

MINUTES OF A MEETING AS HELD BY THE  
TOWN OF AURORA PLANNING & CONSERVATION BOARD

JULY 20, 2016

Members Present: Donald Owens, Chairman  
Timothy Bailey  
Douglas Crow  
Laurie Kutina  
David Librock  
William Voss

Alternate Member: Richard Glover

Absent/ Excused: Norm Merriman  
Jerry Thompson

Also Present: Greg Keyser, GHD  
William Kramer, Assistant Building Inspector  
1 Member of the public

Chairman Don Owens presided over the meeting which began at 6:59p.m. at the Town Hall, 300 Gleed Avenue, East Aurora, New York. William Voss led the recitation of the Pledge of Allegiance to the Flag.

Chairman Owens noted that Dick Glover would be a voting member for the meeting.

**Douglas Crow made a motion to accept the minutes of the June 1, 2016. The motion was seconded by David Librock. Motion carried.**

New Business:

**Referral from Town Board on Subdivision Code and District Regulations for review.**

Don Owens noted that he has some concerns regarding the Ag district and ODA. The code as it stands allows for a smaller sized lot as you move from R1 to R2 to R3 district. In the Ag district allows R3 zoning in the Ag district.

Don Owens also stated the task for the evening is to review the draft of both District Regulations and Subdivision, beginning with the **District Regulations**.

Bill Kramer mentioned that the basic change since the last review is the elimination of the RR overlay and the addition of two districts Rural Residential (RR) and Residential/Agriculture (RA).

Doug Crow mentioned that to have new zones, there is a process that has to occur to rezone.

Bill Kramer confirmed.

Bill Voss asked that if these changes are approved, who then applies the changes to the zoning map.

Bill Kramer indicated that the Town's engineering firm would make the amendments according to the codes.

Bill Voss noted that the 300' definition of the RR overlay is not present in the current draft.

Bill Kramer mentioned that the 300' definition of the RR district will need to be added. He further mentioned that the properties in the Town that are zoned A, the first 300' from the centerline will now be the RR district.

Doug Crow asked if the intention is to have all the A zone changed to RR. His further mentioned that in the previous draft, the RR overlay may not be applied to the less densely populated areas of the A district.

Bill Kramer noted that on page 8 just above item B, stipulates that the agricultural limitations (in RR) shall only apply to lots improved with a residential structure. It further states that RR areas not improved with a residential structure shall be allowed full agricultural uses as stipulated in section 116-8.5

Bill Voss discussed the domestic animal limitations in the RR district and beyond the 300'. He discussed the issue of keeping animals behind the 300' mark on large parcels.

Bill Kramer mentioned that if there are complaints the homeowner would need to comply. He further mentioned that if the property the horses are on is not improved then this doesn't apply.

Don Owens clarified that in the first 300', if there isn't a house there the animals can be allowed in that area.

Bill Voss mentioned that the lot next to him is 50 acres. If someone bought it and put a house in the back, the horses can't be allowed in the first 300', but it isn't clear in the code.

Bill Kramer noted that this would need to be clarified.

Bill Voss discussed restricting limiting animals on ODA lots. His concern is that if you restrict the number of animals along the road but don't on the ODA there is the potential for problems.

Bill Kramer indicated that being 300' off the road could be an advantage in this instance. He further stated there isn't a way to address every potential issue.

Laurie Kutina mentioned that 300' off the road isn't the definition of RR in the Town of Aurora. She indicated that there are residential lots way off the road and many farms that are close to the road. She further stated she doesn't have a better answer at the moment, but does not agree with the 300'.

Bill Voss asked that if this RR zoning could be based on acreage alone. For example, if your lot is less than X acres then these are the animal limits.

Bill Kramer noted that it is almost impossible to create a zoning map because the zones would be changing with every split.

Bill Voss suggested not making it a zoning issue but a Town code that restricts the number of animals based on lot size.

Doug Crow asked why there is a problem if someone has a bunch of animals on a lot that is over 300' off the road.

Bill Voss noted that there are problems now (noise, manure) where people have chickens and/or roosters on lots along the road, next to their neighbors.

Laurie Kutina noted that the problem is not that they are close to the road but that they are close to their neighbors.

