

Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday, May 7, 2015 at 7:45 p.m.

Present: John O'Donnell, Acting Chairman  
Robert Goett  
Gregory LaSorsa  
Ron Tetelman  
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel  
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer  
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant  
Lisa Pisera, Planning Board Secretary

Also in Attendance: Janet Andersen, Conservation Advisory Council (CAC).

Mr. Kerner, Chairman, was absent from the meeting. Mr. O'Donnell acted as Chairman in his place.

Mr. O'Donnell called the meeting to order at 8:20 p.m. and noted the exit.

#### I. TOWN BOARD REFERRALS

Peter Parsons, Supervisor, was present to discuss the various Town Board referrals.

##### **Proposed Motel Ordinance** – proposed change to zoning code

Mr. Parsons stated that the purpose of the Motel ordinance is to exclude the Motels definition from the ordinance.

In response to Mr. O'Donnell, Mr. Parsons stated that neither the Building Inspector nor the Zoning Board was involved in drafting the proposed Motel Ordinance.

When drafting the proposed ordinance, in addition to the old Town of Lewisboro statute, the following statutes were reviewed by the Town Board: Town of Carmel statute – by the entire Board; Town of Ridgefield statute – by Mr. Parsons; a pro-forma New York State statute (Association of Towns). Mr. Siebert stated that, from a drafting perspective, the Motel definition is a surplus term because it simply refers to the Town Code's definition of Hotel and could be omitted.

The CAC had no concerns.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board requested Mr. Siebert to prepare a recommendation to the Town Board regarding the proposed Motel Ordinance for adoption by the Planning Board at its May 19, 2015 meeting.

In favor: Mr. Goett, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. Kerner.

**Proposed Bed and Breakfast Ordinance** – proposed change to zoning code

Mr. Parsons stated that there are no particular locations in mind for potential Bed and Breakfasts (B&B). There are currently no known B&Bs in the Town of Lewisboro (there are no known signs, advertisements or internet listings). Mr. Parsons stated that he is unaware of any similar proposals having been made since the adoption of the current zoning (1985) or of any enforcement actions or investigations by the Building Department or other departments.

The problem being addressed is the need for supplemental income when a homeowner who has more space than what is needed would like to remain in their home, in an area with relatively high taxes. Also being addressed is the desire to help local businesses, and to promote the Town as a destination. B&Bs would provide lodging to weekend visitors who may otherwise leave without patronizing local businesses.

In response to Mr. Tetelman, Mr. Parsons stated that he has not been approached by any homeowners requesting to use their home as a Bed and Breakfast.

Mr. Tetelman questioned whether owning a B&B would result in the homeowner paying higher taxes. An open-ended discussion took place. It was suggested that the Assessor may be best able to answer this question.

In addition to reviewing the Carmel statute and Association of Towns documents, Mr. Parsons stated that he had spoken to the Town of Ridgefield, CT regarding problems that they have had with B&Bs. Mr. Parsons stated that the main complaint of neighbors in Ridgefield is disturbance of peace. Because of this, the proposed ordinance for Lewisboro would state that the homeowner must be present when rooms are being rented.

Mr. Parsons stated that the Town Board had received no input from the Town Planning Consultants or the Building Inspector. The materials provided to the Town Board were the Carmel statute and the Association of Towns documents; however 90% of the Town Board review focused on the Carmel statute.

Mr. Tetelman asked whether or not the B&B needs Westchester County Department of Health (WCDH) permits and approvals to serve food and to board people over night. Mr. Parsons responded that it does not.

A copy of the May 6, 2015 email sent to the Planning Board from Jerome Kerner, Planning Board Chairman, was given to Mr. Parsons. Mr. Kerner stated in his email that §220-23D(9) of the Lewisboro Town Code addresses room rentals, and suggested that this section could be modified as opposed to adding a new section of the code regarding B&Bs. Mr. O'Donnell suggested that Mr. Mole review this email.

Mr. Johannessen stated that a B&B would be a special permit use in a residential zone and a principally permitted use in a commercial zone. Mr. Johannessen stated that it is not clear whether special permit approval would be required for a B&B in a commercial zone. Mr. Johannessen suggested consideration be given to requiring site plan approval for B&Bs in commercial districts. There need to be some trigger for all B&B applications to be reviewed by the Planning Board.

