

explained that once the HZC finalizes their purposed changes, the proposed law will be referred to the Board of Trustees who will send them to the Planning Board for an official recommendation before the Trustees begin the final process of review. It would be beneficial to the HZC to know that they are headed in a direction which is favorable to the Planning Board.

The board reviewed document B (Article VIII, Site Development Plan Review – Existing Zoning Law) provided in the informational packet prepared by Mr. Hill

Mr. Blabey stated that under C (2) it says “no change in external features.” He stated that the Zoning law was written prior to the formation of the Historic Preservation and Architectural Review Board (HPARB) and at this time he does not feel this is necessary as all exterior changes must be reviewed by HPARB.

Mr. Austin stated that the Zoning law does not define “external change” leaving it open for interpretation.

Mr. Blabey recommended that rather than say external change the law should reflect this as a change to the footprint. He stated that he does not feel the existing law is clear and it leaves two boards with the same jurisdiction. He stated that the existing law needs to be “cleaned up.”

Mr. Austin reviewed section C3. He stated that in the current law an applicant would have to submit a Site development plan to determine if a Site Plan review is necessary.

Mr. Blabey stated that the law says that a Site development plan and Review may not be necessary but there is no way to know if a Site development plan is necessary without completing a plan and having a review. He stated that the law leads the applicant in a circle.

Mr. Hill stated that when requesting a Special Use Permit for a “change of use” to a property, when there is no change to the exterior, and all objectives are met, no Site development plan is necessary.

Mr. Austin stated that the problem is that a Site development plan is necessary to determine if one is required.

Mr. Hill asked how else the determination could be made.

Mr. Austin stated that the bigger issue is that the current zoning law does not give specifics. He further stated that it needs prescriptive guidelines. He stated that the current law completely focuses on Site development plans but permitted uses are permitted, the only time a Site development plan should be required is when the applicant cannot meet the objectives set forth in the law. He stated that the current law leaves too much subjectivity and the criteria and objectives are very vague.

Mr. Blabey stated that if it appears that any Special Use Permit application would require a Site development plan and that those applicants would never be able to get around the requirement.

Mr. Austin stated that to be correct.

Mr. Hill stated that applications for Special Use Permits first go before the Board of Trustees, who then refer it to the Planning Board for review; SEQRA determination; Site development plan;

and a recommendation. Once the Trustees receive the recommendation from the Planning Board, they decide whether or not to approve a special "use" for the parcel and if conditions should be imposed.

The board reviewed the specifics of the proposed changes (Document A) and compared them to the existing law as provided in the packet compiled by Mr. Hill. The board discussed the required reviews for single family homes and the possibility of the Zoning Enforcement Officer (ZEO) having the responsibility of reviewing application and being able to approve projects which meet the letter of the law.

Mr. Knull stated that if the requirement is in the Zoning law then it is legal, but if the item is not in the law, the board has no authority to require or enforce it. He gave an example of a licensed motorist driving in the Village. He explained that the legal speed limit within the Village is 30 mph and drivers do not need permission to drive 30 mph nor can anyone require that they drive less than 30 mph. He stated that if an applicant puts in an application which meets the law then there should be no question. He stated if the applicants plan does not meet the law then it should not be approved.

Mr. Austin stated that enforcement of the Zoning law would be the same regardless of whether approval was given "over the counter" by the ZEO or through a Board.

Mr. Knull stated that if an application is received for a single family home in an appropriate zone and the proposed plan meets all of the requirements for setbacks parking, etc. it should not need a Site development plan Review by the Planning Board. He stated that a report of actions taken by the ZEO would be adequate to keep the members of the board informed.

Mr. Hill stated that this process would work in a perfect world. He explained that properties often have characteristics which require more in depth review, for example the grade or drainage of the property may pose an issue (Maple Street – Spring Street).

Mr. Knull stated that it is not the Planning Board's responsibility to work these items out for the applicant, legally the board is only allowed to enforce what has been put into law regardless of whether or not the proposal is appropriate in all details, As long as it meets the law, the Planning board has no additional say or jurisdiction.

Mr. Hill stated that each application and property are different and they may or may not have elements that need to be addressed.

Mr. Knull asked what right the Planning Board has to tell an applicant that they cannot do something which is allowed by law. He stated that there may be a really good reason why someone should only drive 20 mph on a specific street or in a particular neighborhood but the law says the speed limit is 30 mph; therefore the driver may do 30 mph if they choose even if it would be better or safer to drive 20 mph.

