

## **XI. ANALYSIS OF EXISTING ZONING/PLANNING AND RELATED LOCAL LAWS**

- A. Introduction: This section of the Comprehensive plan is a topical review of several existing local laws of the Town of Milo that relate to planning and zoning matters. It is not intended to provide the exact wording for rewriting those laws, but to identify issues that need to be addressed in those laws to bring them in harmony with the comprehensive plan, modernize them, and ensure that they work together with other local laws as well as state and federal laws and regulations. Each succeeding paragraph (B., C., D.,...) in this section corresponds to an existing local law of the Town, identified by its chapter number in the Town's Code as well as its title, and contains specific recommendations in regard to that local law.
- B. Chapter 90: Flood Damage Prevention
1. This local law conforms to the latest Federal Emergency Management Agency (FEMA) model, as is required for homeowners to obtain flood insurance in flood plains within the Town. It is important to note that the Town is permitted to add additional standards and criteria to the FEMA model, as long as the standards and procedures are not less than the standards and procedures contained in the FEMA model.
  2. In the local law the Town's Zoning Board of Appeals is charged with granting variances to the requirements of this local law.
    - a. Recommendation: The Town should consider adding a paragraph D. to §16 that adds the following requirements to variances issued by the Zoning Board of Appeals:
      - 1) No obstruction in the floodway shall be allowed that impacts the volume and rate of flood flows within the floodway.
      - 2) At the very least cut and fill (grading) must be balanced within the limits of Zone AD (commonly referred to as the 100-year floodplain). Preferably, grading plans should have more cut than fill within Zone AD to ensure that any construction does not decrease the storage capacity for water in Zone AD nor raise flood levels within Zone AD.
    - b. Reasoning:
      - 1) Obstructions to the floodway have a dramatic impact on the rate of flow of water during flood events, often resulting in destructive erosion on the subject property and adjacent properties.
      - 2) Development should not be allowed to increase, even incrementally, the height of a flood event through filling in the flood plain. The town should make a clear policy statement that guides incremental decisions of the Zoning Board of Appeals.
- C. Chapter 98: Junkyards
1. This local law establishes a licensing mechanism for junkyards at the Town Board level and requires a modest amount of visual separation from public roads for new junkyard operation.
  2. Recommendations
    - a. The Town needs to replace this local law with one adapted from the current model junkyard ordinance published by the New York State Department of State, Office of Local Government Assistance. This will address:
      - 1) Establishing a firm time frame for compliance by existing junkyards, instead of depending upon a variance procedure to be reviewed by the Town Board.

- 2) Coordinate the location limitations for junkyards in this chapter with provisions contained in the Zoning Local Law.
- 3) Establish a well-defined variance process with guidelines to assist in the decision making process.
- 4) Provide an up to date definition of junk and junkyard.
- b. Coordinate the new Junkyard Local law with Zoning. The Town should consider adding a “Salvage” District to the Zoning Local Law and map to include property where junkyards already are located. If the Town has no active salvage yards, they should consider creating a Salvage District as a floating zone so that new junkyards require a rezoning for that use.
- c. Make all junkyards subject to site plan review by the Planning Board.
- 3. Reasoning
  - a. The current local law is outdated, and contains an ill defined variance procedure for exempting existing junkyards from compliance with certain sections of the Chapter, and does not make the same variance opportunity available for applicants for new junkyards.
  - b. The creation of a floating zone, or possibly zoning property that currently contain junkyards to a Salvage zone would establish clear procedures for the application for a new use and for variance procedures, which can be handled by the ZBA that is experienced with the process for granting variances.
  - c. The current law makes the Town Board responsible for holding a hearing and making the decision on allowing a new junkyard. Such legislative action on an application is harder to overturn in court than an administrative action or one of an appointed board. The incorporation of a floating zone would preserve the right of the Town Board to make that decision, and its stronger position in any court case.
  - d. Inclusion of site plan approval requirements for any junkyard puts review of visibility and aesthetic issues in before the Planning Board, which has more experience in dealing with such matters than the Town Board. The review of a site plan for a junkyard would follow the site plan procedures and process contained in the zoning code for all site plan applications—it will not have to be duplicated in a separate local law.

