

A regular meeting of the Planning Board of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on January 19, 2016 at 4:30 p.m. Members in attendance were Chair – Eugene Berman, Richard Blabey, Paul Kuhn, Joe Membrino and David Pearlman. Deputy Village Clerk – Jennifer Truax were also present. There were no members of the public present.

Mr. Berman called the meeting to order at 4:32 p.m. He welcomed Mr. David Pearlman as a new member of the Planning Board, taking over the vacancy left by Dr. Richard Sternberg who was recently appointed to fill a vacancy in the Board of Trustees.

Mr. Berman also informed the members that Zoning Enforcement Officer, Tavis Austin, resigned in early January. He explained that in the absence of a ZEO the office staff will be accepting application and notifying the board chair who will review the application for placement on upcoming agendas.

The board discussed the role of enforcement and how enforcement would be handled.

Mr. Berman stated that the board does not have any enforcement authority. He added that the Zoning Law give the Board of Trustees that role.

Minutes

Mr. Berman made a motion to approve the minutes from the November 17, 2015 meeting as submitted. Mr. Blabey seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino

ABSTAIN: Pearlman

Motion carried.

Regular Agenda

Review of Village Tree Laws

Mr. Berman provided the members of the board with copies of the memorandum presented to the Board of Trustees in November regarding the proposed changes to the tree law as agreed upon by the Planning Board at their November meeting. He stated that he was able to attend the November 2015 BOT meeting and shared that two changes were recommended to the proposed law change by Trustees. He stated that Trustee Falk suggested that the law be titled "Trees in the Public Right of Way." He further stated that the language regarding trimming of privately owned trees impeding village property should be retained, but moved to a different Chapter.

The board reviewed the document provided by Mr. Berman indicating proposed amendments of Chapter 240, 258 and 300 of the Village Code.

Mr. Blabey stated that trimming of branches are also a safety issue.

Mr. Berman stated that the draft local law would move the enforcement portion of the tree law to chapter 240. He further stated that permission to remove privately owned trees is the only item that should be handled under Zoning. He stated that if a variance is required it would be addressed by the ZBA or if there is a Site Plan Review, tree removal would be addressed by the Planning Board.

The board further reviewed the document.

Mr. Berman moved to recommend the proposed changes as presented to the Board of Trustees in November, as modified by the Trustees' suggestions. Mr. Kuhn seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Pearlman Motion carried.

Mr. Pearlman questioned whether or not landscaping that blocks visibility at intersections would be addressed as part of the Zoning law. He explained that he owns a small vehicle and often must creep into the intersection to have clear visibility around foliage.

Mr. Berman stated that this may be a concern under NYS Vehicle and Traffic Law.

The board discussed the issue and noted that during site plan review vegetation which may inhibit visibility is held back at least four feet from the street.

Mr. Pearlman agreed that this concern may be better handled at the Public Safety or Streets committees.

Mr. Berman stated that the Board of Trustees also take public comment at the opening of their monthly meetings.

Proposed Law Change – Demolition as proposed by HPARB

Mr. Berman reviewed the email received from Ms. Teresa Drerup, HPARB chair regarding proposed changes to the Zoning law which would give HPARB the authority to determine whether or not a public hearing is warranted in the case of a demolition. He further stated that the law currently requires a public hearing for demolitions.

Mr. Kuhn stated that he feels that the proposed change is appropriate.

Mr. Membrino stated that he feels that it is appropriate to leave the decision to hold a public hearing up to the board. He stated that members of the boards are competent individuals who should be given the authority to make decisions.

Mr. Blabey concurred with Mr. Membrino. He further stated that requiring a public hearing holds up the resident and contractors from completing work. He stated that not all situations warrant a public hearing and delaying projects. He continued to state that sometimes during work unforeseen things are uncovered and requiring a public hearing and holding up a project for an extra month may cause a financial hardship for the property owner. Mr. Blabey stated that the Village should acknowledge that the members of the Zoning Boards are smart and reasonable people who can be trusted to make sound decisions.

Mr. Berman stated that the Planning Board has often discussed the required public hearing for Site Plan Review. He suggested that the Planning Board, in the future, may want to consider similar language in place of the currently required public hearing for site plan.

