

GREENE COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & PLANNING

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Warren Hart, Director

COUNTY PLANNING BOARD REPORT ON PLANNING AND ZONING REFERRAL

Municipality T Cairo
Referral ID 13-18
Date Received August 13, 2013

Response to Town ☒ Village of ☐ of Cairo Referring
Agency Town Board

Date: September 19, 2013

In accordance with Section 239 of the NYS General Municipal Law, the Greene County Planning Board reviewed the following referral at its meeting of 9/18/2013.

Name of Case: New Zoning Law

COUNTY PLANNING BOARD ACTION

- ☐ NO JURISDICTION
☐ 30-DAY EXTENSION REQUESTED (see comments)
☐ LOCAL DECISION - NO COUNTY IMPACT
☐ LOCAL DECISION WITH COMMENT
☒ APPROVAL WITH COMMENT (see comments)
☐ APPROVAL WITH MODIFICATIONS (see comments)
☐ DISAPPROVAL
☐ INCOMPLETE - ADDITIONAL INFORMATION NEEDED FOR REVIEW
☐ OTHER

Planning Board Comments: Please see attached.

County Planning Board Secretary

If the County Planning Board disapproved the proposal, or approved with modifications, the referring agency shall not act contrary to the recommendation except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within seven days after taking final action, the referring agency shall file a notice of the final action with the County Planning board. The Greene County Planning Board's Notice of Final Action Form is provided for this purpose. A copy is attached.

- Att: (1) Copy of original Planning and Zoning Referral Form
(2) Staff Review (if any)
(3) Notice of Final Action Form

13-18 Town of Cairo: Approve with Comments:

1. These zoning regulations have been developed to reflect goals and objectives of the Town of Cairo Comprehensive Plan. The Town of Cairo is to be commended for its efforts to develop these zoning regulations.
2. Some comments:
 - Page 11: Section III. A Continuation of Existing Nonconforming Buildings and Uses: Should consider changing wording from "Any existing use" to "Any existing lawful use" and include criteria to determine that an existing use is being lawfully operated (Has a building permit been issued?, Certificate of Occupancy? Are there sale tax and/or business tax records?, license to operate?, etc.)
 - Pages 16-22 Table 1. Schedule of Uses: Question: Why are restaurants, retail uses, small offices, and service businesses listed as special uses in the Main Street district? Why not list as permitted?
 - On page 23 Section IV. E Other Uses Requiring Site Plan Approval: Note: It's generally not good form to have one law providing for provisions to another law. Better to amend the SPR law (Local Law #4) if the town desires to add uses to be subject to SPR (or at least cross reference the two). The Town might also consider incorporating the Site Plan Review law into the new law. Note also: the provision "include, but are not limited to" is unclear. Would be better to be specific on what the Town intends to review.
 - Pages 26-28 Section V. B. Regulation of Lot Dimensions: Note: Minimum Lot sizes in MS Main Street district for commercial are much higher than many existing uses and likely too high for many uses that would be desired in this district.
 - Page 34-35 Section VII. A. General Performance Standards: Says "All state and federal laws, rules, and regulations are to be met". Then says in Section VII. A. 9. that the ZBA "may issue variances to the above standards". Note: the Town cannot authorize the ZBA to vary state or federal law.
 - Page 37 Section VII. G. Flood Plains refers to Local Law #3 of 1989. Is this the most current law?
 - Page 38 Section VIII. A. 5.: The town should consider whether the dimensional requirements specified here could be problematic for many uses that might be desired in the Main Street Commercial District.
 - Page 38 Section VIII. A. 7.: What portion of the forested area is the town requiring to be permanently maintained?
 - Page 39 Section VIII. A. 8. Typo: "medicate waste" should be "medical waste"
 - Page 39 Section VIII. B. a Agricultural Buffers: This is an odd requirement that basically says since you are locating near a farm operation you are required to screen yourself from it so you will not be bothered by it.
 - Page 40 Section VIII. B. d: This belongs in the town's subdivision regulation (or at least should be cross referenced)

