

# TOWN OF LLOYD TOWN BOARD

## SPECIAL MEETING

JANUARY 12, 2011

**Present:** Supervisor Raymond Costantino  
Councilmember Kevin Brennie  
Councilmember Nancy Hammond  
Councilmember Jeff Paladino

**Also present:** Sean Murphy, Attorney  
Rosaria Peplow, Town Clerk

**Absent:** Councilmember Michael Horodyski

**5:00 PM** – Supervisor opened the meeting and led the Pledge of Allegiance.

Supervisor welcomed members of the Planning Board, Zoning Board of Appeals: Brad Scott, Herb Litts, Larry Hammond, Paul Gargiulo, John Fraino, Dominick Martorana and the Town Board for a discussion of possible changes to the Zoning Code and introduced David Barton, Building Department Supervisor.

Barton said this meeting is the result of living with the new Zoning Code for a year during which there have been comments from the Planning Board and the Zoning Board of Appeals. The comments have been incorporated into proposed amendments to the Town of Lloyd Zoning Code. He distributed and reviewed the proposed changes.

### **Definitions**

#### **New Additions:**

1. **Building Coverage**  
That percentage of the lot area covered by the combined area of all buildings or structures on the lot.
2. **Building**  
Any structure having a roof supported by columns, piers or walls for the housing, shelter, support or enclosure of persons, animals or property.
3. **Structure**  
A static construction or assembly of materials, the use or occupancy of which requires a fixed location on or under the ground or attachment to an object having such a fixed location. “Structures” shall include, among others, buildings, dams, docks, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, tennis courts, gasoline pumps, billboards and signs. “Structures” shall not include utility poles, wire and related equipment.

### **Home Occupation**

Barton explained this is an enforcement issue as it is unclear in the current Code what “residency” means. The proposed addition is “residency shall mean that one or more of the family members must use the dwelling unit at least 4 days a week, every week of the year, as their primary residence”. This is difficult to enforce and his department would have to ring the door bell randomly if there were complaints about the property.

Supervisor asked if this is an accessory use to an existing residence or in an additional building to the existing residence.

Shari Riley said that it is allowed as a “dwelling unit or accessory building”; you may add an accessory building as long as it meets all of the other parts of home occupation.

Barton added that there is a list of the home occupations in the Code book. There are two types of home occupation, consideration is given to the number of employees, and some things might trip up in the site plan.

Supervisor said in reference to the Rail Trail Overlay District, he has a vision that Bella’s will be selling biscotti off a deck on the back of her building on Vineyard Avenue, which faces the Rail Trail.

Riley said that the definition of home occupation and the boundaries have worked well; however, the issue is if the intended use would be allowed when someone does not live there even though it is considered a single-family dwelling creating a loophole. This addresses that loophole.

### **Commercial Vehicles**

Barton related that this came from an application to the ZBA for a large piece of equipment in a residential area. He feels that this will be interesting to enforce. Tractors, front-end loaders, excavators and other equipment used exclusively for personal use on a property are not

considered commercial vehicles. This will allow a vehicle over 10,000 pounds considered for residential use.

Paladino gave an example of a house in Milton with several tractors and vehicles in the front yard, which is an eyesore, and asked how that would be handled in Lloyd.

Barton said that later in the presentation there will be a discussion of Dumpsters and Trash Containers and it could be written in for the Commercial Vehicle on residential lots.

Supervisor asked if it was a hobby or a collection of antiques of the property owner.

Litts suggested that the wording could specify "for the exclusive use of maintaining the property".

Tractors stored in a front yard would not be used for the maintenance of the property; a backhoe or tractor with brush-hogs would be for the maintenance of the property.

Paul Gargiulo offered that these are not commercial vehicles as they do not leave the property.

Paladino asked about a house on Route 44-55 with a yard full of items.

Riley said that property in that strip would probably be zoned Commercial and that may be considered yard sales; she feels that the Town Code should indicate how many yard sales are allowed. There is a complaint of someone in the Hamlet who has yard sales every weekend. She would consider that to be a consignment shop.

