

**HORICON TOWN BOARD
WORKSHOP MEETING**

**FEBRUARY 7, 2013
2:30 PM**

Present at meeting: Ralph Bentley Supervisor
 Frank Hill Councilman
 Robert Olson Councilman
 Kenneth Higgins Councilman
 Matthew Simpson Councilman

Krista Wood Town Clerk
Mark Schachner Town Counsel

Also: Brian Grisi (APA), Robyn Burgess (APA), ZA James Steen, Harry Balz, Paul Holmes, John Goode, Bill McGhie, Mike Raymond, Thad Smith, Doug Paton, Gary McMeekin.

Supervisor Bentley called the meeting to order at 2:35 PM and opened the discussion with Brian Grisi and Robyn Burgess regarding the APA's comments on the proposed changes to the Horicon Zoning Ordinance.

Brian Grisi explained to the Board that after he and Robyn reviewed the draft of the proposed Zoning Ordinance they had some things that they feel need attention. He noted there are some things that need attention and there are some things the Board could choose to change but would not be required to change.

The following items were discussed at length. For reference purposes the APA notes will be noted in the Minutes as follows: Attachment A will be noted as A..., Attachment A-2 will be noted as A-2..., Attachment B will be noted as B... .

A I-1 – Boathouse Definition: Brian explained that the Town is more restrictive than the APA allows. He asked the Board what they are looking at for standards. Brian noted that Boathouses that meet the APA definition are exempt from the shoreline setback requirements. He said it would be more important if the use of the Boathouse were tied to a specific definition. Therefore, the APA recommends amending the definition of Boathouses in Section 4 (Definitions) to include the standards in Section 11.65, except the wording on how to measure. Robyn noted that the Town needs to decide if the size requirement will remain at 800sf or if it will be increased to square footage allowed by the APA which is 1200sf. Councilman Olson said he would like to see the sideline setback changed from 20ft to 15ft. There was discussion on the APA recommendation and the Board agreed:

The definition of Boathouse in Section 4 will be amended to include the wording in Section 11.65 (Items 1, 2, 3, 4, 5, 6, 7(first 6 words), not 8. The size requirement for a boathouse will be changed from 800sf to 1200sf. The Board will discuss the sideline setbacks at a later date.

A I-2 – Guest Cottage: Guest Cottages that meet the APA definition are allowed to exist and are exempt from the density requirements. The APA recommendation is to move the seven elements of Section 11.71 used to define a Guest Cottage to the definition of Guest Cottage in Section 4. There was discussion and the Board agreed:

The definition of Guest Cottage in Section 4 will be amended to include the wording in Section 11.71 (Items 1-7) Guest Cottages.

A I-3 – Structure Height: Brian explained that the APA measures the height of a structure specifically from the lowest point of the grade to the highest point of the structure including chimneys. This measurement style is different from what the Town uses. Brian noted that structural height is an important part of determining APA jurisdiction and the Town can either measure differently or exempt certain structures from the 40ft Town requirement. This being said the APA jurisdiction would not change and a Class A permit would be required for any structure over 40ft. The APA recommendation

is to change the wording in an effort to clarify this section so the applicant does not get stuck between the Town and the APA. There was discussion and the Board agreed:

The wording in Section 8.13 - Maximum Structure Height would be changed to the wording as suggested by the APA.

A-2 I-4 – Shoreline Structure Setback: Robyn noted it would be helpful to make it clearer in this section that docks, boathouses, and patios or decks that are flush are exempt if they are not attached to any other structure; however, everything else has to meet shoreline structure setbacks. Brian explained that in their opinion any new structure within the shoreline setback requires a variance. Their recommendation is to clarify the wording and to move the dimensional requirement chart to Section 8.10. There was lengthy discussion on this and the Board agreed:

The wording in Section 11.30 – Shorelines would be amended to reflect the wording changes as proposed by the APA (remove Item 4 and add Items 5 &6) and the chart for Shoreline Dimensional Requirements be added to the Chart in Section 8.10.