Mr. Hill asked the board to refer to page B-2 of the existing site development plan section and review the elements. He explained that all elements included have been set by enabling state legislation and have to be considered.

Mr. Blabey stated that these items are very flexible and are not mandates. He stated that a property may have a steep slope but no significant impact.

Mr. Austin stated that when the property is subdivided these elements should have been considered. He stated that once the subdivision was approved the property becomes legal with in the Village as a buildable lot for any allowed use in that zone.

Mr. Hill concurred that the objectives should have been reviewed when the properties were subdivided, and there should not be any lots that are not buildable.

Mr. Blabey asked about the recent review for the new residence on Brooklyn Avenue.

Mr. Austin explained that the lot was established prior to the zoning law. He stated that it is a legally preexisting nonconforming lot and therefore would require a Site development plan.

Mr. Blabey asked if this property would have required Site Plan Review under the proposed law.

Mr. Austin stated that it would not require site plan review as it is in a zone which allows single family homes. He further stated that it would require reviews if it could not meet setbacks and if it was proposed to be closer than 75 feet from the river. At the end of the day the applicant would have ended up with exactly the same thing as was approved.

Mr. Blabey asked about the applicants who completed site plans and had a review for a home they had no intention of building.

Mr. Austin said that requiring a future owner to build what was previous approved has lawsuit written all over it. He explained that as long as a property owner builds a structure which is for a legal use within the zone and meets all other specified criteria such as setbacks and parking, legally the Village has no authority to deny the application.

Mr. Blabey stated that the state statutes clearly indicate that the feelings of the neighbors should have no bearing on any decision.

Mr. Austin concurred that that is correct. He explained that a neighbor's only option to prevent the development or control the features of structures on a property is to purchase the property.

Mr. Hill stated that board may consider the neighbor's objection if supported by facts which show a violation of the law.

The board discussed specific court cases and their decisions. They then continued to review the proposed changes.

Mr. Knull stated that the Village is "over zoning." He asked why the Planning Board would be reviewing any application which meets the permitted use and all other portions of the zoning law. He stated that it is setting the Village up for a lawsuit.

Mr. Hill stated that he is not saying that the applicant cannot do what is allowed by law-just that there are some elements which need to be reviewed and considered prior to approval.

Mr. Knull stated that the Village already has its share of "crappy" structures and any exterior change, and new structures must come before HPARB. He stated that if the Village wants to

focus on improvements they need to start tearing down the eyesores instead of stretching the law to make people do what they don't have to legally do.

Mr. Blabey stated that the State did not intend this law to be for homes but rather for large unsightly projects such as warehouses, large discount stores, etc. which have a huge impact on the environment and neighborhood.

Mr. Knull stated that Richfield Springs is a good example of a Village which would have benefited from this law. He then asked how this type of development could happen in the Village of Cooperstown as long as the current zoning laws are enforced.

Mr. Austin stated that SEQRA is designed for large, obtrusive items. He further stated that during his time at the Village there have been very few items which could not have been addressed "over the counter." In other places these items would be handled "over the counter." Mr. Austin stated that these changes are a way to streamline the process but he senses that there is some fear over the loss of control.

The board discussed properties within the Village that could have potentially problematic issues and would benefit from site plan review if any changes or further development occurred.

Mr. Knull stated that there are many areas of concern which may need review but of which the Planning Board does not have the expertise to evaluate or determine.

Mr. Austin stated that the board has the right to ask for additional information. He stated that the Board of Trustees could adopt a fee schedule which could facilitate professional services if needed. He explained that the Town of Hartwick has a reimbursement cost contract with an escrow paid by the applicant. This allows the town board to hire experts at the applicant's expense if necessary.

Mr. Hill stated that site development plans are required to be submitted at least three weeks prior to the meeting. This lead time is to allow for the board to make referrals, adequately review the application, and do any necessary research.

The board discussed the amount of time a site development plan often takes for review.

Mr. Knull stated that if the applicant is proposing a single family home in a zone which allows single family homes why is there any need for the applicant to have to go through a site plan review. He stated that there is no lawful reason why an application which meets the law should have to go through this long review.

Mr. Austin stated that the current zoning law does not afford the ZEO the authority to approve any project. He explained that his role in the Village is to receive applications and advise applicants what the boards may require.

Mr. Jensen stated that it does not make sense not to allow the ZEO the ability to approve projects which are straight forward and meet the requirements of the zoning law. He stated that the ZEO is already reviewing the application and is used as a resource by the board when they review the applications.