Mr. Johannessen also stated a provision for landscape buffer or screening should be included.

A discussion regarding extending the maximum length of stay at a B&B for specific events took place. The current maximum is three days. The event in question was the North Salem Horse Show.

Ms. Andersen stated, from an individual perspective, that clarification is needed regarding "one price per night".

Ms. Andersen, in her CAC role, suggested that proposed §220-43.4B (14) be made clearer as to the potential need for Wetland or Town Stormwater permits.

Ms. Andersen asked for clarification as to whether the rooms above a detached a garage could be made into B&B rooms. Mr. Johannessen stated his opinion that the law does not allow for accessory apartments in a detached structure.

Mr. O'Donnell suggested that the recommendation to the Town Board include that the statute appears clear with respect to accessory apartments; however, the statue is confusing with respect to a detached structure.

The use of the word, "existing", in §220-43.4B (2) was questioned.

Mr. LaSorsa stated that he was analyzing the proposed ordinance in the context of an existing home. Mr. LaSorsa expressed concern that the septic would be taxed by increasing the number of people in the house. Mr. LaSorsa also stated that no detached structure should house a dwelling unit and that the 3 bedroom maximum in the amendments should be 3 per lot.

Mr. Cermele questioned whether the WCDH would see a B&B as a change of use and would want to evaluate the proposed change of use. Mr. Johannessen referred to §220-43.4B (10) of the proposed ordinance which states that approval from the WCDH would be required.

In response to Mr. Goett, Mr. Parsons stated that no location feasibility study regarding market potential had been done.

Mr. Goett questioned who would own the enforcement of the proposed ordinance. Mr. Goett expressed his opinion that there should be clear definition as to where a resident should go to register a complaint. An open ended discussion took place.

Mr. Johannessen stated his opinion that the Town Code should clearly distinguish between room rentals and a B&B.

Discussion took place as to whether both the current code provision regarding room rentals and the proposed B&B ordinance should be contained in the Town Code. Mr. LaSorsa expressed his opinion that only one of the provisions should be included in the Town Code. Mr. O'Donnell, Mr. Goett, and Mr. Tetelman expressed their opinions that two separate provisions should be included.

Mr. LaSorsa stated he is opposed to the proposed B&B ordinance, and is in favor of the provision allowing room rentals.

Mr. O'Donnell summarized the sense of the Board, stating that the Planning Board has doubts of the necessity and possible efficacy of the B&B statute. The Planning Board is concerned about the lack of qualitative information regarding the need for B&Bs, however, if the Town Board was to adopt the statute, the Planning Board has mentioned several comments.

Discussion regarding approvals and periodic review of B&B permits took place. The Board was in favor of a limited initial term for a B&B permit followed by step reviews that would require B&Bs to renew permits on regular intervals of no less than three years. The Board was in favor of handling all renewals.

Mr. Tetelman opined that the Planning Board should have the opportunity to have a public hearing when the Special Use permit is up for renewal. Mr. Johannessen suggested that §220-43.4B (11) be amended, as the Building Department does not hold public hearings.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the Board requested Mr. Siebert to prepare a recommendation to the Town Board, reflecting all concerns expressed, regarding the proposed Bed & Breakfast Ordinance for adoption by the Planning Board at its May 19, 2015 meeting.

In favor: Mr. Goett, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. Kerner.

Mr. O' Donnell stated that if the proposed document is not acceptable to all Board members, a minority position could be indicated.

### **Proposed Hotel/Inn Ordinance – proposed change to zoning code**

In response to Mr. O'Donnell, Mr. Parsons stated that the proposed ordinance was spurred by Town Board concern of larger properties in town being broken up, and also the speed at which LeChateau went downhill. It is the feeling of the Town Board that these buildings must be kept occupied.

Mr. Parsons stated that there was not a lot of information available to review on which to base the proposed ordinance.