Bill Voss added that the lots are small.

Laurie Kutina restated that the definition of residential in the Town is not that you are 300' off the road since there are many residential lots located far off the road and many farms close to the road. She indicated that this mix of use is more the rule than the 300' residential alone and she doesn't know how to address that.

Bill Kramer agreed and noted that there has been significant review and discussion on these points. He further noted that he hadn't considered the acreage perspective to limiting animals.

Bill Voss asked that of those properties that have problems regarding animals, are they close to the road and are the properties within that 300'?

Bill Kramer noted that this is generally the case.

Bill Voss mentioned that the 300' designation could theoretically fix the problem.

Dick Glover asked that with more of the A district being used for residential homes, is the building department or Town Board seeing increasing complaints about animals in the A zone next to residential development.

Bill Kramer noted that in recent years there haven't been many complaints for this.

Bill Kramer noted that in general complaints aren't about animals on neighboring farms, but rather the animals on their neighbor's property that has only an acre or less.

Tim Bailey noted that this code carves out a residential area from an existing agricultural area and when someone moves into an area like this they have to be aware of the surrounding uses.

Bill Kramer indicated that there are allowances for agricultural use in the RA district. And excluding properties that aren't developed from the RR regulations would allow those properties to have horses up to the road, to use their whole acreage.

Bill Kramer mentioned that seven years ago it was the Planning Board that proposed the RR and that now there are few working farms in the Town.

Don Owens agreed and noted that problems arise when individuals who move into the Town want to keep animals and only have a small lot.

Laurie Kutina indicated that there still are a lot of farms and agricultural areas. She indicated her concern is that the 300' zone would make it easier to carve up into small residential lots.

Bill Kramer stated that owners can currently do that.

Laurie Kutina agreed and further stated that the ODA code was written in response to what was happening in the town at that time and she is concerned that this code is moving in that direction as well.

Bill Kramer suggested that a possible answer would be to require any lot be 10 acres and that is not going to happen.

Laurie Kutina suggested that if residential lots were created, including ODA, that there would be a certain distance away from that lot that agricultural uses would be permitted. The ODAs approved over the years are far off the road and still zoned Agriculture. She asked if those properties being protected as much as an owner whose house is next to the road.

Doug Crow noted that there is a benefit to protecting homeowners who live in a densely populated area. He further mentioned that if your house is over 300' off the road, you are likely not in a densely populated area and that you shouldn't be so worried about the chickens in the next door neighbor's yard.

Don Owens noted that the ODAs are piling up against one another.

Doug Crow agreed and indicated that there is resistance to the creation of those properties.

Laurie Kutina asked what happens to those owners who are 700' off the road and have an acre of land. Are those property owners going to be protected?

Bill Kramer noted that we can't cover every situation.

Laurie Kutina noted that there are many homeowners who live like that, it's not the exception.

Bill Kramer indicated that it is more of an exception to the homeowners who live along the road with 125' frontage.

Don Owens noted that over time we will likely see an increase in ODAs.

Doug Crow indicated there are limits to an ODA.

Bill Kramer noted that the Subdivision Code now includes ODAs. He further stated that any variances to the regulations will be granted by the Town Board, eliminating the ZBA hearings.

Bill Voss asked if on page 10 under RA, section A(1)- permitted uses should be R3 or RR.

Bill Kramer indicated it should be RR.

Bill Voss asked if RR includes R3.

Doug Crow if B1 should be changed from R3 to RR as well.

Bill Kramer indicated that no, it should just be business.

Don Owens suggested the RA should include R1 use and not R3 or RR.

Bill Voss noted that if you allow R3 then you are allowing multifamily dwelling, professional offices, etc.

Bill Kramer noted that the size of the lot will limit the dwelling.

Bill Voss noted that in RA, 2 family dwellings and professional offices, etc would be allowable uses.

Bill Kramer confirmed.

Doug Crow asked for confirmation that the uses of B1 are to include R1, R2 and R3.

Bill Kramer confirmed.

Bill Kramer further mentioned that the uses are through a special use permit and any change in a business will go before the Town Board for approval.

Laurie Kutina asked if the special use permit is for anything outside an allowable use.

Bill Kramer noted that it is for any use or change in use.

