to approval.

Section 212-22 Definitions:

Ms. Thomas noted that both Tompkins County and Ag & Markets have issues with the definition of Accessory Building.

Mr. Boggs suggested that the Planning Board or Code Officer could clarify this and expressed concern on how a building could be an accessory building if it is the only building on a lot.

Ms. Thomas added that allowance for farm buildings is incorporated into the definition of Farm Operation in the proposed law.

Ms. Thomas asked whether the board would like to make changes now as that could trigger a new adoption process.

Mr. Goldman asked whether removal of the word "incidental" would trigger that. Ms. Sokoni responded in the negative, but cautioned that many trivial changes could be considered to be a substantive change.

Mr. Boggs offered that accessory building may refer to residential and not farming and that it should be left in.

Ms. Zahler clarified that the comments refer to an accessory building rather than an accessory dwelling.

Mr. Zepko wondered whether the board has a problem with putting up a shed before a primary building as the current language does not support this.

Ms. Zahler felt that the board should remove references to "incidental".

Mr. Zepko recommended that the board amend the language to read as Ag & Markets suggested.

Ms. Thomas wondered what would keep people from just putting up a building anywhere if an accessory building is not required to be accessory to another building.

Ms. Zahler asked whether Mr. Zepko could come up with language to create a new definition.

Mr. Zepko responded that he can but the board needs to decide whether they are engaging in a longer process or not.

Ms. Thomas asked whether other board members want to allow accessory or incidental buildings to pop up anywhere without a primary building. She feels that it is contrary to our zoning.

The board discussed this further and agreed to leave the draft as it is currently written: farm buildings are covered and accessory dwellings are not subordinate.

Ms. Zahler followed up on Mr. Zepko's question by saying that she is willing to make some changes but doesn't propose starting over. She thinks there are a few things that should be changed or clarified, even if that means another public hearing, etc.

Mr. Goldman felt that the board should discuss the comments further to see whether or not they will be substantial.

Ms. Thomas referred back to the Agricultural Building comment to include the words "fruits and vegetables" and suggested that they disregard it as the word "horticulture" includes fruit and vegetables.

The board agreed to add vegetables to "distilled and brewed products".

Ms. Thomas felt that the Ag & Market's suggestion on "dbh" (breast height) was too insignificant to add as it would only account for a few inches at most. Ms. Zahler was okay with adding it because she wants to be responsive to the Ag & Market comments.

Ms. Thomas reminded everyone that many compromises have already been made to the point that the document is not in line with following the Comprehensive Plan for land preservation.

Ms. Thomas was unclear on the intent of Ag & Market's comment regarding "Stable, Commercial". The board discussed. Mr. Zepko clarified that horse boarding/stable is considered an ag operation whether it is commercial or not. Ms. Thomas noted that this section has been this way forever and there have not been any complaints. The board agreed to leave the section as is.

Section 212-23 Ag/Rural Zone Purpose:

Ms. Thomas clarified that the town has already aligned its ag districts with the state ag districts.

Section 212-25(G) Ag/Rural Zone, Permitted Uses:

The board discussed farm worker housing. Ms. Zahler agrees with Ag & Markets that farm worker housing shouldn't be limited to the farm.

The board discussed this.

Mr. Goldman asked Mr. Zepko's opinion. He felt that housing does not need to be on the same parcel as other farm buildings.

Ms. Thomas noted that NYS has very low standards for farm housing. All agreed to leave the language as is except for Ms. Zahler, who felt that the restriction to keep farm labor housing on a parcel with other structures should be removed.

Section 212-28 Ag/Rural Zone, Uses Allowed by Special Permit:

Ms. Thomas noted that under the current zoning, CAFOs require a special permit. Ms. Thomas disagrees with Ag & Markets that it should be under site plan review, because the town will not be able to have any authority on the placement of buildings or manure storage to keep them away from the rivulets. She understands that the town is not allowed to prohibit CAFOs or manure storage lagoons from the town.

Mr. Zepko said that if CAFOs and manure storage are under special permit, they have to meet all of the criteria to be approved. If they are under site plan review and don't meet the criteria, they may not be approved. Ag & Markets makes it clear that it is allowed under state law and the town shouldn't try to question this. Mr. Zepko feels that to meet the town board goals, they should keep CAFOs and manure storage under special permit but should be aware that it could be challenged.

Ms. Thomas said that in the past the town was part of a lawsuit against the NYSDEC that had to do with CAFOs and the lawsuit was successful because the DEC permitting did not adhere to the federal clean waters act. The board discussed further and all agreed to leave the proposed language as it is.

Section 212-29(J) & (K) Ag/Rural Zone, Lot Area & Yard Requirements:

Ms. Thomas feels that 20,000 sq. ft. is sufficiently large and residents support smaller farming rather than larger.

Mr. Zepko stated that regulating lot coverage and square footage in an ag district would not hold up under a challenge. In response to Ms. Thomas, he shared the process for someone to challenge this, noting that there are several steps prior to litigation.

Section 212-29(N) Ag/Rural Zone, Lot Area & Yard Requirements:

Ms. Thomas noted that Ag & Markets felt that the setback to streams and wetlands was too extreme but Tompkins County felt that they were not big enough. The County's directive will require a supermajority (4) vote to override this.

