



**TOWN OF BALLSTON
PLANNING BOARD**

323 Charlton Rd
Ballston Spa, NY 12020
Phone: 518-490-2715
building@townofballstonny.org

January 10, 2022
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**PLANNING BOARD SPECIAL MEETING MINUTES
January 10, 2022
via Zoom Only
6:00 pm**

ATTENDEES: John Van Vorst, Chairperson
Patrick Maher, Board Member
Dave Blair, Board Member
Sondi Smith, Board Member
Peter DiLorenzo, 1st Alternate
Michael Zuritis, 2nd Alternate
Jenny Lippmann, Engineer
Bill Keniry, Attorney

ABSENT: Audeliz Matias, Vice-Chairperson
Dale King, Board Member

Call To Order

Meeting was called to order at 6:00 pm.

Chairman Van Vorst stated that this meeting of the Planning Board was for the purpose of further reviewing the zoning amendments as they have been presented. The Planning Board's job is to report back to the Town Board with recommendations and suggestions and the objective goal this evening is to try and complete the process.

Chairman Van Vorst stated that two members, Mr. Baskin and Mr. DiLorenzo, will not be joining the meeting as they have not been reappointed, but are scheduled to be reappointed at the next Town Board meeting to be held tomorrow.

Chairman Van Vorst asked if members who had not attended that last special meeting had any comments or input.

Mr. Blair stated that he had no comments. Mr. Blair stated that he had gone through the proposed zoning amendments and the minutes of the special meeting and did not have any recommendations or changes.

Ms. Smith stated that she had no additional comments.

Chairman Van Vorst stated that he would like to concentrate on some of the highlights of the minutes from the November Special Meeting and determine how, as a Planning Board, they stand in agreement or disagreement or would like to make amendments.



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PDR

Chairman Van Vorst asked if everyone is okay with the comments on PDR as proposed.

Mr. Maher stated that the way the tabular information is captured is a little confusing. Mr. Maher asked if the Town Board was going to include more guidelines in the revised version.

Chairman Van Vorst asked Mr. Keniry how the Planning Board can take a stance, either in opposition or in favor of the PDR program when all of the minutiae of details are not worked out. Chairman Van Vorst stated that it is kind of hard to support something that it is not known.

Mr. Keniry stated that it is an entirely appropriate comment to make that there is absence of sufficient detail on which to comment, and then list particular items of deficiency.

Chairman Van Vorst stated that if everyone agrees with the statement that the Planning Board is in favor of the PDR program in principle, but the program needs to be reinforced by details, which could negate their support.

Mr. Maher stated that it was not really a policy issue since the Town Board is likely to go ahead with it anyway. Mr. Maher stated that he had listened to the recording of the Town Board meeting and that Ms. Hakes had stated that they were going to include more clarity or a reader's guide in the revised proposed amendments.

Chairman Van Vorst asked the members what their stance would be as of tonight.

Mr. Maher stated that as a matter of policy, the Town Board will proceed with it, the Planning Board would need additional clarity on the mechanisms of how the program is going to be applied in practice.

Mr. Keniry stated that in terms of the report that is to be made to the Town Board, perhaps the Planning Board would be comfortable addressing the first prong of whether or not the change is consistent with the aims and principles embodied in the chapter with particular districts concerned, but the Planning Board may have to defer and indicate that it would not be in a position to then answer the question regarding in what way particular areas and establishments in the Town will be affected.

Mr. Maher stated that he agreed with Mr. Keniry's statement. Mr. Blair and Ms. Smith also agreed.

Chairman Van Vorst stated that the Planning Board adopt the language of Mr. Keniry's last statement as their policy.

Chairman Van Vorst stated that what goes along with the PDR is the incentive for money to be placed into the purchase of development rights for developers to increase their base density. Maximum density goes along with the PDR program. Chairman Van Vorst stated that based on the discussion at the last meeting, Planning Board members don't have a problem with base density but feel that the maximum density threshold is too low. Mr. Maher and Mr. Blair agreed, and Ms. Smith was not on Zoom at that moment.



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Chairman Van Vorst asked if the Planning Board should send a recommendation for what they think the maximum density should be.

Mr. Keniry stated that if they feel confident in sending a recommendation then yes.

Chairman Van Vorst stated that the maximum density could be potentially crippling for businesses that may want to come into town and for those commercial entities that are already in town and may want to expand or diversify especially with the elimination of the PUDD (Planned Unit Development District). Chairman Van Vorst stated that if PUDDs were maintained, then there would be some flexibility as far as commercial businesses are concerned.

