

Village of Millerton Zoning Law Audit

Prepared by Nan Stolzenburg, August 2018

1. Purpose Statements – this should be expanded to incorporate and better reflect the goals established in the comprehensive plan.
2. Definitions:
 - a. Defines home tourist – this brings up the need to discuss short term rental (Air BnB) and determine how village wants to address this, and whether they are part of ‘home tourist’.
 - b. Industry definition – SIC codes are no longer used. This definition is outdated.
 - c. Nurse School – probably a typo – should be nursery school.
3. 170-6 – Establishments of districts
 - a. There is no Highway Business II on the map. Either the map is wrong or the text needs to be updated to remove references to HB2.
 - b. Add in purpose statements for each district so that there is an understanding about what the district is supposed to accomplish for the Village. This should tie into the purposes as well as the goals of the comprehensive plan. Also, the 1994 Plan had descriptions of each zoning district that may help in this description. But these purpose statements are very important to set the stage for what each district is supposed to accomplish.
4. Zoning establishes a buffer along streams. This is very good, but it uses terms “normal water edge of main stream” and “normal water edge of tributary branches”. These are not defined and should be. Also, it would be helpful if these streams were mapped so that people could easily understand where this is applied.
 - a. The Village should evaluate the Greenway Guide for Stream Protection. It recommends a 60’ buffer width that should be increased based on streamside conditions. The zoning should reflect this and offer the Planning Board an ability to have smaller or larger setbacks based on stream conditions.
5. District regulations in all districts allow church or parish house on a site of not less than two acres to be permitted by Planning Board with a special use permit. It is very likely that requiring a special use permit for a church would violate the federal RLUIPA law (Religious Land use and Institutionalized Persons Act). This is a use more appropriate to go through site plan review, but not a special use permit.
6. Throughout the zoning, lot coverage standards are set. In a village setting, these are usually higher than in a country setting so that there is maximum use of lots – especially for business uses. In Millerton, these are set very low – lower than in the Town of North East. This means that a person can use only a small portion of their lot for building. For example, in the R1A district, coverage maximum is only 7%. Throughout the zoning, coverage limits are very restrictive. A more common standard for single family residential lots is 25% or 30% in a village setting but are also often 40 or 50%. Lots having multi-family uses are usually set at 60%, and commercial uses are often at 70%. Such low coverage percentages do mean that there is more open space, and it would functionally result in smaller buildings, but certainly would be less attractive for investing in new commercial or residential building since so much of the lot can’t be built on because of this requirement. This should be evaluated for all the zoning districts –

which were all set very low. Also, in the R20000 district, the zoning establishes a coverage on lots served by central sewers at 15%. This is unusually low for areas to be served by sewer, where one of the objectives of having a sewer is to allow for denser growth. While you want to ensure that new development emulates existing lot configuration, you also want to maximize use of any sewer system that might be constructed. I recommend all coverage standards be reviewed and increased, except where environmentally necessary.