#### D. Chapter 110: SEWERS

- 1. This local law establishes the town’s authority for requiring sewer improvements within its sewer districts, establishing the methodology for setting user rates and fees, and contains material specifications for construction of facilities to be dedicated to the Town.
- 2. Recommendations:
  - a. The Town should consider publishing a separate ‘Design Standards and Guidelines Manual,’ and require compliance to the latest version adopted by resolution of the Town Board.
- 3. Reasoning:
  - a. Adopting a separate Design Standards and Guidelines Manual allows the town to modify the materials, specifications, and practices in the manual quickly by resolution of a majority of the Town Board as generally acceptable engineering, construction, and even regulatory standards (such as those from the New York State Department of Health or Environmental Conservation) change. Currently, material

and specification changes contained in this Chapter must be changed by amending the local law, including filing it with the State Secretary of State.

- b. Several of the standards contained in this chapter are outdated and do not include allowance of modern construction materials.

E. Chapter 114: Streets and Sidewalks

1. This Chapter contains standards for public street construction in the town.

2. Recommendation:

- a. The Town should consider publishing a separate ‘Design Standards and Guidelines Manual,’ and require compliance to the latest version adopted by resolution of the Town Board.
- b. The design standards for streets should include provision for concrete gutters, ditches, pedestrian crossings, sidewalks, trails, and storm water management (pipes, inlets, the alignment of new streets, intersections, driveway access, etc. The town should engage an engineer and perform a comprehensive review of the materials and construction standards it needs to promulgate in its new Design Standards and Guidelines Manual. Much of this information can be borrowed from similar manuals adopted by other municipalities.
- c. The site plan provisions of the zoning local law should reference and require conformance to the Design Standards and Guidelines Manual of the Town of Milo.
- d. The subdivision regulations should reference and require conformance to the Design Standards and Guidelines Manual of the Town of Milo.
- e. § 10 of this chapter states that erosion control is required for subdivisions. This standard needs to be moved to the Subdivision Regulations and also added to site plan requirements in the zoning code. The Design Standards and Guidelines Manual should reference and require compliance with the state’s stormwater regulations, and compliance with a new town erosion and sedimentation control local law.
- f. Geometry and structural standards for new roads should take into account emergency vehicle access.

3. Reasoning

- a. Adopting a separate Design Standards and Guidelines Manual allows the town to modify the materials, specifications, and practices in the manual quickly by resolution of a majority of the Town Board as generally acceptable engineering, construction, and even regulatory standards (such as those from the New York State Department of Health or Environmental Conservation) change. Currently, material and specification changes contained in this Chapter must be changed by amending the local law, including filing it with the State Secretary of State.
- b. Several of the standards contained in this chapter are outdated and do not include allowance of modern construction materials.
- c. The current chapter contains no specification for sidewalks, trails, stormwater facilities, and other customary site improvements that may be offered for dedication to the Town. It also contains no criteria for aligning intersecting streets, minimum offset (the separation between roads that intersect the same street), the angle of intersection, slope, minimum sight distances from driveways and other intersections, and many other road construction standards that are important to the general health, safety, and welfare of the community in laying out new roads and developments.

- d. Unless the town is including specifications for erosion and sedimentation control methods or equipment, a policy statement such as ‘erosion control is required for subdivisions’ does not belong in a chapter promulgating street and sidewalk design and construction standards. These belong in zoning codes, subdivision regulations, and erosion and sedimentation control local laws.
- e. The current standards for dead end roads, road widths, and road structure do not appear to meet minimum standards for emergency vehicle access. Slope, turning radii, and road base weight bearing standards should be included in new road standards to ensure adequate provision of emergency vehicle access.