Mr. Maher agreed and stated that he felt that they need to strike a balance and right now that is not there. Mr. Maher stated that he thinks it will have a chilling effect on any development. Mr. Maher stated that it is not realistic to think developers are going to approach the town at those levels, especially if they have to essentially pay for the right to do that.

Mr. Blair agreed with Mr. Maher in regard to having a balance and stated that they don't want to restrict businesses with such a low threshold.

Chairman Van Vorst asked Mr. Keniry how the Planning Board would incorporate their stance on the maximum density being too low with their support of the PDR program.

Mr. Keniry stated that he recommends breaking out the comments regarding the maximum density and PDR programs as separate items and then have a statement that reflects on the combined effect of the PDR and the maximum density being too low.

Planning Board members agreed with Mr. Keniry's statement.

Planned Unit Development District (PUDD/PUD)

Chairman Van Vorst asked how the Planning Board members felt about the elimination of PUDDs.

Mr. Maher stated that he is not in favor of eliminating PUDDs entirely and acknowledged that there were some missteps with some of the residential PUDD developments, but that it should be available as a tool to be used with discretion.

Chairman Van Vorst stated that in his opinion, PUDDs are a valuable tool for commercial development and that perhaps PUDDs could be modified to remove the residential component and only be applicable to commercial retail or light industrial.

Mr. Blair stated that he was trying to understand why they want to eliminate PUDDs all together. Mr. Blair stated that Mr. Maher had mentioned some missteps and that he was mostly indifferent either way, but likes Chairman Van Vorst's idea of eliminating the residential aspect, and limiting it to commercial or light industrial would be a benefit.

Mr. Maher stated that it was a reasonable compromise.



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Chairman Van Vorst stated that by having modified PUDD then it potentially resolves the concern regarding low maximum density as it creates an avenue for an applicant to have a larger footprint and still participate in the PDR program.

Chairman Van Vorst stated that the Planning Board stance is that PUDDs should be modified to remove the residential component and enable it to be a tool to be used by the applicant and Town Board to open the opportunity for growth in the commercial, retail and light industrial community.

Mr. Keniry stated that he does not comment on policy as that is the province of the Board.

Mr. Keniry stated that PUD is a legislative action at the Town Board level, so if the Town Board elected not to act on an application for a PUD, it will always retain the right to that exclusive province or power as a legislative body. Mr. Keniry stated that a lot of times there are significantly adverse reactions to PUDs at a concept level, but just because there is a PUDD application does not in and of itself mean that the municipality will ultimately end up with a planned development district.

Mr. Keniry stated that at the policy level it is an appropriate comment to make to segregate the residential use from the commercial and point out to the Town Board the rationale for retaining it as a potentially viable opportunity for growth of the tax base.

Chairman Van Vorst stated that eliminating all PUDDs could potentially be short-sighted and create some regrets down the road, whereas retaining it with modifications allows the Town Board to have more control over the approval of the PUDs.

Chairman Van Vorst asked if there were any comments regarding Signs. Chairman Van Vorst stated that Mr. Baskin had brought up some concerns regarding setbacks from neighboring properties and that the language should be changed in regards to signs and lighting to make provisions for new technology and not just lock the zoning into LEDs, which currently is the best technology, but it may be replaced down the road.

Mr. Blair asked how it would be phrased for technology that we are not aware of.

Chairman Van Vorst stated that currently the proposed language locks the Town into LEDs but if new technology emerges that is more efficient it seems a shame to have the Town locked into LED, but he is not sure what the right language would be.

Mr. Keniry stated that a comment could be made in connection with the potential amendment that the Town should explore loosening up the language a little bit to contemplate that technology may improve and advance over time.

Planning Board members agreed with Mr. Keniry's statement.



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AGRICULTURAL BUFFER

Chairman Van Vorst stated that the next item is regarding the ag buffer. Chairman Van Vorst stated that he had been mistaken in thinking there was going to be a 500' buffer between properties and adjoining agricultural land. Chairman Van Vorst stated that the Building Inspector had informed him that the proposed language is actually a 200' buffer, which Chairman Van Vorst still thinks is going to cripple many lots in the town. Chairman Van Vorst stated that an example would be the application for a minor subdivision at 35 Middleline Rd which was heard at the December meeting. The width of that property that they want to subdivide is roughly 270 feet and it has Ag properties adjoining on the north and south side on the property, so if a 200' buffer was to be created, it would consume the whole property and these people who want to subdivide to provide housing for their children would now have property that would be absolutely worthless. Chairman Van Vorst stated that he had grave concerns about establishing a buffer without having some flexibility to adjust it for individual situations, especially in a case such as 35 Middleline Road that has adjoining properties on both the north and south side which are open meadows that would create no nuisance to the neighbors.