### **Flag Lots**

Barton said that the Town of Lloyd zoning requires double the acreage for a flag lot; this is sometimes difficult. In R1, the actual flag lot in the back would have to be 2 acres. The language is specific about buffering. The proposed addition would be, "The lot(s) furthest from the road frontage shall have an increased front yard setback to 60 feet and the house location on the lots shall be offset, to the left or the right, the width of the house closer to the road frontage plus 15 feet." This assures that the front windows of the house in the back are not staring at the rear of the house in the front.

Paladino asked about Board of Health issues.

Barton answered that this may be a problem, if the house has to be sited one way and it is wet on one side, the application can be denied as part of the environmental review.

Riley said that an appeal can be made to the ZBA for anything pertaining to zoning, for example, if the lot had a drop, it may be okay to locate the house behind the front house.

Barton added that the language gives direction as to what is allowed.

### **Dumpsters and Trash Containers**

Barton said this is now a problem in the Hamlet and there is no recourse at the present time. He is proposing, "Dumpsters, garbage cans, and other refuse containers shall not be permitted to be placed in the front yard on any lot. All refuse containers of any kind shall be set back or screened from the neighboring properties, public spaces, and roadways in such a manner to sufficiently block them from view." He is recommending this for all zoning.

Riley asked how that would impact garbage pickup.

Barton felt that containers can be put out the night before pickup.

Supervisor noted that there is a dumpster on Vineyard Avenue, situated 10-feet off of the sidewalk in plain view as compared to the dumpster at the Rite Aid store that is in a beautiful enclosure in the back of the store.

Litts said that the Hess station does not comply as there is dumpster in front of the building.

Riley asked how a multi-family house in CB, without a rear yard, would handle this. It was once discussed to put dumpsters in the Town municipal parking lot for apartments within the Hamlet.

Supervisor said before mechanical loaders and dumpsters, people used garbage cans.

Riley proposed removing 'garbage cans' and retain 'dumpsters' in the new wording. The suggestion may be made to get the cans that could be rolled from the backyard to the street on pickup days.

Brennie suggested making it a requirement in the Hamlet or by the lot size, a variance would be needed on a smaller lot.

Gargiulo felt that on a new project, the Planning Board can be take care of the garbage can issue during the site plan review.

Barton said that his intent is health, safety and welfare; the 'welfare' part is also about property value.

Suggestion was made to keep it the way it is; there are those who will not be able to comply and they are the only ones who would have grounds to come before the board; look at each case individually.

Riley offered that the laws are there so that there is compliance under the best circumstances; if there is a snowstorm and it is difficult to move the cans, it won't be a problem.

Gargiulo expressed a concern about a fire hazard if there are 20 garbage cans lined up against a building.

Paladino agreed and said that he would rather see a dumpster if there are over four apartments.

Barton confirmed that the consensus is for restrictions in all residential zones.

### **Excavation**

Barton explained that this recently came up and there is nothing in the Code; simply says that a property owner cannot damage the neighbor's property while doing construction excavation on their own property. He proposed *No excavation shall occur on any property that does or might impact neighboring properties, unless the edge of excavation shall have such protection against erosion or settling so as to protect the neighboring properties.*

### **Accessory Buildings**

Barton said that the ZBA has a concern at the present time that, a 2 ½-story garage could be built 5-feet from the property line, which is not the intention of the 5-foot setback. This amendment states that at 250 square feet or more the building must comply with the setbacks.

### **Stream Corridor and Site Plan**

Barton explained in the Stream Corridor Overlay, the biggest concern being the Twaafskill, nothing larger than 500 square foot is allowed now, which is 100-foot from the flood elevation or 50-foot from the top bank. Language that will be added is "*no structures will be located except for those approved by the Planning Board at the site plan review*".

### **PRD**

Barton related that the TND is hard to work as it is and requires key intersections and level lots, and there are not many in Lloyd. Terresa Bakner, attorney, has suggested that the PRD be reinstated; although the PRD probably does not work any longer. It requires 500-foot road frontage and the Town has a lot of long, narrow lots; it would require a developer buying several of the long lots to make the road frontage.

He said this needs to be considered as right now the only large residential overlay district the Town will have if the TND comes out, would be the MUD which is mixed use allowing commercial, similar to the TND.

Paladino asked the difference between a MUD and a PUD.