F. Chapter 120: Subdivision

- 1. This chapter establishes review procedures and requirements for the subdivision and associated development of land. It currently has differing levels of review and requirements for applications for major and minor subdivisions.
- 2. Recommendations
  - a. The Town should consider rewriting its Subdivision Regulations in their entirety.
  - b. All property line changes should be included in the definition of subdivision and be subject to some level of review as follows:
    - 1) Administrative Review (the subdivision plat must still be signed by Planning Board Chairman after CEO’s certification that all zoning dimensional requirements have been met). These should consist of:
      - a.) Subdivisions resulting in lots of 10 acres or more for agricultural purposes.
      - b.) The recombination of two or more parcels into a single parcel that does not result in any violation of the zoning code.
      - c.) Lot line adjustments between adjoining property owners that do not result in the creation of new lots nor create any conditions that do not comply with zoning requirements (such as creating lots without sufficient frontage).
      - d.) Lot line adjustments that remedy pre-existing non-conforming lots, as long as no new non-conformities are created as a result.
      - e.) Other subdivisions as the town may define that are so minor in nature that they will not impact adjacent property or the general health, safety, and welfare of the community.
    - 2) Minor Subdivision: This should include up to 4 lots from a parent parcel existing at the time of adoption of the new subdivision regulations as long as no extension of public utilities or roads are involved. The process for a minor subdivision should include a public hearing before the Planning Board, an environmental review conducted pursuant to the New York State Environmental Quality Review Act, a standard set of submission requirements, and a vote by resolution to approve, approve with modifications, or deny for reasons the application for subdivision.
    - 3) Major Subdivision: This should include all other subdivisions (thus anything more than 4 lots or involving extension of public utilities or roads). The major subdivision should have additional submission requirements and include both a preliminary and a final approval process with a public hearing at each. The Planning Board should have the authority to waive the second public hearing if the subdivision application is not controversial and the final subdivision

- applications complies with the preliminary subdivision application as approved by the Planning Board (including any modifications).
- c. A single, simple time frame for all applications should be established, based upon the statutory time frames (62 days from application to public hearing, 62 days after the public hearing until board decision). A statement should be included that the subdivision review time frames are suspended until the environmental review process is completed, and another that they may be suspended by mutual consent of the applicant and the board.
  - d. The sketch plan process should be encouraged, but no vote nor should any written recommendations be made beyond the recording of the discussion in the minutes of the Planning Board. Sketch plans should be informal working sessions and the results not binding on either party.
  - e. Subdivision designs should be required to:
    - 1) Respond to topography,
    - 2) Protect significant local views, historic resources, and site features, including preservation of views of Keuka and Seneca Lake,
    - 3) Protect and leave undisturbed trees and other natural ground cover,
    - 4) Comply with the state and any town soil erosion, sedimentation, and/or stormwater control local law; with the goal to minimize erosion and nutrient flow from the site during and after construction to the maximum extent practical,
    - 5) Respect or improve existing community and neighborhood character,
    - 6) Document energy conservation measures and other efficiencies in design and construction,
    - 7) Preserve adjacent property values,
    - 8) Provide a buffer to any adjacent agricultural land and operators.
    - 9) Provide a significant amount of open space to preserve the rural character of the town.
  - f. Major subdivisions should incorporate recreational facilities appropriate to the target population. This can vary with the size of the development from simple sidewalks or trails to ball fields and other active recreation activities. Minor subdivisions should contribute facilities or payments to the town in lieu of the provision of recreational facilities or land. The town may only use such fees for the acquisition, maintenance, or enhancement of existing recreation facilities.
  - g. The town should require a certain percentage of every subdivision to be preserved as open space to preserve the rural character of the town. This can be accomplished through dedication, homeowners' association ownership, development easements, and similar tools.
  - h. The Planning Board should be given the explicit duty of voting on whether an application before it is complete to initiate the time clock for the review period.
  - i. The Planning Board should be given authority to accept or require clustered or 'conservation' subdivision designs in order to maximize property values, reduce development and maintenance costs, and preserve open space and rural character. As part of this authority, the Planning Board should be authorized to permit reductions in required lot sizes, lot widths, and lot depths in order to create efficient conservation subdivisions. In no case should the number of lots allowed in a

conservation subdivision exceed the number that would be allowed in a conventional subdivision design.