- Page 49 Section X Manufactured Home Parks: Why would the Town want to site Manufacture Home Parks in the Industrial district?
- Page 80 Section XV. F. 1. b. 4: Typo : "The home occupation shall not noise.." should be "The home occupation shall not create noise.."
- Page 80 Section XV. F. 2. b.: The density limitations for multifamily structures (including senior housing) could affect the availability and affordability of such housing in the town. The town should carefully consider these limitations and their effect of affordable housing.
- Page 81 Section XV. F. 2. d: Why would the residential units of a senior housing facility need to be "buffered" from recreation areas by "trees, hedges, dense plantings, earth berms, and other changes in grade"?
- Page 81 Section XV. F. 2. f. 1: Not clear what is required or why a "looped road system" would be needed for as senior facility with more than three units. Not clear what is meant by "looped road system".
- Page 81 Section XV. F. 2. f. 3: Says that "The local fire department and ambulance service shall review and approve all access to ensure adequate safety and access for emergency services." This section is attempting to assign a responsibility to agencies that may or may not be town agencies. Has the Town consulted with these agencies regarding this planned provision?
- Page 82 Section XV. F. 2. h: Says that all senior housing applications shall conform with the Public Health Law Articles 46, 46-A and 46-B. Note: Article 46 deals with continuing care retirement communities, such as assisted living facilities. Not all senior housing would need to follow these provisions.
- Page 82 Section XV. F. 3. a.: Requires that "Filling stations" and "portions of a convenience store that may have gas facilities" be permitted only on lots having at least two acres. Note: this would make several exiting facilities non conforming such as Stewarts (0.87 acres) and Cumberland Farms (0.55 acres)
- Page 83 Section XV. F. 3. m.: says that "The Planning Board shall require a traffic impact analysis" for proposed gas stations. Might want to consider changing "shall" to "may" since a traffic analysis may not always be necessary.
- Page 83 Section XV. F. 3. q.: Requires applicant to consider use of above ground tanks. Since this type of use would be getting gas storage permits from NYS agencies, it would be better to leave this determination to those agencies.
- Page 83 Section XV. F. 4. a.: Says "bed and breakfasts up to five (5) units must be consistent with all New York State Uniform Fire Prevention and Building Code standards. Note: the town already has a local law to enforce the building code.
- Page 85 Section XV. F. 5.i.: Says that the hours of operation of a convenience store may be restricted. Does the town intend to have the planning board determine the hours of operation of convenience stores on a case by case basis?
- Page 85 Section XV. F. 5. k.: Says that "Parking shall not be in the front yard (unless impractical)". How would this be determined?

- Page 90 Section XV.F.9: Mentions "Department of Health" standards for animal waste but does not specify if it is NYS Department of Health or some other level of government.
- Page 91 Section XV. F. 10: Requires that the bay doors of car repair operations not face any public right of way and prohibits exterior display of new or used automobiles. Note: this would limit siting and operational options for many of these uses.
- Page 91 Section XV. F. 11: Requires door openings of storage units to face the interior of the site (unless impracticable). How would this be determined?
- Page 92 Section XV. F. 11. f: Requires that the roof shape of storage facilities be "compatible with the design and materials of neighboring buildings." Would seem to be better to specify what roof type the town requires.
- Page 92 Section XV. F. 12. a: Requires that the roof shape of car wash facilities be "be similar to design styles of building in the area." Same issue as above.
- Page 94 Section XV. F. 14. c: Prohibits public address systems at camping facilities. Might be better to address this in the town noise ordinance and have one consistent policy for public address systems.
- Page 94 Section XV. F. 15: Provides guidelines for "Seasonal Camp" but it's not clear how a seasonal camp is different from a campground. Need definitions.
- Page 95 Section XV. F. 15. c.: Says that "Amplifier systems shall be designed so as not to be audible beyond property lines" at outdoor recreation facilities. Same issue as Section XV. F. 14. c, above.
- Page 96 Section XV. F. 17.a.2: Prohibits kitchen facilities in the guest rooms of Hotels and Motels. Note: this would prevent the location of extended stay facilities from the town.
- Page 96 Section XV. F. 17.b.3: Says "The Town promotes adaptive reuse of buildings, and encourages the preservation of any historic buildings." Not clear what this provision trying to require. What is the town requiring from the applicant?
- Page 97 Section XV. F. 18.b.: Prohibits any sales to the general public at manufacturing and research facilities. Note: this could prevent useful services to the public such as when the former Stiefel Labs in nearby Durham offered water testing.
- Page 99 Section XV. F. 20: Provides that "Only wind towers erected for individual property owner shall be allowed". Prohibits towers on agricultural districts to those that do not exceed 110% of the energy needed for the farm located on the parcel. Why would the town want to limit a property owner's ability to sell excess power back to the grid?
- Page 100 Section XV. F. 21: Prohibits bars/taverns within 500 feet of other bars/taverns. Prohibits bars/taverns within 500 feet of church or school. Would this provision include restaurants that have bar areas? Note: This would potentially prevent the reopening of some existing business sites.