Barton answered that it is density. The MUD is more like a TND multiple family. The Planning Board considers a multi unit building that looks like a single family. The MUD and the TND both envision that the multifamily high density was meant to look like semi-attached and attached single family dwellings. The PUD allows 50% residential use and MUD allows a little higher for less density.

Paladino asked if those parameters are up for discussion as it seems high to him.

Barton replied that everything is up for discussion.

Paladino referred to Page 79, Chapter 100, MUD density minimum size commercial residential size.

Barton said maximum lot coverage is 35% by right, 45% by incentive zoning; if you wanted to pay into the incentive zoning, you could pick up 45%, 10% commercial mixed use of 50%. Commercial mixed use would be mixed use residential like a CB.

Paladino asked if the MUD minimum acreage was 50 and asked if that is something that should be reduced.

Barton commented on buildable acreage in the Code; for an example, Pancake Hollow, in front of Illinois Mountain, some parts of South Street, the backs of those lots are unbuildable because of the steep slopes. It may be considered as a tradeoff in density. Dennis Doyle, Ulster County Planning Board, suggested this when the Code was reviewed last year. The Illinois Mountain Overlay will be put back in.

Paladino asked if the proposed project on Vineyard Avenue would be considered a MUD.

Barton replied that it could be but their problem will be buildable acreage. They will need a TR zone, a trailer park; the non-buildable acreage was not considered in the plan that they brought to the Planning Board. Their proposal is a trailer park in terms of density, types of houses, ownership of the streets and the property.

Paladino felt that cannot be considered under their proposal with the type of houses they are building. They offered the example of The Gables, Poughkeepsie. Even if there are built on a slab, they can still put wheels on the houses and drive out of there.

Barton said that they could ask for a zone for a trailer park. The Town Board will have to consider if they want to see a trailer park there. He is concerned about the roads that they are proposing and other items in their proposal are red-flagged for him. A smaller acreage zone could be considered.

Supervisor commented that the concept for low-cost senior housing for \$150,000 to \$180,000 houses was intriguing and considered because they are not asking for services. A senior project without school age kids but still paying school taxes could be beneficial. The trailer park

problem is the issue because next developers will also want a trailer park. These are double-wide trailers that look like homes, not manufactured housing.

Gargiulo asked if manufactured housing is usually wood and a trailer has a steel frame. If that is correct, the Town could restrict steel-frame houses.

Scott Saso, Planning Board, Chairman, replied that the biggest difference is that a manufactured house has tie-downs; the frame stays under it, no walls, on a concrete slab. A modular comes off the frame and is permanently affixed to a concrete wall, never comes up again, becomes real property and is not chattel, deeded.

Supervisor recalled that Richard Rosenberg, owner of Chelsea Homes, designed a modular that would comply because it was on a foundation, something similar could be used for this project.

Paladino said that the problem of zoning is the issue not the problem of the foundation.

Brad Scott, Planning Board, asked what the zoning was for Vineyard Commons.

Barton answered that it was PRD and it was written to allow them a specific density. The Town Board has legislative power to write a law specifically for the parcel.

Supervisor said that another zone is needed to give them the density that they require.

Barton stated that Barton and Loguidice has helped other towns write higher density overlays, however, Ted Kolankowski of Barton and Loguidice was unable to attend this meeting due to the snow.

Supervisor asked if a modular can be provided for the same price as a manufactured home and he felt that it would not be and that would run up the price point.

Paladino contends that it is the density issue, not the type of house.

Barton said to consider trade-offs because of the buildable lots; for example, if half of the lots are unbuildable, for every two acres that are lost, one dwelling unit would be given for the buildable area. Part of that is given to forever wild and a conservancy is dedicated.

Litts offered that if the overlay district for Illinois Mountain is written, there are other restrictions.

Supervisor said that the property owners did not want to be told that they could not build up there and felt that what was being done was confiscating their property; it was a money issue for most of the homeowners.

Litts said they are the same argument give with the Riverfront Bluff Overlay.

Barton agreed that the Riverfront Bluff Overlay could be applied to Illinois Mountain. Some of the developments would be restricted by steep slopes and the driveway ordinance that says no more than 15% grade.

Riley said that the project would have to go before the Planning Board to look at design elements.

Litts feels that in order to choose the boundary of the Overlay district it should be an elevation. It does not preclude people from building; it requires an additional review by the Planning Board.