- j. The letter of compliance process described in §19 should be deleted. The approval of a final subdivision plat which shows the field location of corner pins for each lot, along with agency design approvals is sufficient for Planning Board action. The final plat should contain a statement that any variation from this plat shall render approval null and void. The subdivision regulations must require recording of the approved signed plat within 6 months of the approval action by the Planning Board. At this point it is not legal for any realtor, attorney, owner, or party to sell a lot that does not comply with the approved subdivision. Finally, the subdivision regulations should include a statement that the CEO may not issue a building, occupancy, or compliance permit for any proposed or completed improvements for any property that is shown on a final subdivision plat approved by the Planning Board where such lot does not comply with said approved plan as recorded in the office of the County Clerk.
  - k. The town should require percolation tests be conducted that show acceptable percolation rates for the construction of on-site septic disposal system, or the design of alternative means of sewage disposal be submitted with every application for subdivision. These should be attached to or shown on the final subdivision plat and if approved by the Planning Board, filed with the County Clerk as part of the subdivision map filing. Subdivisions for agricultural use should not be subject to this requirement, but the plan should be stamped that the agricultural lot has not been certified by the town as suitable for any use other than agriculture.
  - l. The Town should require a well or other source of potable water be specified on the application for final subdivision plat approval. If approved by the Planning Board, this information should be required to be filed with the subdivision map at the office of the County Clerk. Subdivisions for agricultural use should not be subject to this requirement, but the plan should be stamped that the agricultural lot has not been certified by the town as suitable for any use other than agriculture.
3. Reasoning
- a. The existing subdivision regulations are outdated and do not include reference to many environmental factors that are important to the town, such as the protection of water quality, rural character, and views of Seneca and Keuka Lake.
  - b. The existing timeline description for sketch plan, minor subdivision, and major subdivisions, are overly complicated as every possible permutation concerning the interplay of subdivision review with NYCRR Part 617 (the portion of the Conservation Law of the State of New York which constitute the regulations implementing the State Environmental Quality Review Act) are presented in the text. It is much more efficient to state simply the subdivision time frames (62 days after submission of a complete application until a public hearing, then a decision is required 62 days after a public hearing), and the fact that such time frames are suspended until the completion of the environmental review process. The suspension of subdivision review time frames by mutual consent of the board and the applicant must be reflected in the board's minutes, but is an important tool to provide an applicant with time to respond to issues that often occur at public hearings without forcing the Board to deny an application that may otherwise be

approved. The statement in the existing chapter that specifies that completion of a Draft Environmental Impact Statement (DEIS) makes a subdivision application complete is somewhat misleading. A DEIS must be certified as being ready for public comment by the lead agency in order to schedule the mandatory public hearing. If the Planning Board is the lead agency, the public hearing on the DEIS must be scheduled with and as a part of the hearing required for the subdivision application. Thus, a preliminary subdivision application is complete if the DEIS is certified as ready for public review. This does not, however, turn on the time clock for subdivision review as the local board still cannot take a final vote on a subdivision application until after acceptance of a Final Environmental Impact Statement followed by a mandatory ten day public comment period before the local board can issue its final findings. Again, it is much simpler to describe the subdivision review time frame as being suspended until the environmental review process is complete. The Planning Board will likely seek professional assistance from a qualified consultant in the event that it is dealing with an environmental review involving an environmental impact statement.

- c. The current chapter defines minor subdivisions as having 4 or fewer lots, but exempts subdivisions of less than 4 lots. Thus, the only subdivisions that are subject to the minor subdivision process are those that are exactly 4 lots.
- d. Having all lot line changes require subdivision approval:
  - 1) Simplifies review of plats offered for recording at the County Clerk's office--- all of them from Milo must have the planning board chairman's signature. This will reduce the recording of illegal subdivision.
  - 2) The administrative review procedure will ensure subdivisions that are not reviewed by the Planning Board still comply with town lot size and other zoning dimensional criteria. This will reduce the number of land locked and other non-conforming properties that are created.
- e. Eliminating written recommendations to the subdivider after sketch plan review eliminates potential liability claims against the Planning Board. During the public hearing and review process, additional information may come to light that may result in changes from suggestions made at the sketch plan phase. Written sketch plan recommendations can be construed in court to comprise assurances of approval and even defacto approvals by the Planning Board—without public hearings.
- f. Clustered or 'conservation' subdivisions allow more efficient use of land, are more sustainable, appreciate in value faster, than conventional subdivisions. Allowing the Planning Board to accept or require clustering provides them with another tool to meet the objectives of the Town's comprehensive plan when dealing with proposed new development.
- g. The existing design storm requirements in § 14 specifying use of a 5 year storm level for sizing stormwater facilities are outdated and do not conform with the state's stormwater regulation or what is currently considered consistent with sound engineering practice nor with maintenance of lake water quality or prevention of flood impacts.
- h. § 15 of the current chapter needs to be amended to mandate a certain percentage of open space be provided as part of a subdivision and that recreation facilities be provided as well.