Mr. O'Donnell pointed out that the proposed ordinance allows a Hotel/Inn on ¼ acre zoning. The proposed ordinance does not require a minimum number of acres (a 2 acre minimum is stated in the proposed B&B ordinance).

Mr. O'Donnell noted that the proposed ordinance does not limit the number of rooms.

Mr. Johannessen stated that the definition is broad and can include a large scale hotel. Mr. Johannessen suggested that "Hotel/Inn" be more clearly and narrowly defined.

Discussion of what roads would be appropriate for the location of a hotel or inn took place. Mr. Tetelman stated that he is not in favor of a hotel or inn on any of the collector roads in town.

Mr. Johannessen stated that if allowed in residential zones and on collector roads, the definition should be tighter and there should be a room count specified. Mr. Cermele agreed, also suggesting that the room count be tied to the size of the property.

Ms. Andersen stated her opinion that the proposed ordinance does not provide the Planning Board with specific criteria on which applications would be reviewed. There should be consistency when evaluating applications.

Mr. Cermele stated that septic is an issue.

Mr. Siebert expressed concern regarding the open-ended nature of the proposed standards for reviewing hotel applications. He stated the special permit language should contain more specific criteria and standards in order to guide the Board and support any decision that may be made to approve or deny a B&B application. While the desire for some flexibility is understood, the open-ended nature of the amendment language could eventually expose the Town and Planning Board to litigation, and this language should be tailored to a hotel or inn use. Mr. O'Donnell and Mr. Tetelman concurred.

Mr. LaSorsa stated that a hotel/inn should be located where accessible, but not intrusive. Mr. LaSorsa is not in favor of a hotel/inn in a residential area.

An open ended discussion of the LeChateau property took place. Mr. O'Donnell suggested that with regard to LeChateau, perhaps a zoning change for a unique piece of property be considered.

Mr. Goett stated that he is opposed to a hotel/inn on any collector road. Hotels/Inns should be limited to Routes 35, 123, and 22. Mr. Tetelman agreed.

Mr. O'Donnell suggested that the ordinance be an "Inn" ordinance, rather than "Hotel/Inn" ordinance. The definition should limit the number of rooms, specifically indicating a maximum number (25).

Mr. O'Donnell suggested that the Town Board consider enlisting the help of Kellard Sessions to develop a revised proposal. The scale of an inn is not addressed in the proposed legislation.

The possibility of Conference Centers was discussed.

Mr. Siebert summarized the sense of the Board. The location should be limited to major State roads - Routes 35, 22, and 123. The view of the Board is that the code is open ended at this point and that there needs to be further definition at the outset as to what a "Hotel/Inn" is, and that there be a development of standards to be applied for the Special Permit approval. It is the Planning Board's recommendation that the Town Board consult with Kellard Sessions to obtain a technical perspective to aid in identifying the various operational aspects of a hotel or inn that would need to be addressed in local legislation.

Mr. Parsons stated that he is in favor of relating the number of rooms to the size of the property.

Mr. O'Donnell suggested that there may be a market for a B&B or small inn on some of the horse farm properties in town, and that the Town Board may want to evaluate this possibility with the help of Kellard Sessions. If pursued, this would be a separate proposal.

On a motion made by Mr. Goett, seconded by Mr. LaSorsa, the Board requested Mr. Siebert to prepare a recommendation to the Town Board, reflecting all concerns expressed, regarding the proposed Hotel/Inn Ordinance for adoption by the Planning Board at its May 19, 2015 meeting.

In favor: Mr. Goett, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. Kerner.

Mr. O' Donnell stated that if the proposed document is not acceptable to all Board members, a minority position could be indicated.

**Multi-family Housing** – proposed change of zoning to allow multi-family housing in all non-residential zoning districts

No discussion took place regarding Multi-family Housing. This item will be discussed at the May 19, 2015 Planning Board meeting.

### VIII. ADJOURNMENT

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the meeting was adjourned at 10:25 p.m.

In favor: Mr. Goett, Mr. O'Donnell, Mr. LaSorsa, Mr. Tetelman.

Absent: Mr. Kerner.

Respectfully Submitted,



Lisa M. Pisera  
Planning Board Secretary