

TOWN OF TAGHKANIC
ZONING COMMISSION MEETING
April 29, 2019

Members present: Joyce Thompson, Chair; Linda Swartz, Co-Chair and Secretary; Members: Al Huehnel, John Roberts, Donn Critchell, Kathy Bainer, Moisha Blechman, Elizabeth O'Donnell (via teleconference; connected at 5:30)

Excused: ZC Consultant Ted Fink

The meeting was called to order by Joyce Thompson at 5:10.

Approval of Minutes:

A motion to accept the Minutes from the April 13, 2019, Full-Day Workshop was made by Donn Critchell and seconded by Moisha Blechman.

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

A motion to accept the Minutes of April 15, 2019, was made by Donn Critchell and seconded by Al Huehnel.

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

*Elizabeth O'Donnell had not yet connected with the meeting via teleconference.

Short-term Rentals:

We are very close to having a complete code for review, but short-term rental regs have not been addressed. The issue of short-term rentals is quite complex and will require a great deal of research and discussion, delaying completion of the code for some time. Joyce suggests that the ZC focus on delivering the code, as is, to the Town Board, while we continue to work on short-term rental regulations which can be added later by local law. In the meantime, Joyce will propose a moratorium on short-term rentals.

Loretta Hoffman (Changing Times B&B) is on a Board that represents more than 20 of the legally-operating bed and breakfast facilities in the Hudson area. She serves as a central point of contact for the Hudson area B&Bs, which provide a legal, safe (and tax-producing) place for lodging, and they are losing customers to these "On-line Travel Agencies" (OTAs). Loretta warns that the zoning code should not use the specific term "Airbnb" because it leaves a loophole for the other on-line sites (many of which fall under the "Expedia" umbrella). Linda suggested that we use the term "short-term rentals" because using "On-line Travel Agencies" might also leave a loop-hole for those who don't actually go "on-line" but instead rely on word-of-mouth or private dealings. Loretta knows of several homes in Taghkanic which are currently listed on the Airbnb website.

OTAs have two tax loopholes: (1) They avoid paying NYS sales tax (Joyce read from "the Bungalow Law" TSB-M-12(4)S entitled "Elimination of One-Week Stay Test to Determine if the Rental of a Bungalow or Similar Living Unit is Subject to Sales Tax"); and (2) Under Federal IRS rules, they are not required to claim income if they rent for fewer than 14 days in a month.

Legal Bed & Breakfast facilities are limited by law to not more than five rental rooms and not more than ten guests per NYS Building and Residential Code. They are not required to serve a morning meal to their guests, but Loretta does provide breakfast. Legal B&Bs are required to follow health regulations and other rules which Airbnbs don't follow. Our zoning should be in line with NYS rules.

Loretta said she knows how Airbnb works because she listed her B&B on Airbnb for two years when it first started in order to remain competitive. She said that the insurance offered by Airbnb does not cover injuries to guests (their customer is the homeowner). The insurance covers damage to the house done by guests.

Susan Raymond asked when does a community become a commodity? She referred to the Town of Woodstock's short-term rental regulations: everyone who uses their home for short-term rental must register and is given a registration number; it is prohibited in multi-family homes; there is a cap on the number of short-term rentals that can be registered in the town; the homeowner must be present on the property. (Home-based business regulations require the business owner to live on the property, why should a short-term rental be any different?) Enforcement is vital. Susan feels that the county should help the towns with regulations and enforcement since short-term rentals would provide sales tax income to the counties and towns.

Once concern for the ZC: The code will allow for accessory dwelling units; how do we keep these from being used as short-term rental units?

Kathy knows of a situation where a renter in a short-term rental unit started a camp fire on the wooden deck of the home. In another house, the guests lit a fire in the fireplace but did not know to open the damper. Because these renters are not familiar with the home and there's no one there to offer assistance, these problems are not uncommon and can get worse when the renter doesn't know how to get help or even the 911 address. Al said there is a house near him that is being used for short-term rental and there's never a problem ("you wouldn't even know they're there").

Al suggested that we wait until the State or County writes some rules, but Joyce said that the County is only talking about taxing the use, not regulating it; and if the town accepts the use in order to get the tax income, it would be very difficult to regulate.

The ZC concludes that short-term rental is a commercial activity which requires further study and should not be permitted until we can develop some regulations. We should continue to move the zoning code, as is, to the next phase. We will discuss this further with Ted.

Ridgeline Development:

Prior to this meeting, Joyce emailed information to the ZC regarding ridgelines and steep slopes. John studied the GIS maps and said that this area is known as "the Taghkanic Plateau; the highest point is around 800'").

At issue is property owner rights vs. the rights of the community at large. A property is not owned by the community but rather by an individual who has a right to develop the property within the law. If a person is not allowed to build his home on the ridgeline of their own property, his property becomes less valuable. But if he builds on the ridgeline, the value of the neighboring properties could be diminished.

What is a ridgeline for this town? We have to define ridgeline if we are going to talk about it in the zoning code.

What are the reasons for concern about ridgeline development?

- Impacts to the scenic view shed? There are many homes built on ridgelines and steep slopes throughout town which cannot be easily seen from roads and neighboring properties. These properties are generally well-treed and the house has been placed in a way as to not be obvious.
- There are some concerns for water resources, trees, wildlife habitat, but these issues could be handled through a site plan review process. Kathy said that most of the people who go through site plan review are agreeable to and thankful for the Planning Board's suggestions for the development of the property; such as the placement of the driveway, siting of structures, minimizing tree cutting and protection of water resources.

Kathy feels that as long the house is painted in muted/earthy tones and the trees are not all removed, they should be allowed to build anywhere they want on their own property as long as they meet the requirements for bulk and setbacks. John is in agreement with the requirement for Site Plan Review when someone wants to build on a ridgeline.

Under what set of circumstances would a person be required to get site plan review? This needs to be defined. John will try to get a better topo map or (hopefully) a relief map so we know exactly where these ridgelines are.

Moisha had sent out an email prior to this meeting regarding Ridgelines, Steep Slopes and Intermittent Streams in Taghkanic. She read aloud a section of that email. The ZC recognizes the importance of protecting natural resources (and we believe the code does that); however, what Moisha read is a statement of intent and not regulatory.

Taghkanic does not rely on tourist dollars; we are a residential and agricultural community. We don't have a lot of home grown industry nor do we want to foster it. Small farms are a specific kind of economy. If we are looking to develop small farms, we need good soil and water and a good climate. That is what the zoning code should be trying to accomplish.

We are also trying to promote home businesses. Getting broadband will be a game-changer. It will allow people to work from home.

Elizabeth said that the principles must be made clear and that the zoning code has teeth.

Next Meeting:

Monday, May 6, 2019 at 5:00 p.m. We will review Moisha's water statement.

Ted will have a complete document by later this week and we will start working through it at the next meeting. Joyce will have a copy printed for each person's use. Elizabeth asked that Joyce tell Ted that it must be a searchable document.

Motion to adjourn: *Donn Critchell*

Seconded by: *Elizabeth O'Donnell*

Ayes: *6 (Critchell, O'Donnell, Huehnel, Bainer, Roberts, Blechman)* ***Nays:*** *0* ***Abstained:*** *0*

Meeting adjourned at 7:05 p.m.

Public Audience: *Loretta Hoffman (Changing Times B&B)*
Susan Raymond

Minutes Prepared by: *Linda Swartz*