- i. §19 establishes a ‘letter of compliance’ process for the planning board. It should be noted that Realtors are not allowed to list lots for sale until the final plat is recorded in the County Clerk’s Office (this is a punishable offense), pursuant to the Real Property Law of the State of New York. The Planning Board should not be certifying lots comply with the approved plans. The inspection of field improvements should be made by the town CEO, engineers, highway department, water department, and sewer department, and other professionals, and certified to the CEO. The final control is that no building permits shall be issued on a lot that does not conform to the approved and recorded final plat.
  - j. Requiring soil percolation, sewage disposal method, and source of potable water with final subdivision application is important to limit the Town’s liability (since subdivision approval indicates that the lots shown on the plat have been certified as buildable by the Town). They are also important for buyers to understand, many of whom may not be experienced buyers, and it is this group that the Planning Board has been created to support.
- G. Chapter 130: Vehicles, Outdoor Storage Of
1. This chapter is relatively up to date and attempts to limit the number of derelict vehicles left on private property.
  2. Recommendation: The definitions in this local law need to be made consistent with those of chapter 98 Junkyards, and the Zoning Local Law.
- H. Chapter 134: Wastewater Management
1. This chapter deals with requirements for municipal and private sewage disposal, inspection of private waste systems, and construction standards for holding tanks and other equipment. It does a good job generally of referring to the applicable state laws that specify materials, locations, and state approval processes.
  2. Recommendation: Keep this local law updated in coordination with other municipalities within the watershed.
- I. Chapter 136: Water
1. This chapter establishes design & construction standards for individual municipal water hookups, extensions of municipal water supplies, maintenance, liability, billing and related measures.
  2. Recommendation: Remove the portions of the law that deal with design and construction standards, place them in a ‘Design Standards and Guidelines Manual.’
  3. Reasoning: Adopting a separate Design Standards and Guidelines Manual allows the town to modify the materials, specifications, and practices in the manual quickly by resolution of a majority of the Town Board as generally acceptable engineering, construction, and even regulatory standards (such as those from the New York State Department of Health or Environmental Conservation) change. Currently, material and specification changes contained in this Chapter must be changed by amending the local law, including filing it with the State Secretary of State.
- J. Chapter 140: Zoning
1. Recommendations
    - a. A new Zoning Local Law should be written to replace the existing one in order to bring it up to date and in compliance with this comprehensive plan.
    - b. A site plan review section needs to be added, including procedures, application requirements, and review criteria. This should include a sketch plan phase that is

suggested but not mandatory. Sketch plan submission requirements should be sufficient to provide a general understanding of the project for the Planning Board and allow them to enter into informal discussions with the applicant.