A II-2 Section 8.20 Land Use Regulations: Brian said in looking at the clarity of the Ordinance there are several instances where items should be changed to maintain consistency throughout the document to avoid any confusion. Robyn noted that there is difficulty when comparing the APA land use area to the Town's Zoning Districts as the Town has applied density shifts which have led to an overlap between districts and land use areas.

Another item Robyn pointed out is the Town Ordinance treats two family dwellings as single family dwellings by allowing them as permitted uses in all districts. She said the APA views two family dwellings as multiple family dwellings which makes them Class A or B projects. Brian noted that the Town cannot simply allow two family dwellings to be permitted by right. He said that instead these must either go through site plan approval or conditional use and should be noted as such in the various District uses. Brian further specified that if it is in the Hamlet the APA does not care but if it is in any other district it must go through site plan approval or conditional use by the Planning Board.

A II-4 – Uses: Brian brought up the issue of 'Uses' defined in Section 4 that do not appear in the zoning districts in Section 8.20. He noted that since the terms, even though they are defined, are not listed as a use in any zoning district the assumption would be that those terms are prohibited uses in Section 8.20. Counselor Schachner pointed out that this is extremely problematic because typically it is understood that if a use is not listed as allowed then it is prohibited. He further noted that any uses the Board does not intend to specifically prohibit should be included in the appropriate districts. On the same note he suggested if a term is not specifically allowed or prohibited then the term/definition should be removed. ZA Jim Steen made mention of several uses that are repetitive and could be combined. Brian pointed out this is a Town issue as far as how they want to handle this.

The Board will review the definitions and uses in Section 4 and look at incorporating them into the appropriate zoning districts of Section 8.20.

A II-4 – Section 10.2 Applicability: Brian pointed out this section creates a jurisdictional issue and the applicant winds up getting two permits. He suggested the Board consider requiring only APA Class A review for projects that overlap in an effort to reduce the burden on the applicant. The APA would apply both APA and Town Zoning requirements in their review. Counselor Schachner clarified that the policy issue for the Board is whether or not the Board wants to keep concurrent Class A jurisdiction or to do they want to do away with local review and therefore, the Planning Board would only have advisory review while the APA is having Class A review.

The Board agreed to let the APA take the lead on Class A project review and eliminate the concurrent local jurisdiction. The APA will get wording suggestions to the Town to change specific provisions.

A III-1: Brian suggests the Board consider requiring applicants to complete an APA Jurisdictional Inquiry Form (JIF) to protect the Town and the applicant from misunderstandings of Agency jurisdiction, or require it as part of the Town's project application form.

A III-2: The document used the word "insure" or "assure" **and this wording will be changed to "ensure"**.

A III-3 Word Usage: Brian noted several sections where word usage could be changed.

Section 5.20 – Authority of the Adirondack Park Agency: Change the wording in the last sentence to read as follows:

"...Provided that, the Adirondack Park Agency cannot, in the context of its Class A regional project review, override a local decision **not to allow a given land use or development.**"

A III-4: There is an overlap in definitions between Section 4 and Section 11.50 (Home Occupation, Office Buildings, and Professional Office) and this needs to be looked at. Robyn suggested the Board review each use and the corresponding district in which they are allowed to determine if all are needed.

A III-5 Intensity and Dimensional Requirements: The suggestion by the APA is to incorporate the Shoreline Setback and lot width chart into the chart in Section 8.10 – Schedule of Intensity Regulations. **The Board agreed that this should be done.**

A III-6 Overlay Districts: Robyn said some of the language in Section 9.30 does not match up. She also noted the last sentence of Section 9.30 – Hamlet Design Review conflicts with Section 8.20 for the Mill Pond District, list of uses permitted by right. Robyn said the APA suggests changing Section 8.20 to list those uses as Site Plan Review instead. He noted this is a Town Board decision.