Don Owens asked if the Planning Board would be involved in that review.

Bill Kramer noted that this is part of the special use permit application which hasn't been finalized yet. He further indicated that not all permits would likely go before the Planning Board.

Doug Crow asked if the fee will be reasonable for the special use permit.

Bill Kramer indicated that he believed it would be reasonable.

Doug Crow indicated his concern was about a large fee restricting people from doing business in town.

Doug Crow further noted that he doesn't have a concern about the 300' distinction. He also mentioned that when people build single family homes we should encourage them to build next to the road and to that point, we should have an obligation to protect their enjoyment of their property for that 300'. As a bigger protection then if they are 500' from the road. So there are more restrictions for the people in that 300' and fewer restrictions for those beyond.

Dick Glover noted that some limits need to be established. And if someone would like to test the limits then that is what the ZBA is for.

Laurie Kutina asked about the zoning map and if now everything will be RR 300' off the road.

Bill Kramer indicated that everything that is currently zoned Agriculture will be RR. He further discussed that on the map there will still be the RR zone for the 300' but for those lots that are not developed, the RA uses are allowable.

Dick Glover asked about density in the RR and RA, specifically the dwelling units.

Bill Kramer noted that for RR and RA districts have 125' lots and an R3 use, so a multiple family would be an allowable use.

Dick Glover would prefer an R1 density in RR and RA districts.

Don Owens agreed.

Bill Kramer noted that on page 7, the RR permitted uses do not refer back to R3 or anything. The R1 uses are the allowable uses listed on RR: single family, church, etc.

Laurie Kutina noted that RR only allows a single family dwelling.

Bill Kramer noted that the RA district does allow R3 uses.

Don Owens indicated that RA should be R1.

Bill Kramer noted that much of the RA property is the larger properties and that is where the acreage is available to put in multiple family homes. Special use permits are also required for certain development.

Dick Glover discussed the goal to preserve and protect open area of the Town.

Bill Voss noted that in RA someone could build an apartment complex.

Bill Kramer noted that one could be built now in an A district. He further indicated that the RA areas are the only location where property is large enough to accommodate this type of development.

Bill Voss noted that the problem now is that there isn't a way to say no to certain development.

Laurie Kutina noted that if the new district will be called Rural Residential then the use of RR shouldn't be multifamily, town homes or patio homes.

Bill Voss noted that if we had wanted to stop Mill Rd, we couldn't have done it because A includes R3.

**Dick Glover made a motion to recommend to the Town Board that the maximum density in the RR and RA districts be limited to R1 district regulations. Seconded by Doug Crow.**

**Upon a vote being taken:**

**ayes – seven**

**noes – none**

**Motion Carried.**

Laurie Kutina asked about the process of assigning new zoning districts to the Town.

Bill Kramer indicated that there will need to be a change in the zoning map. SEQR will have to be done and public hearings as well.

Don Owens noted that this is a major process.

Greg Keyser indicated that a possible comment from Erie County Planning is that these changes would need to be based on a comprehensive plan since these are major changes: creating 2 new zoning districts; changing permitted uses in some districts; changing the land use pattern in the Town. This would all need to be accompanied by extensive discussions with property owners.

Subdivision Code review:

Doug Crow discussed three potential concerns regarding the proposed code. First there is an inconsistency in the language regarding adjacent properties. The specific language is “500 feet or 3 parcels (whichever is greater)...” There are three places which the “or 3 parcels...” is missing and it should be consistent. The sections are: page 6 section B(11), page 18 section A(3)(e), and page 21(E).

Doug Crow mentioned a second issue that a single lot ODA does not have to go to the Planning Board for review.

Bill Kramer mentioned that the single lot ODA may or may not be sent for review.

Doug Crow agreed, but questioned why multiple lot ODAs would be sent and single lot ODAs would not. He asked if it makes sense that the Planning Board review all ODAs.

Don Owens noted that the key issue is access to the road and there could be an issue on the first ODA on a private driveway. As written, the Planning Board doesn't have a say in the first ODA.

Doug Crow noted that this is a change to the ODA code for single lot ODAs.

Bill Kramer indicated that in the event that a single lot ODA was submitted and had all the requirements met then they could just approve it.