- c. Policy statements and design guidelines need to be added to reflect and enhance neighborhood character. This is especially important for commercial uses in the heavily traveled tourism corridors of State Rt 14 and 14A, and along the lakeshore. The design guidelines should require architecture echoing or complimentary to the predominant 19<sup>th</sup> century architecture prevalent in the town.
- d. Regulation of industry and commercial uses, as well as other uses, should be tied to performance criteria—to mitigate the impact on adjacent properties—rather than just on the number of employees or type of business as the current zoning does.
- e. The town should establish dimensional and appearance standards for residential construction to eliminate unsightly homes and build neighborhood character. It is not the goal of the Town to prohibit singlewide mobile homes on individual lots, but to maintain the character of neighborhoods where such homes would be incompatible. Within the confines of the County Agricultural District, the use of mobile homes or any type to provide housing for agricultural workers is protected by the New York State Department of Agriculture and Markets, and cannot be prohibited. The location, screening, and appearance of such housing, including a requirement for site plan review, can be controlled by the Town and should be to protect community character. For non-agricultural related housing, standards for 4 on 12 or 3 on 12 roof pitch, the appearance of a full perimeter masonry foundation, and horizontal siding can be established for all homes to meet. These are vitally important in some of the lakefront areas where a small, oblong rectangular, flat roof, one story structure would not be compatible with the neighborhood character.
- f. The RR Resort Residential District should remain but be renamed as a mixed-use district, but include more performance standards to foster harmony between the uses. Additional standards should be added to foster more pedestrian activity and safety in this district.
- g. The uses allowed in the Commercial district should be carefully reviewed to eliminate competition with the commercial districts within the village. A different mix of commercial uses should be allowed in the commercial area along State Rt 14 as opposed to other areas of the town because it is relatively remote from the Village of Penn Yan, and will not directly compete with commercial enterprises there. The scale of the commercial uses on State Rt 14 should still be controlled to serve the local and tourist population. It is important to allow wineries and their associated food and craft businesses, the sale of agricultural products, and even small hotels and bed and breakfast uses in the Town as these are all tourism based industries, support tourism, and don't generally compete with Village businesses.
- h. Commercial uses along the State Rt 14A corridor should predominantly be geared toward agriculture and tourism. Bulk foods and associated crafts businesses are the closest businesses within the town should be allowed to compete with the large grocery business within the village. Convenience stores should not be allowed.
- i. In agricultural zoned areas, the town should allow more agricultural related businesses, especially as accessories to an agricultural operation. These secondary businesses are important to the economic health of the farm, and provide a source of

employment and services especially for the Mennonite members of the community. The town should provide guidelines for the location and appearance of such businesses to ensure protection of agricultural resources and the town's rural character (such as requiring a wagon manufacturer's building to look like a barn). Such uses belong in the agricultural district if designed properly, not in a separate industrial district. Care must be exercised also in the type of businesses allowed, but this should be handled through performance standards such as limiting wastewater discharges, standards for truck traffic for delivery, limitations to on-site commercial sales, and noise levels leaving the property. Certain scale uses should be allowed by right, subject to site plan review, and other larger uses by special use permit and site plan review. Small uses contained in residences, such as accounting, needlecraft, internet sales, etc. that do not impact sites and neighborhoods should be allowed accessory uses not subject to any permit review.

- j. Multiple residences and elder cottages should be allowed, along with associated family owned agricultural businesses, on a single large agricultural lot. Allowing multiple uses should be tied to whole farm and parcel planning to ensure preservation of agricultural assets and maintenance of rural character, as well as performance standards in regard to runoff, erosion, traffic, and noise.
- k. The zoning schedule should be referred to in the text of the zoning code, and the schedule itself expanded to include not only lot size, dimensions and setback requirements, but also permitted principal uses by district.
- l. The off street parking schedule in section 29 should be a requirement for uses that are not subject to site plan review, but used as guidelines for the Planning Board's review. This will provide the Planning Board with flexibility in dealing with site design, sharing facilities, and fostering conservation subdivision practices.
- m. The private road standards contained in Section 29 must be reconciled with the standards established in Chapter 114 (Streets and Sidewalks) and those in Chapter 120 Subdivision. Section 29 of zoning requires a 50 ft. private right-of-way, yet chapter 114 requires public roads to be a minimum of 3 rods (49.5 ft wide). Chapter 120 contains varying standards that must be determined by the planning board. All of these standards should be removed to a separate 'Design Standards and Guidelines Manual,' which should be referenced by each of these chapters. The pavement width requirements should also be reviewed to be consistent with town paving equipment. Standards for smaller scale rear access lanes, shared driveways, and other conservation subdivision techniques should be added to the Design Standards and Guidelines Manual.
- n. Each identified special use in the zoning chapter must be provided with its own unique set of requirements and standards. Special use permit review authority should be transferred to the Planning Board. All special use permits should also be subject to site plan review. It should be at the option of the applicant as to whether to prepare and process both a special use and site plan application at the same time and hold both public hearings simultaneously.
- o. Regulation of mining and extraction operations in section 31 should be amended to recognize the current standards for pre-emption by the New York State Department of Environmental Conservation and the State's Mined Lands Act. Such uses should be subject to issuance of a special use permit. The town is allowed to regulate

extraction operations below 1,000 cubic yards per year. During revision of the zoning law, the town should determine a reasonable standard for the size of operations to be regulated below the 1,000 cubic yard standard.

