

TOWN OF TAGHKANIC  
ZONING COMMISSION MEETING  
June 5, 2017

**Members present:** Joyce Thompson, Chair; Members: Kathy Bainer, Elizabeth O'Donnell, Moisha Blechman, Al Huehnel, Donn Critchell, John Roberts; ZC Secretary Linda Swartz; ZC Consultant Ted Fink

The Meeting was called to order at 5:08 by Joyce Thompson.

**Approval of Minutes:**

Joyce noted a minor typo which will be corrected by the Secretary. A motion to accept the Minutes from May 29, 2017, with the correction as noted, was made by Donn Critchell and seconded by Kathy Bainer.

**Ayes:** 5\* (*Critchell, Bainer, Huehnel, Blechman, Roberts*)      **Nays:** 0      **Abstained:** 0

*\*Elizabeth O'Donnell arrived a few minutes after this vote was taken.*

**Article 70 Version 3: Editing Review:**

ZC received the latest version of Article 70. Ted went over the revisions:

- At the May 29 meeting, the ZC questioned the strength of the word "shall". Ted advised that the word "shall" has been found by the courts to be a term that expresses a requirement, while the words "will", "must", and "should" are viewed as options or goals.
- 70-A.1. Ted suggested ending the lead paragraph with the word "except" rather than "but"; and he rewrote Provision 1 in a positive manner. He said if the ZC agrees with the new language, he will rewrite Provisions 2 through 6 in the same way. The ZC told Ted to go ahead with the rewrite.
- 70-A.4. A non-conforming use may be extended after public hearing, providing due diligence can be demonstrated. The words "or longer" should be removed from the first sentence.
- 70-B. The ZC decided that the phrase "prevent or require" is acceptable since it doesn't supersede any other requirement in this code.
  
- 70-G.1.b. This section will be changed back to the way it appeared in Version 2; the minimum lot requirement will be one acre, with a minimum width of 100 feet at the setback line. (This is how it is written in the current zoning.) 70-G.1.c. provides guidance for properties of less than one acre. If you have less than one acre and cannot meet setbacks, you need to go to the ZBA.
- 70-G.3. Rewrite as follows (changes appear in bold type): *A **vacant** lot that is non-conforming as to minimum size for the District in which it is located may be subdivided **only** if each subdivision of **said** lot is purchased by the owner or owners of the adjoining **property or** properties to increase the size of said owner's or owners' property or properties.*
  
- 70-I The ZC finds this article to be too confusing. If a developer still owns unsold lots after 3 years, and redistricting causes those lots to be non-conforming for the district in which they are located, would those lots have to be somehow combined to make them conforming?

The complexities of these articles resulted in a lengthy discussion about existing undersized lots and whether they can be sold or developed.

- As an example, someone purchased 9 acres in a 7-acre zone in the late 1980s. The property had been subdivided into three 3-acre parcels in the early 1980s (prior to adoption of the current zoning). One lot is developed with a home, the other two parcels are vacant land. Current zoning and the draft zoning both prohibit the sale of non-conforming lots except to adjacent property owners. However, the setback requirements for the R7 district would be easily met if the 3-acre parcels were to be developed, so why can't they be sold as developable lots?
- What is the intent of this article?
- Should the code allow pre-existing non-conforming lots to be sold separately as long as they can meet the setbacks for that district?
- Is a 3-acre parcel in a 7-acre district the same as a half-acre parcel in a 3-acre district?
- An existing undeveloped lot that is non-conforming and unable to meet even minimum setbacks for the zone it is located in cannot be developed.
- There should be some limit as to whether or not a non-conforming lot can be sold as a separate parcel. Just because it is pre-existing doesn't mean you can build on it. Is buying an undersized lot considered to be a self-imposed hardship?

- Changes to non-conforming lots require ZBA approval. The ZBA needs guidelines that would allow them to use discretion. They should consider whether or not the proposed changes fit in with the character of the immediate neighborhood? Ted advised the ZC that the courts have found it arbitrary to deny a variance when the same use is common in the area, among other reasons, as long as the use is consistent with the character of the neighborhood.
- 70-K. If a Special Use Permit was not required under the old zoning, you wouldn't need a Special Use Permit to continue that use, unless you want to make a change. This idea is not stated clearly in this section. The ZC finds this paragraph to be confusing as to who it applies to. Paragraph contains too many negatives. In first sentence, change "*not prohibited*" to "*conditionally permitted*". Remainder of this paragraph must be rewritten.

**Mixed Use – Impact of Proposed Changes:**

What is the goal and what are the impacts of the proposed Mixed Use District? Would commercial uses in the residential areas diminish property values? How would the residents feel about the change? Need to more clearly define the area. CR10 from Route 82 to the TSP is nearly 3500' in length. Goal is to increase density, provide area for home-based businesses to move to when they outgrow the home, while prohibiting large commercial operations.

ZC looked through the Use Table and considered which uses should be restricted to Route 82. The following uses were identified as uses which should be limited to State Highway: Bar, Car Washing Station, Gasoline Filling Station, Hotel or Motel, Storage Facility, Tavern. Solar or Wind Energy Systems cannot be freestanding in the MU district (roof-mounted only). ZC will also consider which uses might require special conditions such as increased setbacks, landscaping, vegetative screening, not visible from the road.

**New or Continuing Business:**

**From the Commission:** Joyce said that CGCC is offering an Agri-Business Course this fall.

**From the Public:** None

**Next Meeting:**

The next Zoning Commission meeting is scheduled for **Monday, June 19, 2017 beginning at 5 p.m. at the Town Hall.**

- Ted will update Article 40. Before the next meeting, ZC members should go through the uses and consider whether or not a use is appropriate in the MU or if special conditions should apply.
- Consider potential impacts to current residences if MU district is re-drawn. Need to define boundaries.
- Moisha hopes to complete editing review of Article 80 in time for discussion.

Elizabeth will not be present at the June 19, 2017 meeting. Moisha might not be present.

***Motion to adjourn:*** Al Huehnel

***Seconded by:*** Moisha Blechman

***Ayes:*** 5\* (*Huehnel, Blechman, Bainer, O'Donnell, Roberts*)    ***Nays:*** 0    ***Abstained:*** 0

*\*Donn Critchell left prior to adjournment.*

***Meeting adjourned at 7:27***

***Public audience:*** none

***Prepared by:*** Linda Swartz