

Proposed Zoning Law Comments and Explanation/Responses

Public Hearing Date: November 16, 2011 and e-mail and letters received.

Current through 12/12/11

Draft for Town Board Abstract and Agenda Meeting: December 14, 2011

Number	Public Comment Date	Comment Summary	Explanation/Response
1	November 16, 2011 public hearing	Protect our landscape, and please pass this law.	Protection of the landscape is always a multi-faceted endeavor. This law is but one part of any effort to protect quality of life, but is a very important one. It is hoped that in the future, through public input as well as project review experience, this law will be a much better tool for protecting the landscape and people's place in it.
2	November 16, 2011 public hearing	Many changes, grateful for protection of the landscape, usable compromise.	The law has come a long way. It was purposely put to the public early, and with imperfections, just so the "usable compromise" could be found.
3	November 16, 2011 public hearing	Urging to pass law, allows more uses, but protects quality of life.	The law does express more allowed uses specifically. However the current law allows many uses, but only by fine interpretations, and finding a thread of meaning in a definition. Finding a balance between defining everything and allowing for leeway and interpretation isn't easy, but this law does a good job of synthesizing from the experience of 40 or so years.
4	November 16, 2011 public hearing	Allows greater flexibility.	The law does allow some greater flexibility. This is due to quite a bit more planning that is connected with the public and the public's concerns. That creates the opportunity to allow for some flexibility in planning, rather than arbitrary rules that don't create the result people want, but are predictable.
5	November 16, 2011 public hearing	Doesn't address affordability in housing.	No, this law does nothing to address affordable housing. The 2005 Comprehensive Plan only touches on the topic of Affordable Housing, because it wasn't as well defined in Tompkins County until just recently. It is hoped that within the next year or two, during the initial comprehensive plan rewrite process, policy options and tools will be developed and incorporated into the law.
6	November 16, 2011 public	Allow more uses by Special Use Permit.	Simply allowing all, or mostly all, uses everywhere by Special Use Permit is often found as a strategy by rural areas to "deal" with zoning without planning.

	hearing		Unfortunately, the result is a hodge podge of uses scattered across the landscape. By planning for uses, especially commercial in dedicated areas, this serves the public by concentrating services in those areas where they are similarly needed, it provides for expedition in review, by simply allowing uses by Site Plan Review rather than by the more onerous Special Use Permit. This, in the long run, provides better opportunity for more robust and vibrant commercial development, and reduced costs to government and society.
7	November 16, 2011 public hearing	Costs to town residents of development.	It is unclear what this comment was trying to convey. There is always a cost to residents of development, but it isn't always realized until years down the road when a sewer has to be installed, a school expanded, or a road improved. The town has very little control over this. In other parts of the country, states have used such tools as Impact Fees to raise the inevitable funds for improvements relative to development at the time the property is developed. There are many reasons why this would be difficult to implement in Dryden, not the least of which is that New York State has not authorized the town to use Impact Fees or similar tools. What the town can do is use Amenity Zoning, which, for certain types of development, or as an incentive, a developer must build, or pay for, or give money toward community projects. The projects ideally would be identified in a community plan such as the town's Recreation Master Plan, or the farmland protection portion of the Comprehensive Plan. The Planning Department is diligently working toward making sure that these plans are developed.
8	November 16, 2011 public hearing	Two family home not allowed in Neighborhood Residential District.	At the creation of the Neighborhood Residential District, it was felt that this should be predominately single-family homes as that continued the character and purpose of these neighborhoods.
9	November 16, 2011 public hearing	Hamlet District too restrictive, not promoting density.	The only area that is included in the Hamlet Plan is the central Varna area. This area is currently being planned for specifically and separately. New zoning regulations will be a product of that plan and will be incorporated into the proposed zoning law in the near future.
10	November 16, 2011 public hearing	Allow more multiple family by right.	It is assumed that this comment is referring to rental multiple family development. There has been an open policy on multiple family rental development for many years that only a few people in recent years have developed in the town, and normally in areas served by water and sewer. When the proposed code was developed, in keeping with the Comprehensive Plan, it made sense to allow this type of development in areas where it was likely to occur, or was occurring, and many of those areas are either in an area