Bill Voss asked if the ODA becomes a multiple if they put a second, third, fourth and fifth house on it.

Bill Kramer noted that only three ODAs are allowed on the private driveway and the minimum lot size is 3 acres. He referenced the definition of a multiple ODA under §99-4 Definitions.

Doug Crow asked if the deed restriction noted in §99-36 is new.

Bill Voss noted that it is currently in the ODA code.

Laurie Kutina asked what would happen if someone wanted to put a house on the Sweet Rd ODA.

Bill Kramer noted that the ODA application would be submitted to the Town Board and the Town Board would have to grant a variance.

Greg Keyser asked who is reviewing property splits to make sure the split meets the zoning code.

Bill Kramer indicated that there are 3 lots off a driveway. He further mentioned that a property owner who wants to split property will generally call the office to ask what can be done on their property.

Members discussed the Maple Rd ODA process.

Bill Voss asked about the design standards for access roadways on page 22. He noted that it reads like the 50' right-of-way must be constructed of gravel, asphalt or other hard surface.

Doug Crow suggested splitting the first sentence of B(1) into two sentences.

Bill Voss noted that item 2 is new.

Bill Kramer stated that the Code now includes the applicable elements from Appendix D from the fire code for driveway requirements.

Bill Voss asked for clarification on the "Y" turnaround requirement.

Bill Kramer noted that a turnaround will be required between the end of the 50' right-of-way and the residence.

Bill Voss asked about the 28' turning radius.

Bill Kramer indicated that if there is a curve in the driveway, the minimum radius for that turn is

28’.

Laurie Kutina clarified that the purpose of adding the driveway specifications in the code is to avoid having to go back to the Fire Code and interpret that.

Don Owens noted that there will be consistency in the future and there will be a code that has to be complied with.

Dave Librock asked if the 10% grade is included.

Bill Kramer confirmed as noted on page 22 item B(2)(c).

Bill Voss noted that the only changes he noted in the subdivision section was on page 16 §99-25 minimum size increased from 10 acres to 15 acres and §99-27 minimum lot size from 5000 sq ft to 7200 sq ft.

Bill Kramer indicated there were some small changes about public notification earlier in the process.

Tim Bailey noted that the changes Bill Voss mentioned were in the cluster subdivision section.

Bill Voss confirmed that the only change to the basic subdivision section was to the public notification.

Bill Kramer agreed.

Dick Glover noted that the ODA code is now a part of the subdivision code and that SEQR is part of the requirements. He asked if the “not an as-of-right use...” wording was removed.

Doug Crow indicated that it is included as on page 18 §99-28 B in the last sentence of the section.

Don Owens asked if there was consensus.

**Doug Crow motioned to recommend to the Town Board the following regarding the ODA code:**

- 1. For consistency add the phrase “or 3 parcels (whichever is greater)” to page 6 section B(11), page 18 section A(3)(e), and page 21(E) after the 500ft.**
- 2. The Planning Board would like to review all ODA applications, single and multiple.**

**Seconded by Dick Glover.**

**Upon a vote being taken:**

**ayes – seven**

**noes – none**

**Motion Carried.**

Greg Keyser asked if there is a time line for adopting the changes.

Bill Kramer noted that the Town Board would like to adopt it as soon as possible due to the moratorium on subdivisions and ODAs and not wanting to extend the moratorium again.

Greg Keyser recalled a meeting seven years ago that discussed the vision map and the comment from at that time was that the map changed the land use patterns.

Bill Kramer indicated that the converse could be stated with these revisions. He noted that with these codes there is a different label on existing agricultural property and identification of some of the limitations. These changes make little difference the density of the properties or how the property is used.

Members expressed concern about public response to the proposed changes.

Dick Glover briefly mentioned a class he attended at Houghton College where an attorney discussed his recommendation was that Planning Boards should have final decision making capabilities.

Bill Kramer noted that in many communities east of Rochester, the Planning Board does have final decision making capabilities on subdivisions, for example.

A motion was made by Doug Crow and seconded by Tim Bailey to adjourn at 8:37PM.

**THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY August 3, 2016 AT 7:00 P.M. AT TOWN HALL, 300 GLEED AVENUE, EAST AURORA, NEW YORK**