

Town of Bovina Planning Board
110 E. BRAMLEY MTN. ROAD
BOVINA CENTER, NEW YORK 13740
PHONE: 607-832-4539
E-MAIL: PLANNING@BOVINANY.ORG

August 27, 2016

Town of Bovina Town Board
Attn: Supervisor Mole
PO Box 6
Bovina Center, NY 13740

Re: Zoning Law Updates

Dear Supervisor Mole and the Members of the Town Board:

The Town of Bovina Planning Board has been reviewing the Zoning Law and the Comprehensive Plan to make recommendations for updates to the Zoning Law.

Enclosed find a Summary of the changes/additions the Planning Board is proposing be made to the Zoning Law. Changes to the Schedule of Uses are the underlined items.

The Planning Board is available to discuss with the Town Board the changes they are proposing as well as any changes or suggestions the Town Board may have.

If you have any questions, please contact me. Thank you.

Sincerely,

Carrie Hewitt Choquette
Town of Bovina Planning Board Clerk

3.02 Hamlet (H) District

A) Purpose:

The purpose of this district is to provide for orderly growth and development on small lots in and around the existing Hamlet of Bovina Center. ~~Since no central sewage treatment is available, lot sizes are based on septic system requirements.~~ This district will permit development to occur in a pattern similar to the established traditional patterns, such as short front setbacks.

B) Permitted Uses: See Schedule of Use Regulations (pg. 33)

C) Uses Permitted by Special Permit: See Schedule of Use Regulations (pg. 33)

D) Lot Area, Yard and Height Regulations:

1) Minimum lot size: one-half (1/2) acre;

a) ~~Lot suitable for standard trench or bed septic system: one half (1/2) acre;~~

b) ~~Lot suitable for shallow trench septic system: one (1) acre;~~

c) ~~Lot suitable for alternative raised (engineered) septic system: two (2) acres.~~

d) Pre-existing lots that do not meet the requirements of this paragraph are grand fathered in accordance with Section 6.03 (C).

2) Minimum frontage: One hundred (100) feet

3) Front setback: Sixty (60) feet from road centerline or the average between two adjoining buildings on each side of the lot; no principal building shall be set back more than 100 feet from road centerline.

4) Minimum side setback: Fifteen (15) feet for principal structures; Three (3) feet for accessory structures.

5) Minimum rear setback: Fifteen (15) feet for principal structures; Three (3) feet for accessory structures.

6) Maximum building height: Forty (40) feet.

7) Minimum building height: one and one-half stories above foundation for the principal building on the lot.

(Updated Section)

4.03 Home Occupation

All Home Occupations shall meet the standards of the New York State Uniform Fire Prevention and Building Code and the following conditions:

- A) The occupation or activity shall be carried on wholly within the principal building or within a building or other structure accessory thereto. An area equivalent to no more than twenty-five (25) percent of the floor area of the dwelling shall be used for the occupation and in no case more than 500 sq.ft. Such area shall be within the dwelling or another structure accessory thereto. No outdoor storage is permitted.
- B) There shall be no exterior display or sign except as permitted under this law, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- C) No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced.
- D) Any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this Ordinance.
- E) No more than one home occupation shall be permitted per residence/property

Home Occupation

- A) Not more than two (2) persons outside the resident household shall be employed in the occupation or as assistants
- B) No more than one (1) commercial-type vehicle shall be used in connection with the occupation and/or be parked on the property.
- C) All Home Occupations must comply with the Schedule of Use Regulations.

(New Section)

4.17 Roadside/Farm Stands

A) Design and Operations Standards

- 1) There shall be no sales of fuel and related products, tobacco products, alcoholic beverages except those listed under permitted uses, lottery tickets, vehicles or related products.
- 2) Food franchises are prohibited in any roadside stand or farm market operation.

B) Parking

- 1) To ensure public safety, roadside stands will be required to have an improved off-street parking area and adequate ingress and egress with an area for turn-around. There shall be one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of 2 spaces. Parking spaces are exclusive of driveways and turnarounds. Pick-your-own operations will require a greater number of off road parking spaces based on expected

number of cars per day. Overflow parking should be, minimally, grass covered.

C) Setbacks

- 1) Front yard – 20-feet from the right-of-way line to front of sales area, excluding production facilities, garden plots, planting beds and outdoor storage areas open to the public. No parking is allowed within front yard setback or within 20-feet of the edge of roadway, whichever distance is less.
- 2) Side yard – 20-foot setback from property line.
- 3) Rear – 40-foot setback from property line.

D) Signs

- 1) Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply.

