

York Planning Meeting
November 10, 2021, 7:30 pm
York Town Hall

Present: Joe McIlroy, Alan Brightman, David Dermody, Zack Kobylanski
Absent: Chris Wall

Others: Donna Falkner, Kirk Richenberg, Davies Nagel, Blaine VanRy, Martha & Ned Edmonds, Jim Campbell Esq., Donna Walker, Carl Peter, Becky Lewis, Denise Hahn & granddaughter

Chairman McIlroy opened the meeting at 7:30 with pledge to flag.

Mr. McIlroy asked board to look at P. 34 of Zoning Code on sound zoning. He asked if anyone had any questions or comments.

Mr. Richenberg asked if this was a public hearing or not.

Mr. McIlroy said it was a discussion on moving forward and this was not supposed to be a public hearing.

Mr. Campbell stated they can continue meeting as planned without the public hearing. If public comment is allowed it will be reflected in minutes. If they want the comments to be part of the public hearing for the Town Board next week, they will also need to be brought there. The letters submitted will be added to the minutes.

Discussion continued about current sound zoning and 50 ft. minimum distance as a guide not absolute and can be increased during plan review.

RE: DRIVE-THRU NOISE

MRB GROUP PROJECT NO. 2507.20001.000 PHASE 001

Dear Mr. McIlroy:

MRB, as requested by the Town Planning Board, performed a cursory review of drive-thru speaker sound levels. We offer the following comments for the Planning Board's consideration.

Sound or noise intensity is typically measured in decibels (dB). Multiple sources have indicated that a drive-thru speaker produces 72 dB at 4' from the speaker. This is approximately equivalent to the noise intensity one might experience whilst using a vacuum cleaner. A normal conversation typically produces an intensity of 60 dB, whereas a library might have an ambient noise level of 40 dB.

When determining the impacts of a sound source, distance is an important consideration. For every doubling of the distance between a sound source and a receptor (residence, pedestrian, etc.), the sound level decreases by approximately 6 dB (decay). The equation for sound decay is as follows:

$$L_b = L_a - 20 \log_{10} \left(\frac{D_b}{D_a} \right)$$

L_a = noise level at original distance (dB)

L_b = noise level at new distance (dB)

D_a = original distance from source

D_b = new distance from source

Using the above referenced equation and noise levels, a drive-thru speaker producing

72 dB at 4' would result in the following:

Drive-Thru Speaker Sound Intensity

Distance from speaker Intensity (dB) Reference level

4 feet 72 Vacuum cleaner

16 feet 60 Normal conversation (3' away)

50 feet 50 Moderate rainfall

90 feet 45 Quiet office

160 feet 40 Refrigerator hum, light rain

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Also it should be noted that there are other variables that could impact/ reduce the sound levels from a drive-thru. They include the following:

- Provide screening such as landscaping, grass areas, fencing, etc...
- Drive-thru speakers be oriented away from residential homes.
- Set restrictions that a drive-thru cannot exceed ambient noise levels (45 db) at the property line.
- Set restrictions on hours of operation
- Require a greater setback from the property line +/- 100 feet.

If you have any questions, comments, or concerns regarding any of the above, please do not hesitate to contact me.

Sincerely,

Lance S. Brabant, CPESC

Director of Planning & Environmental Services

CC Planning Board Members

Jerry Deming, Town Supervisor

James Campbell Jr., Esq., Town Attorney

From: Joe Mcilroy
Sent: Tuesday, October 26, 2021 8:31 PM
To: Planning Board Chairman
Subject: Fwd: Town Board referral

-----Original Message-----

From: Heather Nagel <hrbnagel@gmail.com>
To: Alanbrightman999@gmail.com; japmac@aol.com; wall_chris@yahoo.com; dermody4@aol.com; service@versascape.com
Sent: Sun, Oct 24, 2021 8:33 pm
Subject: Town Board referral

Dear Planning Board,

As you weigh in on the proposed law change that the Town Board is considering, I hope that you understand that this is happening because the developers for the York Travel Center have asked to have the law changed after realizing that they would likely not get a use variance from the Zoning Board of Appeals.

The project managers told the Town Board that technology has changed since the the law was written and that is all the justification needed to change the law. But the Town has to figure out if the technology makes a big enough difference or if there are other reasons that the law was written and should remain.

It is not uncommon for a person to ask for their property's "use classification" to get rezoned. However, it is rare for the Town Board to be asked to change the text of our Code. In 2019, the Town was asked to add the profession "surveyor" to a non-exclusive list of what the Town considers "professional" services, which of course surveyors provide and the Town approved. In 2015, David Russo asked the Town to amend aspects in the zoning code to allow uses in a commercial district to permit residential uses. After a public hearing and subsequent discussion, the Town Board voted not to change the law. (I believe that Russo's property then got rezoned to "Hamlet Commercial", which does allow residential uses.)

Our Town already has a good plan in place for where businesses can have drive-thrus with amplification. In fact, there are 15 commercial properties where they could be built in our town. Seven of these properties are currently available for developing. Four are within a mile of the YTC property. (One is the existing convenient store/gas station and another one, the old bank, has a drive-thru on site already). None of them are in residential districts or residential use areas.

If the law gets changed, the number of properties that could have amplified drive-thrus would jump to over 40, scattered into residential districts in all 7 hamlets. Do we really want to compromise our town's planning at the request of one project? Geneseo has the same law that we do regarding drive-thrus and they seem to have found plenty of places for them. As a matter of fact, if you look at all the towns in our area, none of them have drive-thrus with amplification in residential areas. The reason is because sound carries. There are many factors, besides volume, that determine the ability for sound to disperse into a neighborhood, including wind direction and speed, air pressure, temperature, humidity, surrounding surfaces and the sound's frequency range. From our home, we can hear people's casual conversations as they walk along the road, even through the bushes and trees. Who wants to hear "Welcome to Tim Hortons, can I take your order?" all day and into the night?