7. The zoning establishes that clustering of homes can be done and offers a density bonus with a minimum of 40% of the parcel reserved for recreation or open space. There is no process offered however to design a clustered subdivision. To enhance this, include the conservation subdivision process so that there is more guidance as to how to do a cluster. This language could be in either zoning or in the subdivision law and referred to in zoning. Either way, it would be helpful for all parties to know how to develop and review a clustered subdivision.
 - a. Also, it may be beneficial to require a clustered subdivision in the Village setting to be designed as a traditional neighborhood (TND) so that it maintains village, rather than suburban character. Conservation subdivisions outside the Village would look very different, but in the Village should be village-like. TND standards would result in new neighborhoods with streets, sidewalks, lots, setbacks, and density that would match the traditional neighborhoods in the Village.
8. Area, yard, coverage and bulk standards:
 - a. It is recommended that the various bulk, lot size, and other dimension requirements for all the districts be put into a table format, instead of narrative for ease of use.
 - b. It is recommended that the Village use the GIS data available now to do an analysis of existing lot characteristics and then align zoning requirements for new lots to match existing. This would ensure that new lots to be created will be consistent in size, setback, width and other characteristics to the existing neighborhood. This analysis should document average lot size, average front yard setback, lot coverage, and average width of lot. These are the site characteristics that most influence the character of the street. New lots and uses should maintain all those features. The GIS analysis will allow the Village to ensure zoning establishes development standards that are connected to what is already in existence – a key to maintaining community character.
 - c. To maintain street character, a maximum front yard setback should be established for all districts. Currently only a minimum is set. This will prevent ‘gap tooth’ kind of development where a new use is setback much farther than anything else. A maximum front setback is particularly important in GB, PRB, LB and HB1. It may be less important in the LB and M districts.
 - d. For the GB district, the zoning should set a very small minimum setback so that any new building is placed close to or at the sidewalk edge.
 - e. Given that the north side of Main Street has a very different character than the south side of Main Street, consider splitting the GB district into two – same uses, but with different setbacks so that you maintain the current character. Century Blvd is also included in the GB and that might have its own set of lot size and setbacks that should be established. As an alternative to creating more districts, the zoning could state that new buildings must emulate the average setback of all buildings on that side of the street.

9. Each district requires fire-resistant construction. The definition of that is included, but is this anything different than what the Building Code requires? If it is, it may create a cost challenge for new development because buildings would be forced to be built with even higher standards. If it is not any different than the Building Code, perhaps it is better to change this to ensure that all building must meet the Building Code, otherwise it seems moot.
10. The PRB district permits 'small retail establishments' but this is not defined. Is it small by square footage? By intensity such as # of employees or customers? By lot size? This needs to be articulated.
 - a. And are antiques, gift shop, and apparel and accessories the ONLY retail uses that should be allowed in this district? What if someone wanted to open a similarly sized bakery? Or a florist? That is why defining small scale is so important. The Village may be missing out on some interesting and successful business uses here that are small scale retail that may function perfectly in that location. Current permitted uses here seem very limiting.
11. Similarly, the permitted principal uses in the LB district are also quite limited. Perhaps function (meaning siting, size, design, landscaping, lighting, etc.) are more important to ensure proper performance. Reliance on strong site plan, design standards, and conditions attached to special use permits can ensure that new uses there 'fit'. I recommend the list be expanded (along with adequate performance standards) to offer additional business opportunities.
12. The zoning does not address new uses such as POD type storage units; solar panels both on structures, in yards, and as solar farms; use of property for events and weddings; and short-term rentals. These should all be addressed in the zoning regulations.
13. The access requirements for LB district says that no entrance or exit shall have a width greater than 50 feet. If a developer used the maximum of 50', there could be 100' (an exit and entrance) of asphalt. This can be very disrupting to streetscape and changes the flow of pedestrians as well. To prevent large expanses of paving, the Village should consider adding to this requirement that the maximum of 50 feet can be used only if one access drive is used. If two driveways are to be used, they should be substantially narrowed. Also, zoning should ensure that sidewalks should continue across the access drive into a parcel, or that a crosswalk be added to continue the sidewalk infrastructure through the driveway.
14. Permitted uses in the HB1 district are largely limited to retail uses. Why is this? Are offices or other uses not suitable for that area? I note that these other uses are acceptable if part of a shopping center, but I don't understand this limitation. Wouldn't a series of smaller buildings in this area be acceptable? Why just large shopping centers? This goes back to the lack of definition of the purpose of that district as we don't really articulate the purpose for the HB1 district. The Village should think of function and performance of a structure rather than just its use in this district. Performance and function may be more important than the use. Either way, permitted uses with site plan review and adequate design standards could enhance the HB1 district.
15. More importantly, I believe that the zoning establishes HB-1 district standards designed with a suburban, rather than traditional outlook. Current development standards will ensure this area will be more suburban looking with large parking areas between the street and building, long setbacks, strip mall type development and tall, large signs. This is a very different feel than the nearby GB district. Is that what is desired? Over time, to maintain village character, I

recommend shorter setbacks and placement of parking to the side or rear. This would extend the main street feel to the HB-1 district.