E) Lighting

- 1) No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage shall be permitted.

8.03 General Procedures

The Board of Appeals shall act in accordance with Section 267 of the Town Law, State Environmental Quality Review Act, General Municipal Law Section 239, the procedures specified in this law, and their own bylaws. All appeals and applications made to this Board shall be in writing.

(New Subsections)

A) Use Variances

- 1) The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such Ordinance or Local Law, shall have the power to grant Use Variances, as defined herein.
- 2) No such Use Variance shall be granted by a Board of Appeals without a showing by the applicant that applicable Zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the Zoning regulations for the particular district where the property is located,

- a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d) That the alleged hardship has not been self-created.
- 3) The Board of Appeals, in the granting of Use Variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B) Area Variances

- 1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such Ordinance or Local Law, to grant Area Variances as defined herein.
- 2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - c) Whether the requested area variance is substantial;
 - d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- 3) The board of appeals, in the granting of Area Variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C) Imposition of Conditions

The Board of Appeals shall, in the granting of both Use Variances and Area Variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Ordinance or Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Application to Supreme Court by aggrieved persons. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the Board in the office of the Town Clerk.

D) Procedure

- 1) All applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer.
- 2) Every application shall refer to the specific provision of the ordinance involved and establish the details of why the variance should be granted. An Environmental Assessment Form, as required by SEQR, must be submitted with all applications except setback variances and interpretations.
- 3) Upon receipt of the completed application, the Zoning Board of Appeals shall:
 - a) Schedule a public hearing within sixty-two (62) days.
 - b) Arrange publication of notice of public hearing in the Town's official newspaper at least ten (10) days prior to the public hearing.
 - c) Authorize applicant to notify in writing all land owners within 500-feet of the applicant's parcel by Return Receipt Mail; the applicant shall furnish receipts to the Zoning Board of Appeals at the start of the public hearing.
 - d) All use variances submitted to the Board of Appeals shall be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue its report within thirty (30) days, the Board of Appeals shall assume that a favorable report has been issued.
 - e) Refer application to the County Planning Board as required by General Municipal Law, Section 239 m, to allow the County thirty (30) days to review the proposed action and to file its report.
 - f) Review the Environmental Assessment Form and determine whether an environmental impact statement should be required.
- 4) Within sixty-two (62) days of the public hearing, the Zoning Board of Appeals shall render a decision. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Zoning Board of Appeals acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within thirty (30) days after final action and set forth in writing the reasons for the contrary action.

8.04 Appeal of Planning Board Decision on Special Use Permits/Site Plan

- A) Any applicant for a special use permit/site plan approval may appeal the Planning Board's decision of denial or conditional approval ~~to the Zoning Board of Appeals in writing within thirty (30) days after the filing of the decision in the Office of the Town Clerk. It is intended that this appeal mechanism shall be optional; applicants may appeal directly to Supreme Court within thirty (30) days of the Appeals Board's decision, as provided by Section 267-c of the Town Law.~~
- B) ~~The Zoning Board of Appeals shall affirm or reverse, in whole or in part, the decision of the Planning Board within sixty two (62) days of receiving a written appeal. The Appeals Board shall hold a public hearing before making its decision. The Appeals Board shall not alter a decision of the Planning Board unless it finds that the Planning Board's decision was unreasonable, based on a substantial error of facts, or not properly related to the standards set forth in this Local Law.~~
- C) ~~The applicant may appeal the original decision of the Planning Board to Supreme Court as provided by Section 274 a, Paragraph 10, of the Town Law within thirty (30) days of the Appeals Board's decision or of the applicant's withdrawal of an appeal before the Appeals Board. In addition, any person aggrieved by the Appeals Board's decision, may appeal within thirty (30) days to Supreme Court, as provided by Section 267 c of the Town Law.~~
- D) ~~This Section supersedes Town Law Section 274 a, Paragraph 10, to the extent that it provides an additional, optional appeal and that the thirty (30) day time limit for appeals to Supreme Court provided by statute does not commence until an appeal directed to the Zoning Board of Appeals is concluded, if such appeal to the Board is made.~~

ARTICLE 10. DEFINITIONS (Additions)

ANIMAL SHELTER: A place where animals are given medical care and any boarding of animals is limited to short-term care incidental to the hospital use. Use does not include facilities that breed and/or board animals, kennels, etc.

HEALTH SERVICES FACILITY: An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

HOTEL: A facility offering transient lodging accommodations and restaurant to the general public and providing additional services such as meeting rooms, and recreational facilities.