			served by water and sewer, or could be without a great deal of effort. Multiple family developments tend to have an impact on neighborhoods, so to allow by right would not be responsible, or feasible.
11	November 16, 2011 public hearing	Map comments (check minutes).	
12	November 16, 2011 public hearing	A lot of work, it's time to finish the job, and ensure protection against gas drilling.	This proposed law does include the same prohibition on gas drilling, which will hopefully be upheld.
13	November 16, 2011 public hearing	Gas Drilling protection, why plan for quality of life if gas drilling could ruin it?	There is a lot of truth to this comment. The effects of gas drilling, however conducted, can have devastating consequences on neighboring properties, and without zoning control there would be no protection from those types of land uses.
14	November 16, 2011 public hearing	Zoning protects my investment. Gas drilling is the biggest threat to that investment.	See response to number 13.
15	November 16, 2011 public hearing	Zoning protects by individual giving for the benefit of the whole.	This is true, and an interesting way to say it. Another way is that yes we have property rights which are balanced by a responsibility to neighbors.
16	November 16, 2011 public hearing	Setting the tone that Dryden is closed for business.	This isn't true at all. This law gives developers a path for a greater variety of development types in a realistic regulatory setting that is both predictable and transparent.
17	November 16, 2011 public hearing	Put the law up for referendum.	It isn't clear that this is even possible. The recent elections may be seen as the closest thing to a referendum.
18	November 16, 2011 public hearing	Please pass the law tonight.	The town board cannot pass the law tonight as the review from Tompkins County is still forthcoming, and they have 30 days to comment.
19	November 16, 2011 public hearing	The public input on this law has been great.	The Planning Department has gone to the furthest extent it could in the time available.
20	November 16, 2011 public hearing	There is pressure on farms, and this law does not do enough to protect them.	This is true, the law does not do everything it might to protect farms. Fortunately, the town has a successful farmland protection program. Also, the farms in Dryden do well enough that farmland is in high demand both for purchase and rent. In the future, the town's Open Space Plan will have an Agricultural component that will identify feasible protection programs and

			measures for farms of all sizes. These could not be developed in a reasonable timeframe for this proposed law, but the Rural Agricultural District provides a beginning for any further efforts related to zoning.
21	November 16, 2011 public hearing	This law buries all the things people hated a year ago.	Unclear whether this is a positive comment or not? It is impossible to bury anything in such a short law, it is either there or it isn't.
22	November 16, 2011 public hearing	Please don't decide until next month.	See response #18.
23	November 16, 2011 public hearing	Comments provided as an edited use table and bullet points on paper at the public hearing.	The suggestions for the use table were reviewed. None of the suggestions had not been evaluated at least once in depth through the process by the Planning Board, the Task Force or the Town Board. There are many issues involved with each use depending upon what district is being considered. This law does attempt to allow for the growth of areas within a certain character, and by doing so has to eliminate some uses from areas that are either not compatible, nor complimentary. Non-complimentary uses do not create the value in commercial areas, a good example is self storage facilities. They have value, but if that same site were a use that generated jobs, and enhance neighboring uses and attracted more high value uses to the area, that is better in the public interest in the long term. The comments provided in the table, although valid in a different context, do not take into consideration the complexity of the issues, and are a step backward toward attracting more high value development to the town.
23 Con't.	November 16, 2011 public hearing	Bulleted list 1.: Greater flexibility? Affordability? Business friendly? Rental zone? No religious structures out of right?	It is assumed that these are questions, or comments taken as criticism of the law, and not noting that the law provides these items in a positive way. The law is far more flexible than the current zoning law, that is to say that there are at least pathways to approval of many more types of projects and uses. The law does not address affordability, but that was not an item thoroughly examined in the 2005 Comprehensive Plan, but will be in the upcoming update of the plan. The law is certainly business friendly, there are numerous uses that are allowed by Site Plan Review rather than Special Use Permit for example. Rental properties are popular in the town, but have also been a source of conflict, and a perceived nuisance in some cases. The idea here is to make sure that neighboring properties are not affected by multi-family housing.