16. The LC district is established to protect various environmental resources. Yet some of the uses allowed in the LC district such as forestry, golf course, logging camp, and rod and gun clubs, among others, are often quite impacting on the environment. I recommend that the uses allowed in the LC district be carefully reviewed and updated to ensure that only low impact uses are allowed there. Also, given that the zoning also requires a stream buffer that has no disturbances and that the LC district is often narrow and overlaps a good portion of where stream buffers would be placed, I am not sure that there is room for some of the uses permitted in the LC district.
 - a. The 1994 established that the LC district was to include village park, 100-year floodplain, rail trail parkland, wetlands, and slopes > 25%. The Village should use GIS capability to re-map these locations to ensure that the LC district covers the locations it was designed to address.
17. 170-23 (Special Use Permits) does not reflect the special use procedures established by NYS Village Law. I recommend the process for a special use permit be updated so that it matches State Village Law. Language that refers to SEQR requirements, and how to address applications for area variances, conditioning approvals, court review, and waiver of requirements should be added in.
 - a. Also, a special use permit hearing must be held within 62 days from the day an application is received, and this should be stated as well as establishing that time frames can be extended by mutual agreement of the planning board and applicant.
 - b. 170-23 (B) establishes standards for special uses. The ones that are listed seem to be more oriented to siting than use. Keep in mind that site plan review is also required for every use that needs a special use permit and that controls siting issues. The special use review should be oriented to the particular use and how it will function in the neighborhood and district. Site Plan and Special Use must be coordinated, but one looks at siting, and one looks at uses. I recommend that the standards for a special use be better detailed and outlined. Since so many uses require a special use permit, this section needs to be better defined to articulate for both the Planning Board and the applicant standards and expectations.
18. 170-24 (Site Plan Review). Similar to the comments above for Special Use Permits, this section does not contain the normal procedure as established by New York Village Law. All procedures from 7-725 should be included including application for area variance, conditions to be attached to site plan, waiver, reservation of parking, performance bonds, SEQR, and Court Review.
 - a. I also recommend the process be expanded to include a sketch plan meeting as this is a very important first meetings between the Planning Board and the applicant. It can be very effective in setting the stage for an efficient and successful review and approval process as it is the place where the Planning Board can articulate concerns to be addressed, and creative ideas can be formulated.
 - b. I also recommend that a hearing be required for each site plan review the Village undertakes. This is not currently included. Since all special use permits also require a site plan review, the zoning can indicate that the processes and hearings be coordinated to make for an efficient process.