- p. Section 31, Signs, needs to be rewritten in its entirety. The existing section does not differentiate between residential and commercial signs, does not regulate off-premises signs, and does not address temporary signage. Off premises directional signs should be allowed to direct tourists to local businesses, but they should be standardized and coordinated in style and location. This may take administration by the town or possibly coordination through the local chamber of commerce.
  - q. Existing Appendix I, Performance Standards, needs to be reviewed, revised, and updated. Some of its standards are not legally enforceable on agriculture and other uses. It needs to be referenced in the text of the zoning code, and the standards differentiated by zone and in some cases by type of use. Some of the standards need to be held at the use's property line as opposed to the zoning district boundary.
2. Reasoning:
- a. The current zoning local law lacks any provision for site plan review to guide the planning board in reviewing and approving applications, to provide submission requirements for applicants, or even specifying the process--even though site plans are mentioned as being required for some uses. Informal sketch plan discussions can assist the applicant in crafting a formal site plan application that more closely conforms to zoning requirements, the intent of the comprehensive plan, and is more acceptable to the public. It is often invaluable in identifying problem issues and features of the project that the applicant can put additional thought into in preparation for formal site plan review. Finally, sketch plans allow this discussion to take place before large investments are made in procuring professional services to draw up plans. Applicants are often much more willing to amend plans before they have invested significant money in design services.
  - b. Many uses are regulated only on the basis of the number of employees, not on the overall impact of the use. For example, a light industrial use is defined as an industry with no more than 4 employees. An automated rendering plant processing 30,000 pounds of meat a day or a metal reclamation plant melting down and processing 300 tons of used computers every day would meet this definition but have a huge impact on the surrounding neighborhood.
  - c. Flat roof, long rectangular buildings do not fit with the cultural and environmental heritage of the area. This area has a long history of peaked roofed homes and design styles where homes are more nearly square than long rectangular shaped. Greek Revival, Queen Anne, Mansard, Victorian, cobblestone, Cape Cod, and several of the recognized Craftsman styles are much more in keeping with the historic roots of the community. Screening mobile homes used for agricultural residences from public view is important in maintaining rural character, as limiting their use to agricultural residency.
  - d. The RR Resort Residential District is a mixed-use district that is consistent with modern planning theory in regard to creating and maintaining vibrant functional neighborhoods through mixing of compatible land uses. This often provides employment, services, and recreation opportunities within the neighborhood for

residents and fosters pedestrian activity. This latter point is extremely important given the aging population resident in these areas.

- e. The existing uses allowed in the commercial district include any retail or personal service establishment such as hardware stores, food stores, drug stores, clothing stores, eating and drinking establishments.... Most of these uses are not appropriate to be located outside of the Village, and would have a devastating impact on the Village's commercial district, especially Main St. In the survey responses, residents of the village and the town both highly valued the appearance and character of Main St. in the village and many cited their concern with vacant businesses there. Preventing the ability of retail businesses to convert valuable agricultural or other vacant land in the Town to a new retail use through building of a strip commercial building is important to maintaining both the Town's rural character and targeting the village as the commercial center. In short, the availability of commercially zoned property that allows uses that compete with the village will saturate the commercial market, drive down land prices, and stall the reinvestment and redevelopment of the Main St. area in the village of Penn Yan. Through limiting commercial development in the Town, the Village business district will benefit which also benefits the Town as Main St. properties also pay Town taxes.
- f. The survey of residents and land owners identified the lack of competition in the grocery business as a large concern. The prohibition of additional convenience stores is necessary because:
  - 1) The village of Penn Yan has an abundance of convenience stores (some free standing and others combined with gasoline sales) presently. Some have closed recently because of the oversaturation of the local market.
  - 2) Convenience stores only stock high volume/high profit margin items (bottled water, specialty drinks, beer, candy, etc.). They do not increase overall commercial sales in an area, they only relocate it. In this case, they take high profit margin sales item business away from local grocery stores and decrease their business base (gross sales and net profit). The result is often devastating for local grocery stores that are left with too large facilities for the amount of business they are doing. This results in higher grocery prices and often business failures. The Village of Penn Yan has recently seen this scenario play out in local grocery store closings.
- g. Agriculture supporting industry and even rural scaled industry are important to the local rural population, especially those of the Mennonite and other Old Sect faiths. These can be an important source of local employment and services, and can be compatible with the rural character of the area. They do not belong in industrial districts because of their scale, and especially because of their employees—having 100 horse and buggies enter the Horizon business park during the morning commute every morning would not be compatible with the other businesses located there or with local traffic patterns.
- h. Elder cottages, multiple residences for family members, and even family owned businesses should be allowed on single parcels to prevent the subdivision of larger farm parcels and promote better whole farm and whole parcel planning. Mennonite and other Old Sect members desire to keep all generations on the family farm and gainfully employed. As their life spans have increased, there is more need to