INDOOR/OUTDOOR RECREATION FACILITY OR COMPLEX: A place or site designed and equipped for the conduct of sports and leisure-time activities.

KENNEL: A commercial establishment in which dogs or other domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation.

MEDICAL CARE FACILITY: A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, and home health care agency.

RESIDENTIAL CARE FACILITY: Residences occupied by the elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services such as recreation, social, cultural activities, financial services and transportation.

ROADSIDE/FARM STAND: A permanent or temporary structure used for the display support and protection of sale of farm products with the intent to sell to buyers. Must comply with provisions of section 4.17

TENT CAMPGROUND: A plot of ground upon which two (2) or more campsites are located, established or maintained as temporary living quarters for recreation, education, or vacation purposes.

TRAVEL TRAILER PARK: Any lot or parcel of land upon which two (2) or more recreation vehicle sites are for occupancy by recreation vehicles of the general public.

Town of Bovina

SCHEDULE OF USE REGULATIONS

P = Permitted Use In Specified District
SP = Special Use Permit and Site Plan Required
SP* = Site Plan Review Required
X = Prohibited Use In Specified District

If a use is not listed in this Schedule, it is not allowed.

| | <u>DISTRICTS</u> | |
|------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------|
| | <u>GR</u> | <u>H</u> |
| <u>RESIDENTIAL PRINCIPAL USES</u> | | |
| Boarding and Rooming Houses | SP | SP |
| Dormitory, fraternity/sorority house | SP | X |
| Dwelling, Multi-Family (Apartment) | X | X |
| Dwelling, Single-Family | P | P |
| Dwelling, Two-Family | P | P |
| Mobile Home | P | X |
| Monastery, retreat or similar religious residential facility | SP | SP |
| Residential Care Facility | <u>SP</u> | <u>SP</u> |
| <u>ACCESSORY USES</u> | | |
| Accessory Apartments | SP | SP |
| Accessory Use or Structure Incidental to the Permitted or Special Permit Use and Located on the Same Lot, Not Otherwise Specified Herein | P | P |
| Guest Cottage on Residential Premises | P | P |
| Home Occupation | P | <u>SP</u> |
| <u>GENERAL PRINCIPAL USES</u> | | |
| Agriculture, Including the Keeping of Fowl and Animals | P | P |
| Cemetery | P | SP |
| College/University | SP | X |
| Forestry Uses (Commercial Logging) | P | P |
| Human Crematory | SP | SP |
| Non-Profit Club or Non-Profit Recreation Use | <u>SP</u> | SP |
| Roadside Stand | P | P |
| Summer Camp, Day Camp, Cottage or Cabin Development | SP | SP |
| <u>PUBLIC PRINCIPAL USES</u> | | |
| Animal Shelter | SP | X |
| Art Gallery/Studio | <u>SP</u> | SP |
| Church or Other Place of Worship | <u>SP</u> | SP |
| Conference Center | <u>SP</u> | SP |

| | | |
|-----------------------------------------------------------------------|-----------|-----------|
| Conservation Uses, Including Public Parks and Public Recreation Areas | P | P |
| Cultural Facilities (Library, Museum, Etc.) | <u>SP</u> | SP |
| Day Nursery or Nursery School | <u>SP</u> | SP |
| Golf Course or Country Club | SP | SP |
| Governmental Buildings and Uses | <u>SP</u> | <u>SP</u> |
| Library | <u>SP</u> | SP |
| Medical Care Facility | SP | SP |
| Meeting Hall for social, fraternal, civic, or similar organizations | <u>SP</u> | SP |
| Nursing Home | <u>SP</u> | SP |
| Private Non-Profit Academic, Parochial or Technical School | SP | SP |
| Recycling Center | SP | SP |
| Sanitary or other waste landfill, including toxic or hazardous waste | X | X |
| Solid Waste Transfer Station | SP | X |

RECREATION PRINCIPAL USES

| | | |
|---------------------------------------------------------|-----------|-----------|
| Baseball hitting range or Archery range | <u>SP</u> | SP |
| Equestrian Facilities | P | SP |
| Firing Range, skeet or trap-shooting facility (outdoor) | SP | X |
| Firing Range, Indoor | <u>SP</u> | SP |
| <u>Fitness Center</u> | <u>SP</u> | <u>SP</u> |
| Golf Driving Range | <u>SP</u> | SP |
| Golf, Miniature | <u>SP</u> | SP |
| Indoor/ <u>Outdoor</u> Recreation Facility or Complex | <u>SP</u> | SP |
| Lodges and resorts | SP | SP |
| Swimming/Tennis (Racquet) Facility, public or private | <u>SP</u> | SP |
| Tent Campgrounds | SP | SP |
| Travel Trailer Park | SP | X |