Our Comp Plan says that our town “will remain a predominantly agricultural and rural community with a small town character”. As a matter of fact, the Town Board is hoping to get a grant to update our Comp Plan, soon. So it doesn’t make sense to make changes to our Town’s Code until we can see how they would fit, or not fit, into an updated overall plan. Maybe the design of our code is actually working by keeping projects, like the YTC, a reasonable size, such as a convenience store and fueling station, and by requiring drive-thru restaurants to be built in a better location.

Thank you for your time, Heather Nagel

From: Blaine VanRy

Sent: Wednesday, October 27, 2021 9:38 PM

To: Planning Board Chairman; Planning Board; Planning Board; Planning Board; Planning Board

Subject: proposed ordinance change

Hi guys. First off, as I mentioned to Joe right after tonight's meeting-- thank you, thank you for asking such good questions. It actually gives me hope to have a board that is thinking through some of these important issues that will forever impact the future look and feel of our community. What you do is a service to the 3300 people who have chosen to make York their home, so your commitment to them is much appreciated.

Secondly, the only question I was disappointed to NOT hear tonight was: why does the town need this ordinance change in the first place? The answer is: it doesn't. Our current code does what it is supposed to do, which is to make putting in commercial properties with amplified speaker systems difficult to do. Our community is a rural one, based for two hundred years around agriculture. We should not be making it easier to put in such commercial properties near the homes of the people who live here. That is by design.

Lastly, I do not think this is the right time to be changing ANY important zoning laws. Our town's comprehensive plan has not been updated in 15 years, which is FAR beyond the recommended time table laid out by the state. We should be waiting until next year when the town comp plan can be examined in detail, allow the public to weigh in on it, and then let the town board decide which measures to adopt after careful, thoughtful reflection.

The only people that benefit from a rush to judgment are the developers, not the citizens who have embraced the rural heritage of our community. I strongly recommend that you report back to the town board that you would like to keep the current ordinance as is, at least until the comp plan is completed.

Thanks again to each of you for your service to the town.

--Blaine VanRy

From: Becky Lewis
Sent: Tuesday, November 9, 2021 1:41 PM
To: Planning Board Chairman
Subject: Geneseo Noise Ordinance

Hi Joe,

Since you talked about McDonald's in Geneseo being next to a residential area, I was looked Geneseo's noise ordinance. I have attached a copy.

I also found that many local towns use a program called e360 to put their zoning ordinances online. It certainly makes it easier to find out what the rules are. Is there any chance that York could do that?

Thanks,

Becky Lewis

Mr. McIlroy - According to MRB from Mr. Brabant we can ask for screening driveway speakers away from residential, number of decibels, greater setbacks.

Mr. Campbell said you could recommend these be included.

Mr. Kobylanski – asked as technology changes, we could always change the decibel level?

Mr. Campbell – we could come up with something that mitigates your concerns.

Mr. Brightman – asked if we would have the ability to state the decibel level cannot exceed X decibels

Mr. Campbell – Yes, but you would have to justify why. We can ask that they include a series of things in the design. I can build some language that the planning board agrees on.

Mr. Brightman – It should be X number of feet – more definitive way of deciding what is appropriate.

Mr. Campbell – Bring an expert to demonstrate you won't be violating what's already in codes already in code.

Mr. McIlroy – 69 decibels at lot line – is it lot line of project or of neighbor?

Ms. Walker – would like members to state what their thoughts are.

Mr. Brightman – Town Board proposed 50 feet minimum, but also need to require sound deafening

Mr. McIlroy agreed.

Mr. Kobylanski – need to add to Mr. Brightman's definition about decibels.

Mr. Campbell – code should permit you to use buffers and orientation of speaker systems.

Mr. Peter – in Zoning the setback is set from edge of right of way.

Mr. McIlroy – if we have vacant residential property or residential district triggers it

Mr. Campbell – residential use or residential zoning district triggers

Mr. McIlroy – with the new language?

Mr. Campbell – residential use would trigger it

Mr. McIlroy – Bank of Castile on 36 – hamlet residential beside it would trigger?

Ms. Walker – said zoning was wrong according to a map she pulled up on phone

Mr. McIlroy – will show you the zoning map on the wall in the office.

Mr. Brightman – can we determine other implications, say if we want to do senior housing?

Mr. Campbell – first step is with Mr. Peter who determines whether it goes to ZB.

Mr. Brightman – Are there any other places other than residential that we would want to limit noise? Are our hands tied with noise decibels?

Mr. VanRy – there is a noise ordinance in the code.

Mr. Brightman – Do we have any say about noise?

Mr. Campbell – you can as part of the review process make recommendations regarding mitigation of noise

Mr. Richenberg – sounds like the Board is trying to look at this for all projects. Is this the only project in York now?

Mr. McIlroy – as far as I know

Mr. Campbell - I will write up language permitting planning board to provide mitigation, fencing, maximum decibel level depending on project, speaker placement and will email to the Planning Board for their suggestions and then will present it to the Town Board.

Resolution:

Mr. Kobylanski moved to have Mr. Campbell draft up the proposed changes, Mr. Brightman seconded, all in favor, carried.

Aye – 4 Nay - 0

Resolution:

Mr. Kobylanski moved to adjourn at 8:15 pm, Mr. Dermody seconded, all in favor, carried.

Aye –4 Nay – 0

Respectfully submitted,
Donna Falkner
Clerk