- c. The time frame for making a decision is 62 days, not 60 days and this should be updated.
 - d. The facts to be submitted to the Planning Board (170-49 (C)) should be expanded to cover other aspects and specific criteria related to community character. The list of items to be included on site plans should be expanded. IF a waiver allowance were to be included in the zoning, the Planning board could waive certain application requirements if not applicable. That is another reason why it would be important to have a sketch phase meeting to identify such items.
 - e. There is nothing on the list that requires the applicant to show building façade, landscaping, protection of historic resources or consistency with historic character, parking, lighting, pedestrian features, noise, stormwater and erosion control, etc. These are all important site plan considerations that should be detailed in every site plan.
 - f. The Village may want to waive site plan or establish a modified site plan for uses that are adaptively reusing existing buildings as an incentive to reuse older buildings.
19. 170-36 (Off-Street Parking).
- a. It is recommended that where on-street parking is allowed, parking spots within 400' of the lot be allowed to be counted towards parking requirements.
 - b. Expand (A) (4) to establish a more formal shared parking allowance. Given parking is an issue in the Village, the more shared parking that can be used and formalized, the better.
 - c. Zoning should require or at least authorize the Planning Board to plan for cross-easements between commercial parking lots so that cars can go from one to the other without going onto the street. This will, over time, help control traffic.
 - d. The parking section should be reviewed and revised to allow for more flexibility in parking requirements. Often the parking standards result in over-built parking lots – which diminish community character and add to expense. The Planning Board can use the parking ratios in the zoning as a guideline but should work with the applicant to create only enough parking to meet 80% of the peak use.
 - e. For ease of use by all parties, consider updating the parking ratios to a table format instead of narrative that someone has to read through to find their use and parking requirement.
 - f. All proposals for parking lots should be carefully reviewed by the Planning Board to ensure that they address lighting, landscaping, screening, and location standards, as well as ADA requirements, and provision for bike parking and safe pedestrian flow within the parking lot. This should be stated in the zoning.
20. 170-40 (Sand and gravel pits). I assume this section refers to small gravel pits that do not need a NYS DEC mining permit. But that is not stated so is unclear. Zoning should clarify this. If the mining operation is large and removes > 750 cubic yards per year, it will need a NYS DEC mining permit and some of the requirements you have in this section will be superseded by NYS Mining Law rules. You may want to prohibit those large mines within the Village boundary and ensure that this section applies only to small mines (< 750 cubic yards per year).
21. Signs.
- a. Currently zoning appears to address LED type signs in 170-41 (C) (1) where it prohibits use of moving signs, etc. But it is not clear. And with the advent of LED signs beyond

those used for gas stations, this is an area the Village should more specifically address. In a village setting, LED signs can be quite disruptive when they have moving, colored letters or graphics. Size, location, and messages for LED signs are all important to address. From a community character perspective, the Village may not want to allow LED signs, or if you do, to not allow scrolling, moving, or flashing messages and graphics.

- b. The sign section also restricts portable signs. Since many businesses use sandwich signs for sales, specials, menus or other advertising, the Village may want to consider adding more flexibility into allowing for sandwich signs, at least in the GB district, provided they are brought in at night, and not placed in a manner which restricts pedestrian flow.
 - c. Sign sizes should be evaluated for consistency with current, and desired conditions. In any future zoning update, the Village should evaluate allowed sign size in all districts and adjust to ensure that they are not overbuilt. Signs have a large impact on streetscape and character and should be a very important part of planning when new signs are proposed.
 - i. In the R1A district, the maximum height for a freestanding sign is set at 10'. I believe that is out of character for this district and way too high. This should be lowered and perhaps made to be ground mounted only (not on a single tall pole).
 - ii. 170-41 (D) (1) requires signs to be placed at least 5 feet from the edge of the paved road. You should explicitly give the Planning Board authority to make this setback larger to be sure there are no issues with signs interfering with site distances of vehicles or pedestrians.
 - iii. In the R1A district, it may be advantageous to allow only externally lighted signs.
 - iv. 170-41 (F) allows for freestanding signs up to 10 feet tall in the GB district. As in the R1A, I believe 10' is too high, and that a shorter, ground mounted freestanding sign is more appropriate to the district. On the southern side of Main Street are freestanding signs appropriate at all? Are there any or are most building mounted signs?
 - v. Further, the GB district allows for up to 30 square foot signs. That is quite large, and signs in that area may need to be smaller for both aesthetic/character reasons as well as to reflect slower traffic speeds so signs don't need to be as large.
 - vi. Signs in HB1 (and HB2 which is not mapped), signs are allowed to be 25' high. This is excessively tall within a village seeking to maintain its community aesthetic – even for shopping centers. A bigger, lower sign that is ground mounted and attractively landscaped is more in keeping with this location.
 - d. I suggest the zoning include illustrations for the kind of sign design that is consistent with the street character in each of the districts. This will help both the Planning Board and application know what the sign expectations are.
 - e. There are many sign-related definitions included in 170-41. These could be moved into the definition section.
22. Article VII is for Administration and Enforcement. Does this section, along with the penalties section give the CEO an adequately detailed process/job description, definitions, and tools to