			<p>However, it is recognized that this is a needed housing choice in the community.</p> <p>The definition of religious uses is so broad, and the nature of places of worship spans such an enormous range today, that they have a great potential to impact neighboring properties, and generate unusual traffic patterns.</p>
23 con't.	November 16, 2011 public hearing	<p>Bulleted list 2. And 3. And 4.:</p> <p>Half acre lots with water or sewer,</p> <p>Accessory buildings in twice,</p> <p>Front yards setbacks need changing (centerline or edge),</p> <p>Minimum frontage needs to be changed (see 603),</p>	<p>The law current allows for a minimum lot size of 10,000 sq. feet, which is a little less than a ¼ acre. Half acre lots, therefore, are allowed in these areas, and through subdivision could be smaller if proposed that way and accepted by the Planning Board. Half acre minimum lot size would reduce density too far, and would consume land that has the ability to be built at higher densities, although other controls in the law will help retain the character in the town. Accessory uses are listed twice because there is a row for buildings, and one for uses that don't require a structure.</p> <p>Front yard setbacks are from the centerline. In the reference is indicated changing for applicability of flag lots in the NR district, however these districts are generally mapped as areas that are built out currently, and so there is little if any need for future applicability in these areas, but the Zoning Board of Appeals can evaluate any appeals, and the law changed based upon that. The minimum frontage only applies to a new lot created outside of any subdivision review, it does not apply to lots as proposed through subdivision, nor any lots of record.</p>
23 con't.	November 16, 2011 public hearing	5. Density in MC Zone why so limiting?	<p>The densities in the MC district are consistent with what builders in that area have reported as being reasonable. Future growth of a greater density can be proposed as a Planned Unit Development, and through focused master planning in these areas, it is hoped to further fine tune the zoning code to allow for, and encourage, more growth.</p>
23 con't.	November 16, 2011 public hearing	6. MAP, needs more TNDO zones or Hamlet Zones, NR zone does not allow for expansion.	<p>The TNDO districts were designated in those areas where it seemed reasonable to have municipal services in the future, as well as to allow expansion of villages in a village pattern of development. It is a floating overlay, meaning that it can be proposed in other areas relatively easily if applicable. The Hamlet district has been restricted to the Varna area, because other hamlet areas do not have municipal services, and therefore have no opportunity, currently, to develop in a similar pattern. The delivery of services to other hamlets is possible, but would almost certainly require a concerted planning effort in those areas, which would likely facilitate a new zoning district designation.</p>

24	December 12, 2011 via email	<p>Support the proposed zoning law and urge you to make it law as presented.</p> <p>Reservations: Gas drilling prohibition is too “narrow.” Request that protection be expanded to include activities associated with hydro-fracking commonly known as high impact industrial activities.</p> <p>Add/amend Town’s laws to address the issues and add the protections summarized in the Tompkins County “municipal tools” document.</p> <p>Review Your Comprehensive Plan</p> <p>Review Zoning Ordinance</p> <p>Review Site Plan Regulations</p> <p>Apply Special Use Permits to Certain Uses</p> <p>Roads Protection</p> <p>Designate Critical Environmental Areas (CEA)</p> <p>Aquifer Protection Regulation</p>	<p>No comment.</p> <p>Reservations:</p> <p>The current gas drilling prohibition was written by the Town Attorney who provides legal counsel to the Town Board. The prohibition and the declaratory statements were reviewed by the Planning Department prior to adoption. From a planning perspective relative to zoning, prohibitions in a zoning law need to be quite specific. Broader bans are problematic in administration because they can be interpreted to include such a wide variety of uses, as well as being interpreted to not include uses because they are relatively temporary, which creates even more interpretation and obfuscation, or the opportunity for it. The Planning Department fully supports the Town Board and Town Attorney’s approach because it is readily administered, and makes sense in a planning context. The Planning Department won’t comment on the legal implications of the approach. However at one point during the three years the law has been in development, the department received a question during a public meeting as to why it only allowed light industry. By allowing light industry, and defining what that is, it is implicit that “heavy” industry is not allowed because it is not listed as an allowed use. Maybe from a legal standpoint this could use some supporting language and this will be explored in the upcoming year.</p> <p>The Planning Department has reviewed the Tompkins County “municipal tools” document. The town is in many ways addressing practically everything on the list and/or is currently strategizing on how to approach the issue. Below is a specific summary of what the town is doing:</p> <p>Review the Comprehensive Plan – The last plan was adopted in 2005, and in 2012 the Planning Department will work with the Planning and other boards to develop a proposal for conducting an update of the Comprehensive Plan. That is not to say that certain items cannot be addressed sooner, but there are only so many resources available at one time.</p> <p>The Zoning, including Site Plan Review, and Special Use Permits have been fully reviewed.</p>
----	-----------------------------	---	--