- Page 103 Section XV. F. 25.d.: Prohibits outdoor storage in connection with a warehouse. Prohibits public address systems. Note: this could prevent some common business types from locating in the town.
- Page 104 Section XV. F. 28: States that all recreational vehicle/boat storage "shall be on a seasonal basis only, unoccupied and wholly within an enclosed structure (s)". Would this restriction be needed even in cases where the recreational vehicle is otherwise screened?
- Page 104 Section XV. F. 30: Includes provisions for mass gatherings. Should be a separate law?
- Page 106 XVI. Administration and Enforcement: Indicates that the "This Article provides for the administration and enforcement of this Zoning Law and New York State Uniform Fire Prevention and Building Code (the Uniform Code) and New York State Energy Conservation Code (the Energy Code). Note the Town has a separate law to enforce New York State Uniform Fire Prevention and Building Code (the Uniform Code) and New York State Energy Conservation Code (the Energy Code).
- Page 106 XVI.A.1: Provides for the ZEO's powers and duties. In addition to zoning, requires that ZEO enforce the Subdivision, Adult Use and Site Plan Review law. Note: these laws already provide for enforcement.
- Page 109 XVI.A.7: This section seems to mix up the responsibilities of the ZEO and CEO, and the issuance of the zoning permit and building permit.
- Page 109 XVI.A.8: This section also mixes up the responsibilities of the ZEO and CEO, and the issuance of the zoning permit and building permit
- Page 109 XVI.B: This section also mixes up the responsibilities of the ZEO and CEO, and the issuance of the zoning permit and building permit. This section should provide for the issuance of the zoning permit, not the building permit.
- Page 113 Section XVII.A.1: This section provides for a seven (7) member ZBA "in accordance with Article 16, Section 267". Note: Town Law Article 16, Section 267 (2) provides that a ZBA may have 3 or 5 members.
- Page 120: Definition of Active Agricultural Land: Land under agricultural management. Need better definition.
- Page 121: Definition of Applicant: The persons, corporation, agency, or other legal entity responsible for submitting site applications for review by the Planning Board. This definition needs to be broadened to include other applications authorized by this law.
- Page 125: Definition of Cul-de-sac seems overbroad - includes any turnaround at the end of a street or road
- Page 144: Definition of "Workforce Housing" notes to "See Moderately-Price Housing" but there is no definition of moderately priced housing.
- Page 145 Appendix A, Section C. Applicability notes that "These design standards shall be required for all development in the Town of Cairo that requires Site Plan review with the exception of agricultural uses and home occupations" but the next section, Section D is titled Design Standards for Non-

Residential Uses in All Districts. Since the Town's site plan review is applicable to some non-residential uses (i.e. multi-family uses) these two sections should be reviewed and reworded.

- General comment on standards section: Some requirements duplicate what is already in other laws (Mobile Home, Telecommunications Tower, Noise). Other provisions would be better as separate laws (i.e. Mass Gathering). To provide for better organization, the town might consider codifying its laws.
3. The Town should consider developing applicant instructions and other guidance documents to explain the new features of this law and the Town's expectations. Technical assistance and guidance should also be provided to local planning agencies to explain the new features of this law and how they should be implemented.
 4. The Town should also consider offering, or requiring, pre-application meetings to review the Town's requirements and expectations. For larger projects, the Town should consider involving county planning staff early on in the project at pre-application meetings and during the SEQR scoping process to insure that important countywide and inter-municipal concerns are addressed.
 5. We request that copies of all text and maps be provided to the Greene County Department of Economic Development, Tourism & Planning in both PDF and original digital formats (Word, GIS data layers, etc.) for archiving.
 6. Please note: An approval and/or local decision designation by the County Planning Board should not be construed as a recommendation that the referring agency approve the referral in question. An approval does not indicate that the County Planning Board has reviewed all local concerns; it indicates that the referral has met certain countywide considerations. Evaluation of local criteria is the responsibility of the referring agency.