The board discussed the site development plan reviews which have occurred during Mr. Austin's employment with the Village and whether or not the review was necessary.

Mr. Knull stated that a better question to be asking might be why there have been so few reviews when, under the current law, all applications require review.

Mr. Austin stated that the process is too arbitrary. He explained that it is much faster to build outside the Village; the acquisition costs are lower, as are the taxes.

Mr. Knull stated that time is money and once a party purchases the property with no structure their money is being held up in the ground. Given that the applicant does not know if they are going to be able to get to point B and build a structure on the property they are taking a huge financial risk.

Mr. Hill stated that during the Cooperstown Youth Baseball project the Planning Board researched the amount of undeveloped land available within the Village and determined that approximately 95% of the property is owned by Ms. Jane Clark or one of her associations. He stated that he also asked a local real estate agent why some lands and homes in the Village do not sell quickly. Mr. Hill said that the agent explained that the cost of a comparable home outside the Village, still within the Cooperstown School District and only a short commute to most businesses within the Village, is substantially less.

Mr. Knull stated that although cost maybe a factor the long review process to begin a project is also prohibitive.

Mr. Blabey stated that the board has spent a lot of time focused on residential property but the board needs to be sure that they do not recommend something that could affect the commercial or business districts without the board at least reviewing and considering those effects.

Mr. Austin stated that the proposed law change would not affect the development of business or commercial structures; the process for these developments would continue to be the same as currently indicated within the law. He explained that, other than within the business district, the only allowed uses are residences and in some zones agricultural use.

The board discussed the fact that only single and multi-family home are permitted in all zones and why the Board of Trustees as the legislative board holds the power to approve special use permit applications.

Mr. Hill asked the board to review section D of the proposed site development plan review (document A). He read the section and asked Mr. Austin what is meant by the statement "except what may be required for egress."

Mr. Austin state that he believes this refers to ramps and other items required by building code but it needs clarification.

Mr. Hill asked the members of the board how they wanted to proceed with this request for input by the HZC.

Mr. Jensen stated that he likes the idea of the process being less cumbersome for applicants. He further stated that although there may be some loss of control he does not feel that is an

issue as long as the Village has a qualified ZEO who can review applications to ensure they meet the law.

Mr. Austin clarified that he does not necessarily feel that the feelings of loss of control are necessarily from the Planning Board. He further stated that he feels items 1, 2, and 3 will catch the majority of projects within the Village and A-D will not "let many horses out of the barn."

Mr. Blabey stated that the law should facilitate the development of commercial and businesses as well.

Mr. Austin stated that with this proposal they get caught by #1. Even home occupations would require site plan review.

Mr. Blabey stated that he feels that the proposed changes are appropriate but that the Planning Board should be provided with some report of actions taken by the ZEO in order to feel secure in the fact that the ZEO is performing his job appropriately and be able to answer questions from the public.

The board discussed the issuance of zoning permits, certificates of appropriateness and certificates of compliance.

Mr. Austin clarified that the Village does not have a Zoning Permit but rather a signed reflection of the approval. In addition the applicant gets a Notice of Decision. He pointed out that the only legal record of the decision is the minutes.

Mr. Knull stated that he agrees with what has been said and he thinks these changes are fine especially if they eliminate some of the cumbersomeness of the process.

Mr. Hill agreed that the procedures could be streamlined but expressed that the authority for discretionary decisions, assigned by state enabling legislation to the administrative boards are being proposed for an individual with ministerial responsibilities.

Mr. Blabey stated that if the application meets the law it is not discretionary.

Mr. Knull stated that the review and approval of application which meet the law is ministerial not discretionary. The requirements are in the law.

Mr. Hill questioned what would happen if some of the elements were not adequate for example traffic access. He stated that this item is discretionary and should be reviewed by a board-not an individual.

Mr. Knull asked Mr. Austin if there is set guidelines for traffic flow, driveway widths, etc.

Mr. Austin stated that the standard for a single family residence is a 12 – 14 foot driveway but it is not spelled out in the current law but these details could easily be added to the law to ensure appropriateness.

The board discussed the need to clarify the law and make the discretionary items as few as possible as well as the need for variances.

Next meeting – February 18, 2014

Mr. Hill stated that he believes that the board will be reviewing a sign application for 21 Railroad Avenue and possibly a signage plan for The Smithy. He suggested that the board review the HZC proposal for the changes to the zoning law for additional comments next month.

Meeting adjourned at 6:56 PM

Respectfully submitted,

Jennifer Truax
Deputy Village Clerk