		<p>Wellhead Protection Regulation</p> <p>Noise, Lighting and Air Standards</p> <p>Viewshed (or Scenic Resource) Overlay District</p> <p>Tree Preservation</p> <p>Adopt Pipeline Regulations</p> <p>Manufactured Home Park (MHP) Regulations</p> <p>Subdivision Regulations</p> <p>Floodplain Regulations</p> <p>Extractive Mining Regulations</p> <p>Construction and Post-Construction Stormwater Runoff Control</p> <p>Illicit Discharge Detection and Elimination Regulations</p> <p>Wetlands</p> <p>Fees</p>	<p>Road Protection is well underway and should be completed within the next few months.</p> <p>Designation of Critical Environmental Areas was completed by the Conservation Board and is currently before the Town Board.</p> <p>Aquifer Protection Regulation – This is something the Town has worked toward for a long time. Currently the Town is awaiting the final report and map from the USGS, and this should be complete within 6 months.</p> <p>Wellhead Protection Regulation – This has not been planned for, however the Planning Board is currently reviewing local regulations and looking to prioritize efforts.</p> <p>Noise, Lighting and Air Standards – These have been reviewed and updated.</p> <p>Viewshed Protection – This has been discussed, there is some language in the developing subdivision local law, but it isn't very strong. This type of effort could take a great deal of resources to implement as it would require significant planning before being able to draft a law.</p> <p>Tree Preservation – There is currently only language in the developing subdivision law that restricts the cutting of trees on proposed subdivisions. This type of effort would require some planning activities leading into a local law.</p> <p>Pipeline Regulations – This has not been considered in the past, but will be evaluated for inclusion in the zoning law in the future.</p> <p>Manufactured Home Park Regulations – The town has regulations for mobile home parks, however it could be updated, or likely will be supplanted with design guidelines, and rely on a Planning Unit Development approach for new proposed manufactured home parks.</p> <p>Subdivision Regulations – The town has regulations, and a new subdivision</p>
--	--	--	---

			<p>local law is soon to be proposed by the Town Board.</p> <p>Floodplain Regulations – These should be revisited, which will likely occur after the new floodplain maps are issued. Designation of CEA’s in floodplains, as proposed will help in this effort. There do exist floodplain laws in the Villages.</p> <p>Extractive Mining Regulation – The town does regulate mining by special use permit both above the state permit threshold, and below.</p> <p>Stormwater Laws – The town does have and administers a local Stormwater program including a construction law, and illicit discharge law, both of which are considered very progressive. For example, the town’s illicit discharge law applies to waterways as well as stormwater systems. Most illicit discharge laws only apply to the stormwater system. It should be noted that the Planning Department has in writing from the NYS DEC (email) that the town is in no way responsible for stormwater management at gas well sites, it is covered under a separate program under Phase II, called a Multi-Sector Stormwater Permit that the town does not and cannot administer.</p> <p>Wetlands – The town does not have wetland regulations, but has assisted the Army Corp. of Engineers and New York State DEC in enforcing their regulations which seems to be an adequate system as both agencies are very responsive.</p> <p>Fees – With the Zoning Law update the town will be revising fees in the very near future.</p>
25	December 9, 2011	Tompkins County Planning Letter pursuant to section 239 -l, -m and -n of the New York State General Municipal Law.	See response letter.