Mr. Pearlman stated that often we try too hard to control things by laws rather than allowing the competent, well thinking, individuals on the boards to make decisions.

Mr. Blabey made a motion to recommend HPARB's proposed amendment to the Board of Trustees. Mr. Pearlman seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Pearlman Motion carried.

Other Business:

Proposed Law Change – Definition of Tourist Accommodation

Mr. Berman provided the board with information regarding the current and a proposed change to the definition of Tourist Accommodation. He explained that Trustee Falk expressed a concern that the current definition of TA may not be sufficient to include "Airbnb" or similar transactions. He further explained that he has spoken to Village Attorney, Martin Tillapaugh regarding this issue and that Mr. Tillapaugh indicated that language which recognizes "a sharing economy" as part of the TA or a related definition would be appropriate.

The board discussed Airbnb and types of sharing economies.

Mr. Membrino stated that the term "sharing economy" is undefined. He stated that this may only add additional confusion to the law and is surprised that it is necessary to include. He stated that there is not any real difference in the current and proposed language. He explained that a sharing economy is technically compensation.

Mr. Berman suggested that it might be more appropriate to define the term "compensation."

Mr. Membrino asked why the change in the law is necessary. He questioned what the Village is losing or has to gain based on this definition.

Mr. Berman stated that the Village is pushing for all property owners who are providing for transient guests to register and abide by the law. He stated that there were several lawsuits in 2015 for non-compliance.

The board discussed the definitions and whether or not the existing definition encompassed Airbnb.

Mr. Blabey stated that sometimes when we try to make a law specific it ends up creating more issues as it does not include all possible scenarios.

Mr. Membrino stated that he has a hard time finding a way to interpret the current definition that is not all encompassing. He continued to state that he feels that the second sentence of the definition regarding serving meals is inappropriately placed in the definition because it is properly characterized as a rule. He stated that this sentence should be moved to the zoning law's regulations regarding tourist accommodations, and not be part of the definition. Mr. Membrino further stated that the addition of "sharing economy" creates ambiguity.

Mr. Blabey concurred with Mr. Membrino.

Mr. Berman reviewed a court case annulling the Town of Hurley's ZBA's decision concerning a homeowner who rented his home for short terms. Mr. Berman explained that the court based its decision on Hurley's zoning law's definitions of "Bed and Breakfast Inn" and "Hotel." Those definitions included rules requiring owner occupancy, meal service, and common entrances.

The board discussed this case.

Mr. Berman stated that Trustee Falk asked that the Planning Board provided a recommendation for review by the Trustees.

Mr. Pearlman suggested that the current definition be changed to state "any form of compensation."

Mr. Membrino stated that the appropriate term would be "consideration" rather than compensation.

Mr. Berman concurred. He stated that compensation usually refers to a monetary exchange whereas consideration could be any exchange, including but not limited to services or, goods.

Mr. Membrino asked if the terms hotel and motel are defined in the law.

Mr. Berman stated that they are.

Mr. Membrino suggested that any term which is defined should be capitalized as a general reference to the definitions.

The board reviewed the definitions of hotel, motel, transient, and dwelling. The board further discussed whether or not the existing definitions were appropriate.

Mr. Berman suggested that the board recommend to the Board of Trustee that although the Planning Board feels that the term "for compensation" in the Tourist Accommodation definition is sufficient, it recognizes that it has not had the opportunity to research the "sharing economy" or accommodations reserved through entities such as Airbnb. He further stated that since Trustee Falk and Village Attorney Martin Tillapaugh have expressed concerns regarding the sufficiency of the current definition, the Planning Board should recommend that the Board of Trustees consider whether an expansive definition of "For Compensation" should be added to § 300-84. In addition to the payment of money, the definition could include any barter, exchange or trade, the giving of any good or service, and the giving of any tangible or intangible having any value or usefulness.

Mr. Membrino made a motion to recommend Mr. Berman's summary of action as stated to the Board of Trustees consideration. Mr. Kuhn seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Pearlman

Motion carried.

Meeting adjourned at 5:37 PM

Respectfully submitted,

Jennifer Truax
Deputy Clerk