Barton added that the old language did ban building and he offered to work on it.

Supervisor said that Orchards has asked for zone change and the Town Board has the prerogative to not act on it; the Board has been stalling because there is nothing to offer back. He felt that what Orchards is asking for is not going to work for them or anyone else. The Town Board needs some input and to figure out what can be done. He likes the idea of less costly homes, especially for seniors.

Scott said that he agreed but regarding Saso's and Paladino's comments, there is a difference from building on a slab; a slab which is just a vapor barrier for something that comes in and has a steel subfloor and the floor is above that or having a slab without a basement and having a water-sealed structure on that, the slab being the floor.

Supervisor agreed and said that the Town did not want the 'trailer park' designation as they have been rejecting trailer parks in concept. The Gables is a nice example but is still a trailer park.

Scott said that it loses value over time just by the nature of it, as opposed to something that appreciates in value; the idea that it can be pulled out and another installed speaks to that.

Supervisor mentioned The Villages in Florida, as an example where the original structures that are 30 years old are uninsurable; they have depreciated and there is no value.

Barton asked everyone to mark up the text of the email that he has sent to them as to what they want to see regarding the PRD.

## **Noise**

Barton explained that the current noise ordinance is very expensive to enforce as it requires equipment to measure and certified, trained, personnel to use the equipment. His department has a \$100 device that measures decibels. The current language in the ordinance requires measurement of the decibels in different octaves which requires the extremely expensive equipment.

He is proposing an entirely new text for the ordinance requiring the medium range for decibel level is 65 decibels which is the level of his voice at this meeting; at the property line, this is all that

should be heard. There are exempt noises such as lawn mowers, emergency repairs, construction on a house, etc.

Riley reiterated that the ordinance as written could not be enforced because the department did not have the right equipment.

Gargiulo asked if the octave should be different in residential areas and commercial areas.

Riley that was considered in a commercial corridor; Vince Veltre brought up the idea of different decibels for different zones. The ZBA can look at each case.

Litts asked how that would affect the agricultural community regarding the spraying and wind generators and he feels this should be covered in the ordinance.

### **Special Use Permit**

Barton said that this language came from the Planning Board, "where a site plan is required for a Special Use Permit, a site plan conforming to the requirements of Article 8 (site plan review) shall be submitted to the Planning Board". This gives the Planning Board the ability to determine what it means to have a site plan regarding how much information is required.

Litts felt that needs to be consistent because on a case-by-case basis there is always a possibility one case is handled differently than another.

### **Manufactured Home Parks**

Barton said this was an error on his part, when the Code was originally adopted the language determining the density of a trailer zone; there are three in the Town but the language is directly out of the old Code, TR1.

New wording is that in manufactured-home park; the total building coverage of building and impervious will be 30%.

Paladino feels that is low as on 15 acres, the minimum park area, no more than 5 acres can be occupied. There may be topographical issues that will limit what can be done.

Dominick Martorana offered that one way to build flexibility into this would be inside or outside the water and sewer districts. He read the requirements for fire hydrants and concludes that park would have to be in the water and sewer districts.

Paladino said that there is no vacant land in the TR zone.

Discussion ensued as to the amount of unbuildable property in relation to the 30% coverage.

Litts would like it to be perfectly clear and make it 30% of buildable acres.

Barton said that he will crunch the numbers and email the results to everyone. Something needs to be said in the Code.

Paladino said from the developer's point of view, it is dollars and cents; a 100-acre property that may have only 20 units will never be developed.

Martorana said that you have to look at what is wanted for the community.

Saso posed that clustering is supposed to be looked at as the first option.

Riley said in the storm water arena, using wetlands for walking paths brings more money per unit.

It isn't always how many houses can be put there but how to use open space; there is a shift in the mentality of how to use the green property.

Barton and Riley said that Vineyard Commons did a good job in incorporating vistas in an interesting walking path through their property.

### **Site Plan Review**

Barton said that a licensed surveyor was not included in the original language.

Martorana said there is nothing in the Code regarding expiration of the site plan.

### **Use Table**

Barton explained that this is the result of the Rite Aid project, in a LB zone; the original conceptual plan included a restaurant. In the old and new Codes, there are no restaurants allowed in the LB zone but they are in the LB zone. He feels that the developer/builder did a good job and would not object to a restaurant at that site.