Mr. Maher asked what the rationale for the buffer was.

Chairman Van Vorst stated that the proposed new zoning rationale is clearly stated to eliminate any complaints of the non-Ag residences with any of issues that are involved in agriculture such as noise, odors, lights and so forth, all of which are provisions that should be covered in the Farms First Community stance anyways.

Mr. Blair stated that there are people who buy a house near the Albany Saratoga Speedway and then complain about it, or who buy next to a rod and gun club and then complain about it. Mr. Blair stated that people have the ability to know where they are purchasing and what kind of impact the neighbors are going to have. Mr. Blair stated that he does not think they should have to govern and try to cover everyone's gripe that may be out there.

Chairman Van Vorst stated that he agreed with Mr. Blair.

Mr. Maher stated that he also agreed and felt that there should be some flexibility and he does not agree on having a hard number like that.

Chairman Van Vorst stated that the proposed new zoning does have a provision for the Planning Board to increase the buffer but not decrease it from 200 feet. Chairman Van Vorst stated that there is a great range of intensity of uses of agriculture. There is a big difference between an open meadow where they are growing and harvesting hay as opposed to dense housing of farm animals or manure storage or spreading. Chairman Van Vorst stated that giving the Planning Board some discretion in establishing the size of the buffer would be helpful and perhaps prevent the owner of the Ag property from disturbing intentionally or unintentionally with some of their farming practices as they could have some flexibility to perform a different Ag function, but he did not know if or how that could be done.



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Mr. Keniry stated that the proposed zoning amendment does allow the Planning Board to reduce the buffer to 150' only when features are proposed or present that mitigate potential adverse impacts associated with the interaction of farm and non-farm uses and then the proposed code goes on and establishes five items of mitigation that are eligible for reduced buffer. Mr. Keniry stated that he does not see anything that allows an increase of the buffer.

Chairman Van Vorst stated that the legal language was difficult to understand, but even to decrease the buffer to 150' in the case of 35 Middleline Rd would consume the entire property and he did not think it was equitable or fair to a family that has been paying a mortgage and taxes on this property and now loses the ability to subdivide for the sake of their children to build a house so they could be neighbors; it does not set well with him.

Mr. Keniry stated that Chairman Van Vorst was correct as the proposed code language states the projects in the nature of "minor and major subdivisions and commercial development in the Rural District shall provide a *minimum* [emphasis added] of 200."

Chairman Van Vorst asked the members what the Planning Board stance would be.

Mr. Blair asked if minor subdivisions could be removed from the language so instances like this where parents are splitting property for their children are not affected by this. Mr. Blair stated that he wondered if the intent is to keep large scale housing projects at a distance from the Ag district. Mr. Blair stated that typically minor subdivisions for families occur where they have been for a while and know what it is like to live near a farm.

Mr. Maher stated that it seems like a reasonable compromise. Mr. Maher stated that he felt that it should be determined on a case-by-case basis. Mr. Maher stated that it depends on what the use of the adjoining land is. Mr. Maher stated that if they are haying the field then the buffer could be substantially reduced, but if they are planting corn, then that is a more intensive use and the buffer should probably be greater. Mr. Maher stated that is the role of the Planning Board to make those decisions.

Chairman Van Vorst stated that obviously every situation is different and to have a policy frozen in place takes away the ability to adjust to each individual case and situation. Chairman Van Vorst stated that he feels that they recommend some discretion be given to the Planning Board and not have the distance locked in.

Mr. Maher stated that he agreed.

Mr. Blair stated that he wonders if the Town Board would come back and say that the applicant could go to the Zoning Board of Appeals for a variance for that discretion. Mr. Blair stated that he feels more comfortable saying that major subdivisions should have a hard buffer and that minor subdivisions should be excluded from the requirement.

Mr. Keniry stated that Mr. Blair was correct in understanding that the aggrieved applicant would have to seek relief in the form of a variance.

Mr. Maher stated that that is a reasonable compromise and could offer that to the Town Board.



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Ms. Smith emailed a statement that she likes the minor subdivision exemption.

Chairman Van Vorst stated that the Planning Board stance will be okay with the 200' buffer for major subdivisions, but that there should be some discretion with minor subdivisions.

Chairman Van Vorst asked the members how they felt about the buffer for commercial applications.

Mr. Blair stated that he believes they should have the 200' buffer if not more.

Mr. Maher stated that the Planning Board would want a substantial buffer in that case.

