

York Town Board-Planning Board
Joint Work Session
March 25, 2014
6:30 pm

Present: Town Board; Gerald L. Deming, Supervisor, Lynn Parnell and David Deuel, Council Members
Planning Board; David Russo, Chairman, Joe McIlroy, Mark Vitale
David Dermody and Frank Rose Sr., Alternate.
Clerks: Donna Falkner, Planning Board Secretary and Patti Barefoot, Dep. Town Clerk

Others: James Campbell, Town Attorney and Davies Nagel

Copies of handout from Mr. Nagel regarding Fracking and its associated risks to Birth Defects were provided and passed out to all in attendance prior to the start of the work session.

Supervisor Deming opened the Work Session at 6:40 p.m. asking Mrs. Parnell to lead the pledge.

Supervisor Deming turned the meeting over to Mr. Campbell who provided the group with an overview of what they would be concentrating on this evening. Attorney Campbell stated that we would be working on Section 7/page 10 which had not yet been discussed by the group.

618 A Intent: Mr. Campbell noted that capitalized terms are in the definitions, welcoming any suggestions from the group while adding that this section provides the standards that are the regulations mentioning that the last sentence be expanded to any *NYS statute, regulation or rule*. Mr. McIlroy suggested a change in the wording regarding public health preservation Mr. Campbell finalized the paragraph by changing the first sentence to read *“The intent of this section is to preserve local public health and provide standards that have not otherwise been addressed by NYS DEC statutes, laws, rules or regulation for the construction and operation of Natural Gas Facilities etc..”*

618 B Applicability: (1): Mr. Campbell continued by noting that there were no changes to this section

(2): In this section, Mr. Campbell stated that it has to be clear so not to prohibit local present businesses/preexisting non conforming. Mr. Deuel asked if there was a way to separate the definitions for bulk fuel versus big national companies. Attorney Campbell was in favor of making the distinction but questioned how to split them with a different set of regulations. Mr. Deuel replied that it was his understanding that bulk fuels are only allowed in Industrial areas within our present zoning. Local home heating businesses, such as Growmark FS and Rose’s

are retail companies whereas the large companies are only allowed in Industrial areas. Mr. Russo stated except for local businesses that distribute petroleum products. Mr. Campbell asked the group if there was a need to define fuels in this section mentioning that he will add “*shall not apply to retail sales of fuel or bulk fuel within any district*” for clarification purposes.

618 (C): Fees: A review of the section “Fee Schedule” was discussed as to whether or not to leave as is or modify this portion. Mr. Campbell stated that we did not need to make a local law in order to change a fee. Fee schedules can be modified without a public hearing. It was decided and agreed upon to take out the last sentence including the word “amended” as well as the last sentence on **C (1)** starting with *As a alternative....*

618(D1-4) Special Use Permit: Mr. Campbell stated that this area is the most often misunderstood as we can not have two different processes, one being for the gas companies and another for all others. **(D1)** it is for the most part “straight forward but somewhat dangerous language”. In Section **(D2)**, Attorney Campbell questions the term “normal maintenance” as it gives rise to different interpretations for some while not clearly stating what industry deems to be normal per DEC requirements. Referencing **(D3-4)**, Mr. Campbell posed the example that if a major company such as Exxon were to build an operational facility then later wanting to transfer ownership to another company, how would proper notification be given. It was agreed upon to leave it at one year and revisit later if an extension is necessary.

SECTION E (1) Special Use Permit Applications: Mr. Campbell addressed the group saying that the Zoning Code and this document can not differ from one another and need to be consistent. His recommendation is that it read a requirement of (10) copies of any application be necessary. (Zoning 804A, pg 78& 79)

F (1-5) Mr. Campbell expressed that these sections are all straightforward with no change necessary. It was agreed upon by all that **F (6)** would be deleted and Mr. Campbell stated that **F (7-8)** works well as it allows cross referencing.

G Required Setbacks: Mr. Campbell explained that this section is a bit of a concern to him. Setbacks are determined to be regulated by DEC Conservation law. In his opinion companies will not be comfortable when they are aware of these requirements. Once State regulations are adopted, they will preempt these setbacks. He mentioned to the group that set backs are not going to give us the protection that we are looking for. Supervisor Deming then shared his concern for the aquifer as well as existing water/well conditions that some of our area residents are experiencing sparking conversations as to how we can protect our water sources. Although Mr. Campbell agrees with the group, as counsel it is his responsibility to provide the Town with all possible/probable outcomes regarding this subject.

Council Member Deuel took a few moments to share that he has read extensive documentation and acknowledges that spills and overflows have caused contaminations of wells in the past but that the industry has developed as it evolved. Modifications to better the system are ongoing but that mistakes can happen despite regulations being in place. Mr. Deuel understands the need for us to be prepared but realistically in his opinion, fracking will not happen in York as shale gas development needs to be 2000 feet deep and the Marcellus shale in our Town is too close to the surface which makes drilling not viable. Councilmember Deuel did suggest the need to add to the documentation the phrase “*on non-leased property*” to section **G (c-f)**

(H) Mr. Campbell will add regulatory provisions for non-operational facilities. A Bond to ensure prompt removal and reclamation in form and amount that is acceptable to Town Engineer or Consultant.

(I) Mr. Campbell will remove from documentation

Mark Vitale exited the meeting at 8:30pm

SECTION 9 1111 Inspection of Improvements: Mr. Russo did not agree with the use of “*any approved permit*” at the end of this paragraph and would like to see the addition of language within this section to read “*The Code Enforcement Officer may upon reasonable notice to applicant retain the services of a qualified private consultant to assist with the inspection of site improvements and to determine compliance with the standards contained in this chapter or conditions imposed upon such activity or use in any approved permit.*”

Mr. Campbell ended the evening by saying that he will review what was discussed and make all corrections using red lines to denote changes. He will return edited portions back to the group and encouraged anyone with questions to email or contact him.

Supervisor Deming motioned to adjourn, Mr. Russo seconded. All in favor, Joint Town and Planning Board Work Session was adjourned at 8:40 pm.

Respectfully submitted,

Donna Falkner, Planning Board Sec.

Patti Barefoot, Dep. Town Clerk