Ms. Sokoni reminded the board that the Tompkins County 239 letter items are directives rather than recommendations. Also, if the board wants to make this change, it will be a substantive change.

The board discussed whether to make the changes now or later.

Ms. Sokoni added that the NYS Ag & Markets items are recommendations which do not require the board to take any particular action.

Ms. Zahler and Mr. Goldman favored including the bigger setbacks. Mr. Boggs agrees but thinks that they should do it later.

Mr. Zepko encouraged the town to follow the county requirements and be very explicit that ag does not apply to this.

Ms. Sokoni noted that the board has to balance state and federal regulations around clean water.

The board agreed to leave the current setbacks as is for now.

Section 212-37(A) Residential Zones, Permitted Accessory Uses:

The board was unclear about the intention of the Ag & Markets' comment about including farm building in accessory uses since the definition of Farm Operation includes farm buildings. They agreed to make no change to this section.

Section 212-124(A)(4) Design Standards, Standards for Buffer Areas:

This section is about stream setbacks. The Department of Ag wants them to be smaller and the County wants them to be bigger.

Section 212-124(B)(3) Design Standards, Standards for Buffer Areas:

Ms. Thomas noted that wetland maps will help assist the zoning officer with permits. Mr. Zepko clarified that wetlands are not regulated whatsoever in ag districts. Ms. Thomas clarified that our setbacks have to do with buildings rather than grazing and farming. No decisions were made on this item.

Section 212-124(A)(4) Design Standards, Standards for Buffer Areas:

The group expressed some confusion over the comment and also discussed 212-124(B)(4) and decided to revisit it in the future.

Section 212-124(5)(H) Design Standards, Standards for Buffer Areas:

Has to do with the application and storage of pesticides and farm chemicals in wetland and stream setbacks. The board agreed to leave the section as it is.

Section 212-135(A) Design Standards, Standards for Roadside Stands:

Ms. Thomas clarified that this section refers to non-agricultural. The board agreed that this should be clarified this for Mr. Somers and in the proposed law language.

Section 212-138(B) Design Standards, Standards for Commercial Stables:

Ms. Thomas noted that this parking requirement for Commercial Stables doesn't seem like a significant issue to focus on since there are only 2 commercial stables in town, and this is the same language that has always been in the zoning. The board agreed.

Section 212-171 General Provisions, Power Generation Facilities or Structures:

Having to do with allowing wind power, Ms. Thomas suggested that the town board take this up sometime in the future.

Section 212-139.3 and 139.4 Design Standards, Standards for Farm Operation, Accessory Commerce:

Having to do with CAFOs and animal manure storage facilities, Ms. Thomas noted that the board has already discussed this tonight.

DISCUSSION OF ZONING LAW- Lakeshore District building square footage footprint maximum:

Ms. Thomas explained that the recommendation for the square footage maximum came from the Planning Board and read the minutes from that meeting. This was forwarded to the Town Board, who

discussed it on June 25, 2019 and agreed to incorporate it into the proposed law. She clarified that the maximum only relates to the footprint and the building can include a basement and second story of the same size resulting in 6,000 square feet of usable space. She further noted that many lots in the Lakeshore Zone are an acre or less and that the 5% lot coverage would result in a footprint of approximately 2000 sq. ft. . To keep this size would be to comply with the existing character as outlined in the Comprehensive Plan. She noted that a 2 acre lot could have a 4500 sq. ft. footprint under current zoning with the 5% lot coverage

Mr. Goldman noted that the conservation zone has 5 acre minimum lot size so a building could have a 10,000 sq. ft. footprint using the 5% coverage calculation

Ms. Thomas shared that the town's biggest construction complaints are in the lakeshore area where the topography is steep.

Ms. Zahler questioned whether both the lot coverage and square footage maximum restrictions are needed.

Ms. Thomas noted that neighbors are more impacted in that area. Also, storm water is an issue. She cautioned the board against considering the concerns of a few residents over the health, safety and welfare of all residents.

Mr. Zepko added that site plan review is already in place to help mitigate environmental impacts in that area. The restrictions for square footage are based more on community character rather than environmental concerns.

PRIVILEGE OF THE FLOOR:

Ms. Thomas asked whether the board was in agreement to allow public comments. The board agreed to 1 minute per person.

Mr. Fallon stated that home sizes in the lakeshore area are variable and that makes it a richer area. If someone is spending a lot on a property, they should be able to build a house as they see fit.

Ms. McCann stated that she owns 5 acres and finds the restrictions to be already onerous. She understands the environmental restrictions but people should be able to build a 1 story home.

Mr. McCann feels that the regulations discriminate against the disabled and the aging. It is unfair to those who have bigger lots. He feels that it is already really restricted.

Ms. Marino shared that she doesn't see the rationale in passing a law with a long list of corrections. It is better to finish.

DISCUSSION continued - Lakeshore District building square footage footprint maximum:

Mr. Goldman feels that the maximums are too restrictive.

Ms. Zahler stated that they seem sufficient with the site plan review.

Ms. Thomas stated that adding site plan review was a compromise in 2013 with lakeshore owners and was not the initial recommendation.

ADJOURN:

Mr. Goldman moved to adjourn the meeting at 6:27pm. This was seconded by Ms. Zahler.

*Respectfully submitted by Carissa Parlato, Town Clerk
12/5/19*