PERFORMANCE BOND

Mr. Maher stated that he had concerns regarding the performance bond. Mr. Maher stated that the Planning Board needs specific guidance in the language regarding what is going to be levied. Mr. Maher stated that he felt the way it is worded is too vague and that percentages need to be codified. Mr. Maher stated that he feels very strongly that explicit numbers be in the code.

Mr. Blair stated that there should be a standard out there that the Planning Board can use. Mr. Blair stated that a performance bond is typically the full value of the contract. Mr. Blair stated that he is not sure where to get it, but there should be an industry or government standard that states what the performance bond should be.

Chairman Van Vorst stated that Ms. Jackie Hakes had stated that in her experience, 100% of offsite public right-of-way improvements and a smaller percentage of onsite improvements could be levied. Chairman Van Vorst asked the members if the Planning Board should pick a percentage number.

Mr. Maher stated that the Town Board should pick the percentage. Mr. Maher stated that the Planning Board should not be put in the position of levying arbitrary numbers and he does not feel comfortable doing that. Mr. Maher stated that it should be in the code so everyone knows from the get-go.

Mr. Blair stated that without a doubt it should be standard.

Mr. Maher stated that the Town Board needs to make the determination. Chairman Van Vorst agreed with that as did Ms. Smith.

HOME OCCUPATION

Chairman Van Vorst stated that at the last meeting, there was some discussion about major and minor home occupation and asked if anyone had any comments.

Mr. Maher stated that he does not have a strong viewpoint on this one way or the other.



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Mr. Blair stated that home occupation varies and depending on traffic loads but doesn't have huge opinion on this.

Chairman Van Vorst stated that there is a greater variety of uses in terms of home occupation; some can be unnoticeable, and some might have odors and noise. Chairman Van Vorst stated there should be some flexibility in the code for each case to be viewed independently. Ms. Matias had made a point about daycare and some people may not object to the traffic for a daycare but might for some other type of occupation.

Mr. Maher stated that he thinks it is reasonable to be given some flexibility and he was not sure what is driving this change.

Mr. Blair stated that he agrees with Mr. Maher.

Chairman Van Vorst stated that Mr. Baskin's position was that there was some concern regarding the major occupation but was fine with minor. Chairman Van Vorst asked if the threshold should be changed.

Mr. Maher stated that he does not necessarily have a problem with that.

Chairman Van Vorst stated that the Planning Board position is that the Planning Board should have flexibility based on the intensity of use and impact on the community.

EV CHARGING STATIONS

Chairman Van Vorst asked if there were any comments regarding EV charging stations.

Mr. Maher stated that philosophically he disagrees with the proposal that the developer should bear the cost. Mr. Maher stated that if the Town is interested in the proliferation of these, then there is funding out there and he doesn't agree that it should be a condition of an application.

Chairman Van Vorst asked if the applicant comes to the town, then would they have to connect with NYSERDA for installation of the charging station.

Mr. Maher stated that yes the applicant would have to either pay for it or be reimbursed by NYSERDA.

Mr. Blair stated that if the onus of getting this infrastructure shouldn't be put on the applicant to get funding.

Chairman Van Vorst stated that the Planning Board stance is leave the zoning proposal the way it is.

Mr. Maher stated that yes, they can leave as is even though philosophically he is against those types of mandates but does not want to make an issue of it.



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MULTI-FAMILY DWELLING

Chairman Van Vorst stated that multi-family dwellings are only allowed in the senior housing district. Chairman Van Vorst stated that he is not sure if anyone on the Planning Board is comfortable with that. Mr. Maher and Mr. Blair agreed.

Chairman Van Vorst stated that every time an application comes up, the Planning Board questions the applicant or developer whether these multi-family dwellings are necessary and they insist that every demographic says there is a demand for apartments and it is only going to increase. Chairman Van Vorst stated that this is borne out by the fact that every new apartment complex that has come into town, there has been a waiting list. Chairman Van Vorst stated that if there won't be any more available, then it is going to significantly impact segments of the population such as singles, single parents, young couples and low income. Chairman Van Vorst stated that if there aren't apartments available then demand would drive up costs and he feels that it is almost to a level of arrogance to think that certain people should be kept out of our town.

Mr. Maher stated that it is short-sighted and a knee jerk reaction what people have seen in the developments that have gone up on Brookline and the Village that has caused a lot of consternation. Mr. Maher stated that single-family housing prices are skyrocketing and not everyone can afford to buy a home in the Town of Ballston. Mr. Maher stated that the Town has a perfectly viable commercial corridor that could allow it and that it is short sighted to essentially ban them going forward. Mr. Maher stated that they should be able to reach a middle ground.