accommodate older members of the family by sharing or converting farm houses into 2 family residences, or even detached cottages where 3 generations are living on the same farm. Increased health care has also resulted in larger numbers of children reaching adulthood, and the need to incorporate additional rural industries in rural areas to keep those members without access to farmland gainfully employed.

- i. A table of lot sizes, setbacks, and permitted uses by district makes the zoning code much easier to understand for both casual users and town employees and officers (CEO, ZBA, & Planning Board). It should be cross-referenced in the text of the zoning code so that it is a recognized part of the zoning code.
- j. Off street parking standards are often set for a medium size facility of its type (offices require 1 space for each 200 square feet of first floor area, for example). What a business needs in reality can often vary widely with the size of the business. The Planning Board needs flexibility in setting parking requirements for uses that require site plan review, and should be empowered to either increase or decrease the requirement based upon their findings during a site plan review.
- k. Road right of way standards and widths should be standardized in one location (the Design Standards and Guidelines Manual. The width of pavement should be standardized to town paving equipment capability. For example, if the town has a 10 ft. wide paver, road pavements should be standardized at 20 feet. Higher capacity roads are not likely to be constructed, so while it doesn't hurt to have those standards in the Design Standards and Guidelines Manual, a clearer definition of the difference between major streets, minor collector streets, and local streets is needed to guide applicants and the Planning Board. Almost all new road construction will be at the local street level.
- l. Special use permits should be administered by the Planning Board to integrate with site plan review. Special Use permit review by the ZBA is not in keeping with their quasi-judicial responsibilities and role the ZBA has in every other duty to which it is assigned. Separating special use permit applications from site plans can be a benefit to the applicant as they can provide a sketch plan with the special permit application and not invest in professionally drawn site plans until they know the special use permit will be granted. Care must be taken to write the special use permit procedures to require a level of site plan information necessary to decide the special use permit application, without requiring a fully developed site plan. This can normally be accomplished by requiring a site plan that conforms to the 'sketch plan' phase of site plan review. While it is acceptable to have general procedures and submission requirements that govern all special use applications, the state enabling statute and New York State case law requires each special use to have its own unique set of application requirements (example: a gas station may be required to have a minimum 1 acre lot, and be 500 ft. from a school or hospital), and special standards for the planning board to review (such as finding that the vehicle lights are adequately screened from adjacent residential properties at night).
- m. The existing sign section of the local law is inadequate. The photo inventory of the town documented a plethora of off premises signs, many from businesses out side of the Town, as well as temporary signage (many of which are up year-round) that are becoming both unsightly and a nuisance for clear communication at road

intersections on major thoroughfares such as State Rt 14A. In an area where the economy is dependent upon tourism, it is important to establish a local identity. Coordinating signage style and location is one important piece in that identity. Working with businesses and the local chamber of commerce will be important in achieving this goal to the benefit of all businesses and to residents through better aesthetics.

- n. Appendix I, Performance Standards, is a unique feature of the Milo Code. It needs to be modernized and updated, but can form a good basis for organization of the code and establishing a methodology for the ZBA to make determinations as to whether specific uses should be allowed in a district (as the list of permitted uses normally includes the phrase, “or similar uses as determined by the ZBA.” It will also assist the Planning Board in determining whether certain uses subject to site plan review are meeting the goals of the zoning code (and thus of the Comprehensive Plan), and provide them with a basis for requiring plan modifications.