

TOWN OF TAGHKANIC  
ZONING COMMISSION MEETING  
January 4, 2021

**Members present:** Joyce Thompson, Chair; Linda Swartz, Co-Chair and Secretary; Members: Al Huehnel, Elizabeth O'Donnell, John Roberts, Donn Critchell; ZC Consultant Ted Fink

**Excused:** Moisha Blechman, Kathy Bainer

This meeting, held via Zoom, was called to order at 4:09 p.m. by Joyce Thompson.

**Approval of Minutes:**

Review and approval of the Minutes of December 21, 2020 meeting is tabled.

**Review of Elizabeth's Edits and Comments – Section 70:**

Elizabeth presented her comments and suggested edits to Section 70, along with notes explaining her reasoning:

Changes in the introductory paragraph in **70-A.** are grammatical in nature and accepted by the ZC.

Discussion resulted in additional changes to Section **70-A.1.** Elizabeth will re-write the paragraph based on the discussion and send it out via email to the ZC members prior to the next meeting.

**70-A.3.** Ted said that "Use Variance" is well-defined in NYS Town Law and said that we should be careful when using that term. Use Variance applies only to lawful uses, and this section is about non-conforming uses; not lawfully permitted uses. The regulation will be rewritten as follows: *"Such buildings, uses and lots can only be changed to a different non-conforming use by application to the Zoning Board of Appeals. If the Zoning Board of Appeals approves such changes, they shall conform to current design standards and are also subject to Site Plan Review and Approval by the Planning Board."*

**70-A.4.** The second sentence of this regulation reads *"The one year period may be extended by the Zoning Board of Appeals after public hearing in accordance with Section 110-C.4. provided due diligence can be demonstrated."* Elizabeth suggested adding the phrase *"and the use is not objectionable"* to the end of this sentence. After discussion, this was further modified to *"and the use is consistent with the purposes of the Zoning District."*

**70-A.6.** Change "non-complying" to "non-conforming". Elizabeth suggests that the requirement "within the time period specified by such authority" should more definitively set at a maximum of one year from the date of notice.

**70-A.7.** Revised as follows: (revisions are underlined) *"Any occupied manufactured home legally existing in the Town of Taghkanic at the time of adoption of this Zoning Law may be replaced by another manufactured home, provided that the replacement structure is in full compliance with the requirements of the New York State Uniform Fire Prevention and Building Code, and that this replacement does not increase the degree of, or create any new, non-conformity with regard to the setbacks, height, lot coverage, use or other regulations set forth within this Zoning Law pertaining to buildings and structures."* ZC accepts changes.

**70-B.** Elizabeth proposes that the paragraph be rewritten as follows to eliminate confusing language: *"The built or unbuilt area of a lawful non-conforming use or volume or duration of activity of a lawful non-conforming use may not be increased."* The ZC accepts this revision.

**70-C.** Title changed to "Repair and Maintenance of Non-Conforming Buildings". Elizabeth asked what is the intention of the introductory paragraph. ZBA review should not be required for normal maintenance of a non-conforming building. Elizabeth suggests the following rewrite: *"A lawful non-conforming building or structure may be maintained or repaired provided that such work does not increase the degree of, or create any new, non-conformity with regard to setbacks, height, lot coverage, use or other regulations set forth within this Zoning Law."* The ZC accepts the changes.

**70-D.** The beginning of this paragraph “*Nothing contained in this Section shall be deemed to prevent or require the ZBA or Planning Board Approval*” is removed, and the revised paragraph begins “*A lawful non-conforming use, building or structure, may be restored after damage by any cause ...*”

**70-E.** Are there any uses other than automobile wrecking yards and junk yards that should be included in this regulation for sun-downing? Ted cautioned that discontinuing some uses without good cause could lead to challenges. Ted will look into law and see if there is anything else that possibly could be eliminated.

**70-F.** The last sentence of this regulation says “*One year extensions for the restoration may be granted...*” “Restoration” will be changed to “*completion of construction*”.

**70-K.** Ted will look for case law. A pre-existing non-conforming use can continue to operate indefinitely except if we want to abide by the conditions – makes it a little tricky. Hold people to standards because they have an existing use and setting new standards for the same use if it occurs after the zoning is in place. Not everything would get grandfathered in. We want them to go through the new code and comply with as many of the new criteria as possible.

#### **Review and Discussion of Ted’s Comments:**

**Section 90:** All modifications to Section 90 shown in green type on the Pages document were reviewed and discussed and are accepted by the ZC.

- Ted will rewrite **90-C.** to make it clear that single and two-family dwellings are not subject to Site Plan Review and Approval. Agriculture, forestry and conservation uses are subject to Limited Site Plan Review and Approval.
- **90-C.2.a.** Delete “Flood Fringe Overlay District or within”
- **90-F.** Insert a note in this regulation to make it clear that this pertains only to new housing developments.
- **90-G.4.e.** and **f.:** In the October 7, 2019 meeting, this ZC changed the 500’ requirement to 1000’. Ted will look into law to see if this change might pose a problem.

**Section 100:** All modifications to Section 100 shown in green type on the Pages document were reviewed and discussed and are accepted by the ZC.

- Add “Certificates of Compliance” to **Table of Contents** in letter F. on same line as “Certificates of Occupancy”
- **100-H.1.** Delete phrase in parentheses (“hereinafter referred to collectively as “Order”). And change sentence to read “*Each Order, permit or other notification of the Code Enforcement Officer shall be filed in the Office of the Code Enforcement Officer within five (5) business days from the date it is rendered and shall be a public record.*” Joyce said that Dennis Callahan, CEO, has stated that “Operating Permit” should be kept in the Code.
- **100-H.2.** Change “Order” to “Action”.

Next meeting 100-O. Violations

#### **Next Meeting:**

The next meeting of the Zoning Commission will be held via ZOOM on January 18, 2021 beginning at 4 p.m. Elizabeth advised that she may not be able to attend. Review work will begin with Section 110. We will begin with review of Section 100-O., Violations, and work through the rest of the code.

**Motion to adjourn:** Donn Critchell

**Ayes:** 4 (Critchell, Huehnel, Roberts, O’Donnell)

**Seconded by:** Al Huehnel

**Nays:** 0

**Abstained:** 0

The meeting was adjourned at 6:08 p.m.

Public Audience: None

Minutes Prepared by: Linda Swartz