Mr. Blair stated that there are a couple of things that have gone on that may be driving this such as the subdivision on Lake Road where they were supposed to have commercial in and then put apartments in. Also, the Brookline Road project is driving this. Mr. Blair stated that he agrees that there is a need for apartments but also believes that developers try to maximize the number of apartments that they can. Mr. Blair stated that he agrees that without apartments "we are snubbing our noses at people by saying we only want certain people in this community because we are only going to sell single-family houses".

Chairman Van Vorst stated that what is driving some of this reaction is to the last couple of projects that were approved. Chairman Van Vorst stated that the Planning Board was not comfortable with the density of those developed properties but that the Planning Board received a determination that the density was allowed, although that determination may have been wrong. The Planning Board is stuck with very little flexibility and perhaps if the proper interpretation of the zoning had been applied and the density had not been so intense, then there might not be such a reaction to the project.

Mr. Blair stated that a couple of decisions that were rendered by the previous Building Department put the Planning Board in a bad position when it came to the roads and density. Mr. Blair stated that it is an unfortunate circumstance that those decisions were rendered, and that this is a knee jerk reaction to that.

Mr. Maher stated that he agreed with Mr. Blair and Chairman Van Vorst. Mr. Maher stated an outright ban is not a good idea and agrees that with the last few projects, it was unfortunate. Mr.



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Maier stated that there should be a middle ground where some multi-family would be allowed and need a remedy for the extremely dense situation.

Chairman Van Vorst stated that their stance would be that “We as a Planning Board are opposed to the elimination of multi-family housing but are in favor of an adjustment to the density of the projects.”

Mr. Maier stated that he agreed with that statement and that should alleviate some of the concerns of the residents especially if there could be some reasonable controls.

Mr. Blair stated that if the Board is against an outright ban, could it be stated that we need some clarification or adjusting of language that created the ambiguity regarding density and the language could be made specific that would benefit us rather than cutting it out completely.

ANIMALS NOT PART OF A FARM OPERATION

Chairman Van Vorst read a section of the last meeting minutes:

(3) Ensure that all animals are kept away from any wetland, stream, floodplain, vernal pool, or other water body on the parcel. No animal shall have direct access to a wetland regulated by the New York State Department of Environmental Conservation or the US Army Corps of Engineers, impoundment, stream, spring, or well on the lot on which the livestock is located.

Chairman Van Vorst stated that anybody and everybody that has ever had livestock and pasture has used whatever water body available and he does not know the reason for this restriction. Chairman Van Vorst stated that there is encouragement in the Town for people to have animals or livestock, horses, cattle, sheep, goats but this is restrictive. Chairman Van Vorst stated that it affects him personally as he raises sheep and asked if any other Board member had any input or stance on this.

Mr. Blair asked about the Board’s reasoning behind this. Mr. Blair asked if it may be because of concern regarding fecal matter running into the waterways and if the Board had given any insight into this.

Chairman Van Vorst stated that it is not articulated in the zoning. Chairman Van Vorst stated that if that was the reason then every deer and woodchuck would also have to be rounded up.

Mr. Blair stated that he does not see the need for this.

Chairman Van Vorst stated that it seems unrealistically restrictive.



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Mr. Keniry stated that he can pull something together as a draft of the report which could be circulated to the Board if that is easier. Mr. Keniry stated that he wanted to make clear that this is the Planning Board's work product.

Planning Board members agreed.

Chairman Van Vorst stated that he agreed to have Mr. Keniry make a draft.

Mr. Keniry stated that he strongly encouraged the members to go back through the worksheet and email Chairman Van Vorst if they want anything included.

Chairman Van Vorst stated that the consensus is that the Planning Board is in favor of the zoning amendments as a whole, but that there are some minor and somewhat major particulars that they are not comfortable with.

Chairman Van Vorst read Ms. Smith's email:

You assigned some homework back in November. My piece was regarding why the PB replaced the ZBA in certain parts of the draft. I wasn't at several subsequent meetings so don't know if you went through the questions.

Answer: The ZBA was changed to Planning Board in several instances including Page 88 (11), page 148 (A) (1) and 162 for 113 (A) (B) and (G). In all those instances it was changed in relation to a special use permit. These were all changed because the PB issues special use permits now, not the ZBA. These actually are corrections that were missed the last time – when the PB took over doing the Special Use Permit process, these should have been changed then. Now, the ZBA has no review authority for special use permits. The changes are correct and done to align the right board with the special use process.

MOTION: Mr. Blair made a motion to adjourn the meeting. Chairman Van Vorst seconded the motion. All in favor. **CARRIED.**

Meeting ended at 7:19 pm.

Respectfully submitted,

Nisha Merchant

Nisha Merchant
Planning Board Secretary