A III-7 Authorization to Approve and Disapprove Class B Regional Projects: Robyn pointed out that Section 10.30 Item #2 goes back to the double review issue. The wording is such that it requires the applicant to provide copies of their Class A application to both the APA and the Town. She noted it is fine the way it is but does require double review.

A IV-3: Section 9.30 refers to the "Mill Pond Design Review Overlay Zone" and the "Adirondack Design Review Overlay". Robyn said the suggestion would be to edit Section 9.30 to match the terms used in Section 8.20 for consistency.

A2 II-5 Tourist Accommodations: Robyn noted that the definition for Tourist Accommodation has been removed, however, it appears in Section 9.50 Item#5. She suggested putting Tourist Accommodation back into definitions. There was further discussion on alternative ways to handle this including eliminating the term Tourist Accommodation altogether. Robyn pointed out the issue is that hotels, motels, and inns are noted as types of Tourist Accommodation. It was noted it could be handled either way as long as hotels, motels, and inns were more clearly defined.

On the topic of Inns the Board noted that Section 9.50 Item #15c should be eliminated because the Board does not want to allow motorized boat launching but they do want docking facilities allowed at an Inn. This wording will need work because it is open to interpretation, Robyn noted, as to whether it is considered a commercial marina or simply a dock. Brian suggested possible wording to resolve this may be that the Inn may have docks for the use of guests staying at the Inn.

The Board agreed that the wording excluding docks would be stricken from Item #15c and they will come up with appropriate wording for this section.

A2 II-6 Non-Conforming Uses & Structures: Robyn suggested revamping Section 15 in an effort to clarify, adding that it is up to the Town what they want to do. She also noted that the Board wants to make clear what increasing non-conformance means. ZA Jim Steen made a suggestion on re-wording the Section and Brian responded that they need to review his suggestion to make sure it would comply. ZA Jim Steen also noted the limit for replacing a structure should be increased from one year to three years and the percentage of destruction should be decreased from 90% to 50%.

ZA Jim Steen will work on revising this for the Board.

A2 II-7 Variances: Robyn noted that most Towns have an expiration date for a variance and the Town currently has no expiration date on variances.

The Board agreed that a variance should expire after five years and the appropriate wording is to be added.

ZA Jim Steen addressed several other issues he found in the Ordinance:

Docks: The Board had approved an "E" dock configuration but it was not listed. Brian noted that an "E" is not allowed but an "F" is. He said you can have an "E" if you have a dock segment going out to the "E", you cannot have an "E" against the shore.

Off-street Parking: Jim Steen suggested adding "non-residential buildings" to Section 12.10, first paragraph. He pointed out that with the current wording if someone puts an addition on their house they would be required to widen their driveway to twenty feet and this is not practical. **The Board agreed that the wording in Section 12.10 Off-Street Parking would be changed to read "Off-street parking space shall be required for all non-residential buildings..."**

Storage and Dumping: Jim suggested striking everything after "dumping is prohibited other than at the Landfill" in Section 13.60. He noted that the current wording would allow someone to dump anything they want if it is being used for fill and the Board noted this is not the intent of that section. **The Board agreed that the wording in Section 13.60 (3) should be changed to read "Dumping of refuse or waste material at places other than the Town Landfill is absolutely prohibited"**.

Flood Zone: Jim suggested a reference be made in Section 13.20 to the "latest FEMA map" instead of the "official flood map". **The Board agreed Section 13.20 should reference the latest "FEMA map"**.

Dock Width: The APA allows a dock of eight feet and the Town allows six feet so Jim Steen asked if the Board wants to change the Ordinance to eight feet or leave it.

Robyn provided the information for the Horicon Birches Subdivision which was missing from the Ordinance.

Councilman Olson suggested the Board go through the items needing clarification and make the necessary changes and a copy can be forwarded to the APA.

Adjourn.. There being no further comments the meeting was adjourned at 4:55PM by MOTION of Messrs. Olson and Higgins, all in favor.

Respectfully Submitted:

Town Clerk