Martorana asked if the LB zone was needed.

Barton answered that the other LB zone is at New Paltz Road and Eltings Corners.

Martorana thought that was changed to Residential and the Rite Aid property should be GB; those are the last two zones that should be changed.

Barton said that he agreed the LB should be removed from the Code; and the parcel North Eltings, the parcel on 9W South and the corridor by Chapel Hill, Trapani's corners, should be Residential.

Martorana said that, Joey's Autos, Chapel Hill Road should be addressed as non-conforming. If he sells the property and someone comes in with an office plan, it is Residential and it cannot be done.

01.12.2011

Gargiulo said that he would come before the ZBA and claim a hardship that he has a Commercial piece of property; an office building would be more appealing.

Martorana said that it is self-created.

Barton felt that Gargiulo had a good point as if the zone is changed, the Town did it and it is not self-created.

Barton would like written into the Code that cargo containers on residential lots cannot be sheds.

He confirmed that he will change the Zoning map: Chapel Hill and Route 9W will be GB; LB on North Eltings Corners Road will be Residential.

Riley asked if the property owners could be notified of the proposed changes.

Barton felt because there weren't many properties involved, the GIS program could be used. He said that there is no requirement in the law to send notices.

Supervisor asked if Barton would comment on the Central Hudson site regarding the FEMA floodplain map.

Barton responded FEMA rejected the application of Mr. Knapp, consulting engineer, who determined that Central Hudson was not under water and should be taken out of the flood plain.

Knapp contended that the railroad created a dam, which kept the water from the Central Hudson property. There are penetrations through the Rail Trail off New Paltz Road. As a result, Central Hudson will have to raise the back of the site almost 4-feet or because of the new hydrology models, they could take the real property out of the flood way and recalculate what would possibly flood. At this time, almost half of that site would be under 4-feet of water.

Supervisor said that this is disappointing as it was hoped that this property would be developed for rateables on the highway.

Barton assured him that it is possible to elevate the structures, which is allowed by the Building Code and FEMA. He said that the area in question was in back of the buildings.

Martorana queried how that would affect the parking lot; if the Boards ask for development to the front and parking to the back, the property almost lends itself to that.

Barton agreed and said that when developers came in a year ago, that is what was suggested.

Martorana posed that the developer just has to rethink how he looks at a property.

Supervisor asked the status of the progress on the brick building at the corner of Milton Avenue.

Barton replied that the site plan for the property has expired. He explained the history that the building as submitted to the Planning Board and got approval minus some offsite parking; as designed, it is right on the property line and requires a certain amount of setback, unless the windows, which are on the property line, are rated to a certain fire resistance. To rate them to the 3-hour requirement setback, it would cost about \$6000 per window. The current Code does not require onsite parking in the CB. He told the owner to submit a new plan and the Planning Board would be happy to review it.

Supervisor remarked that we need to think about the Hamlet and what we want to see there because if we wanted a special use in the Hamlet, the Development Corporation may subsidize the rent and entice them to be there. If Sawyer Bank moves out, they may hold the lease so that no other bank move in the building but if there is another type of business that is interested, they might release that and that building could be viable. The building where Vadala's Pharmacy was on Vineyard Avenue and 1 Main Street (formerly Chico's Barbershop) are empty; Who's Your Paddy? (Long Shots building) may not be opening there and the building is still for sale. Consider that a site plan approval would not be needed to open a bakery.

Martorana feels that it comes down to that design standards are needed; everything should be laid out so that the business can come in and look at the zoning;

Barton thanked Martorana for the reminder about the handout on Design Guidelines and Outdoor Lighting Standards, written by GreenPlan; the lengthy document is available on the website.

Martorana said that this is similar to 'shovel ready', they come in and look at it; anything exceptional will be referred to the Planning Board or ZBA, other than that, it is set.

Barton thanked everyone for coming to the meeting and asked for emails from anyone who has a question or a suggestion.

**MOTION** made by Hammond, seconded by Paladino, to adjourn the meeting at 6:55 PM.

**Three ayes carried.**

Respectfully submitted,

Rosaria Schiavone Peplow  
Town Clerk