BUSINESS PRINCIPAL USES

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------|
| Airports, landing strips and heliports | SP | X |
| Auction Establishment | <u>SP</u> | SP |
| Audio and Video Studio | <u>SP</u> | SP |
| Automobile Repair Facility | SP | SP |
| Barber/Beauty Shop | <u>SP</u> | SP |
| Bed & Breakfast | <u>SP</u> | <u>SP</u> |
| Broadcasting Studio | <u>SP</u> | SP |
| Building Materials Supply and Sales | <u>SP</u> | SP |
| Business or Professional Office | <u>SP</u> | SP |
| Car Wash | SP | SP |
| Carpentry, plumbing, electrical, printing, welding, sheet metal, wood working shops & <u>other contracting or excavation</u> <u>businesses</u> , less than 5,000 square feet | <u>SP</u> | SP |
| Commercial Nurseries or Greenhouses | <u>SP</u> | SP |
| Commercial storage and processing of bulk agricultural products | SP | <u>SP</u> |
| Contractor Business | P | SP |
| Convenience Store | SP | SP |

| | | |
|------------------------------------------------------------------------------|-----------|----|
| Dance Hall, Bowling Alley or Indoor Skating Rink | <u>SP</u> | SP |
| Dance or Music Studio | <u>SP</u> | SP |
| Farm Supply | <u>SP</u> | SP |
| Financial Institution | <u>SP</u> | SP |
| Fuel Yard (retail) | SP | X |
| Funeral Home | <u>SP</u> | SP |
| Gasoline Station, or Automobile Service | SP | SP |
| Greenhouse with retail sales | <u>SP</u> | SP |
| Health Services Facility or Clinic | SP | SP |
| Hotel or Motel Development | SP | SP |
| Kennels | SP | X |
| Laundry, self-serve or other | <u>SP</u> | SP |
| Livestock Exchange | SP | X |
| Mobile Home sales and service | X | X |
| Motion Picture Theater, Theater for Dramatic Productions, or Concert Hall | <u>SP</u> | SP |
| Newspaper Office | <u>SP</u> | SP |
| Photographic Studio | <u>SP</u> | SP |
| Printing Facility | <u>SP</u> | SP |
| Repair Service Establishments | <u>SP</u> | SP |
| Restaurant | <u>SP</u> | SP |
| Retail Business or Service, Not Otherwise Specifically Listed Herein | SP | SP |
| School Conducted for Profit | <u>SP</u> | SP |
| Shopping Center | SP | X |
| Stone Monument Processing | <u>SP</u> | SP |
| Tavern, Bar or Nightclub | SP | SP |
| Taxidermy Shop | <u>SP</u> | SP |
| Video Arcade | <u>SP</u> | SP |
| Veterinarian's Office, Animal Hospital | SP | SP |

INDUSTRIAL PRINCIPAL USES

| | | |
|--------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|
| Bottling and Related Uses | SP | X |
| Commercial Communications Receiving and Transmitting Antenna | <u>SP</u> | <u>SP</u> |
| Garbage Incineration other than in municipal plants or incidental to the operation of small businesses, farms, or dwellings | X | X |
| Freight Terminal | SP | X |
| Fuel Yard (wholesale) | SP | X |
| Junk yard/Auto Graveyard | X | X |
| Laundry or Dry Cleaning Establishment | SP | X |
| Manufacture, Fabrication, Assembly, Warehousing and Other Material Handling | SP | X |
| Same as Above Except No Larger Than 3,000 Sq. Ft. | SP | SP |
| Mining, quarrying, mineral processing over 1000 cubic yards per year | P | SP |
| Mining, quarrying, mineral processing less than 1000 cubic yards per year | P | P |

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|
| Natural gas, oil and other petroleum products metering, regulation, compressors and local office space incidental to such operations but not any storage facilities | SP | X |
| Public Utility or Transportation Use, Including Garage and Maintenance Facility | SP | X |
| Public Utility Station or Structure | SP | SP |
| Research Laboratory | SP | X |
| Sawmill | SP | X |
| Wholesale Business or Sales, Not Otherwise Specifically Mentioned Herein | SP | X |
| Wind Energy System | X | X |

INDUSTRIAL ACCESSORY USES

| | | |
|----------------------------------------------------------|-----|-----|
| Small Wind Energy Conservation System for Farm Operation | SP* | SP* |
|----------------------------------------------------------|-----|-----|