- effectively do his/her job? This should be explored, and amendments made as needed to improve administration and enforcement.
23. 170-59 (Zoning Board of Appeals) should be updated to reflect NYS Village Law 7-712. Sections addressing vacancy on the ZBA, removal of members, chairperson duties and use of alternative members are not part of this current ZBA section. Further, I recommend that the sub-section on variances be re-written to mirror language in NYS Village Law 7-712 b to be consistent for issuing area and use variances.
 24. Future updates should incorporate into site plan review, special use permits, and subdivision regulations the need to review and plan for protecting significant habitats as per the North East Significant Habitats report. Maps included in this report show significant areas in the Village that should be addressed in future development proposals. That habitat report suggests infill, reuse of existing structures wherever feasible, and applying conservation measures to safeguard the integrity of the Webatuck Creek and its tributaries flowing through the Village, the wetland complex behind the cemetery, and the wetland complex along the state line north and south of Route 44.
 25. I note that there are many excellent recommendations made in the 1994 Plan that were not incorporated into the Village zoning. These are as equally valid and relevant today as they were in the 1990's. Updated zoning should address:
 - a. Use of design standards in zoning to be consistent with the setting, neighborhood, scale and architecture of existing structures.
 - i. The 1994 plan recommended architectural review procedures. That is certainly feasible, but site plan review can also accommodate ensuring consistent design especially if the zoning articulates design standards.
 - ii. Incorporate 1994 Plan pages 50-53 which detail Village land uses, and design guidelines on pages 66-67.
 - b. Identification of historic resources, as well as emulation of historic architecture that may be nearby a proposed development should be part of the review process.
 - c. The 1994 plan called for a historic overlay zone. This may have merit but may also add an extra layer of review for a project that could complicate 'business friendly' attempts. Use of design standards as suggested above can reach the same end via site plan review.
 26. Can the Town CAC be expanded to cover the Village? Or the Village appoint its own CAC? A CAC whose role is to offer advisory opinions on proposals and methods to conserve natural resources in the Village would be very helpful to address the environmental goals of the community.
 27. Zoning should reference and incorporate NYS SWPPP rules (stormwater), the Dutchess County Soil Erosion and Sediment Control Guidelines, and use of low impact development (LID) and green infrastructure to the maximum amount feasible. LID seeks to mimic natural functioning in the design of stormwater control. Use of Chapter 5 of the NYW Stormwater Design Manual should be used in new development to the maximum amount feasible for that site.
 28. Other updates for zoning should include building on the 1994 recommendations:
 - a. Require the planting or replanting of street trees.
 - b. The 1994 recommendation that new development access lots via collector or local roads and not 22 or 44. This would reduce traffic flow impacts on these major roads.

- c. Amend the HBI standards to incorporate the Boulevard design standards outlined originally in the 1994 plan.
 - d. Add to the LB district use of shared access drives to limit the number of vehicular access points (curb cuts) needed.
 - e. Consider development of a wellhead or aquifer protection law to protect the village water supply area.
 - i. Model Aquifer Protection Laws – developed by Chazen for County Planning and Aquifer Recharge Rates & Sustainable Septic System Density Recommendations are available at the County at <http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/16891.htm>. Also, the Harlem Valley Watershed Investigation, January 1999 – Included North East and Village of Millerton; it characterized regional aquifer systems and developed a water resources management and protection program. It is available at: <http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/hvwi1thru16.pdf>.
 - f. The large houses on Dutchess Ave and Maple Ave and their facades should be maintained.
29. The Town and Village could consider an intermunicipal agreement to review and approve or offer advisory opinions on projects that are proposed at or near the town/village boundary. At these locations, projects may have impacts on both communities and the Planning Boards should work together to ensure mutual goals are met. A good model for this is the Village of Altamont on the Town of Guilderland.