

August 27, 2013
Inter Muni
Natural Resource Extraction Working Group Session

Representatives from Bristol, Canadice, East Bloomfield, Canandaigua, and Victor were present as well as Donald Young, Attorney from Boylan Code law firm.

Don provided us with a copy of the Draft Road Use Local Law for Adoption. It was agreed that further tweaking would be necessary by adding some definitions and removing some criteria that does not fit. He will provide us with that at the next meeting.

A timeline was suggested for completing the zoning and road use agreement documents. There will probably be two or three more meetings with a goal of the end of October being our target. The next meeting will be the beginning of October.

The topics for tonight were as follows:

Floating Zones: It delineates conditions which must be met before that zoning district can be approved for an existing piece of land. It is a written amendment in the zoning ordinance and simply floats until such time as a development application is approved and then added to the zoning map. The floating zone can be used as a tool for future land uses that are anticipated or desired by a community. This could be used in connection with natural resource extraction as it would give a municipality the ability to maintain control over the occurrence and location of commercial natural resource extraction activities. As part of the local law, the Town can include procedural requirements for review as well as minimum site specific criteria to guide decision making.

This strategy is focused on location control and establishing basic standards that avoid regulating the operational aspects of a given land use so not to conflict with NYS permitting procedures which preempt local regulation.

Special Use Permits-A special use is listed for a given zoning district, the Town Board is indicating that they would like to see the use occur within that zone provided it complies with minimal additional standards defined in Zoning and specific to that use. A special use permit is the authorization to conduct the use. The authorizing Board is specified in Town Code and is usually the Planning Board or ZBA. If a proposal fails to meet the minimum standard for the special use permit the applicant may request a waiver of the subject standards. In addition all special use permit requirements are subject to interpretation and/or a variance by the ZBA.

To follow this path:

- Definition of key terms are necessary
- Who performs special use review?
- Does the reviewing board have waiver authority?
- General criteria applicable to all specially permitted uses.
- Criteria applicable to just this use

- Will a separate site plan be required?

Drafting a Ban Primer

Steps to follow:

- Problem Statement
- Establish an Agreed Upon Process
- Moratorium
- Comp Plan Analysis/Recommendations/Update
- Local Code Analysis/Recommendations
- Comp Plan Update
- Drafting the Local Law
 - Statement of Intent
 - Definition of what is to be banned
 - Actual ban
 - Do you want to allow for exemptions from the law?
 - If the use is existing anywhere in your Town now, some verbiage that addresses how to handle pre-existing nonconformities will be likely.
 - Does the Local Law supersede existing Town or State Law?

At the next meeting Don will provide draft examples of both a floating Zone Law and a Special Use Permit.

Sandra Riker

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Town of Bristol