

TOWN OF GERMANTOWN LAND USE LAW UPDATE

Project Number: 2223713

MEETING #9 SUMMARY NOTES

Location: Town Hall/Virtual

Date: June 19, 2023

Time: 6:30 pm

<u>Meeting Attendance</u>
Committee Members
Tony Albino
Karen Targove, Co-Chair
David Rifenburg, Co-Chair
Joe Guida
Jan Borchert
Ellen Jouret-Epstein
Tony Stagno

William Bell
Austin Sullivan
Andrew Fennell
Faydra Geraghty
Guests
Peter Risafi
Consulting Team
Matthew Rogers, Labella Associates
Corneil Smith, Labella Associates
Steve Winkley (zoom)

SUMMARY NOTES

Meeting Convened at 6:30pm

Meeting Notes:

- Committee approved Meeting #8 Notes.
- Jan Borchert had a question about keeping a non-permitted uses on the use table.
 - Mathew Rogers explained that it's better to define a use that we do not want to allow and then keep it off the table, otherwise it could lead to confusion.

Cideries, breweries, distilleries:

1. The committee discussed the definitions of cideries, breweries, distilleries. LaBella is in the process of preparing definitions for all uses on the use table including cideries, breweries,

and distilleries, both agricultural and nonagricultural. The Committee would then revisit the use table to identify which districts the uses should be allowed.

Hydrogeologic Presentation

2. Matthew introduced Steve Winkley (via Zoom) and explained his role.
3. Steve referenced the Groundwater Protection Plan that he prepared for Germantown in 2007.
4. Steve provided basic information from the protection plan.
 - a. Wells yield 1-30 gallons per minute, with the median flow rate being 4 gallons per minute. This is quite a low yield.
 - b. There is one consolidated aquifer in the Town.
5. Steve mentioned that Germantown has some of the least abundant groundwater of out of all the towns in New York with which he has worked.
 - a. As a result, protecting and maintaining the groundwater should be the towns highest priority.
6. Steve mentioned that the groundwater protection plan recommended a hydrogeological study be required for new development under certain parameters. This recommendation was not fully executed, with a hydrogeological study only being required at the planning board's discretion.
 - a. While most recommendations were implemented, a study should be conducted for all development that will use more than 2,000 gallons per day. A different threshold for conducting a hydrological study could be set.
 - b. A Professional Geologist (P.G.) should be involved in the study.
 - c. Every project requires different amounts of water - applicants should be asked up front how much water their projects will consume.
7. Steve spoke next about well spacing and how that would affect zoning.
8. A major factor for well spacing is the replenishment rate of the groundwater.
 - a. The replenishment rate depends on a variety of factors such as soil type, geography, and how quickly water is being used.
9. The Committee asked what amount of acreage would be recommended for a "safe" replenishment rate.
 - a. Steve answered that about 3-8 acres, depending on the area within the town.
 - b. Recommends using planning measures to avoid negative impacts.
 - i. Setting up design standards, well protection overlay, etc.
10. Steve mentioned utilizing the Town's only aquifer, but its location is not convenient and require significant infrastructure to bring the water to the Hamlet.
11. Steve also emphasized the importance of identifying sources of high risk/contamination.
12. Ellen Jouret-Epstein mentioned that some wells have begun flowing at a much lower rate or have closed altogether.
 - a. Other Towns in a similar position to Germantown have resorted to fracking bedrock but this is not a feasible long-term option.

- b. New wells or wells that are deepened now require a NYSDEC Water Well Completion Report be completed, which allows for inventorying of wells.
13. Karen Targrove wondered if the town should reassess their acreage regulations since the Committee has been working on increasing density, but that sort of density cannot be supported by the current groundwater situation.
14. The Committee followed up with a question on how the 3–8-acre recharge area was determined.
 - a. Steve clarified that that calculation is based on a how much water is necessary for a 3-4 bedroom house.
15. The Committee discussed how well water yields have decreased over the years and how water quality has changed.
16. Steve mentioned that the data on water quality is not as comprehensive because there were fewer wells within the town at the time the 2007 groundwater protection plan was prepared.
 - a. Water quality is an important issue to look into.
 - b. Steve mentioned that water quality issues like sulfur, iron, and some bacteria may be sources of risk, but we would need more data on that.
17. Tony Albino asked whether hospitality businesses like short-term rentals affect water usage/quality.
 - a. Steve mentioned that Ancram, NY (which has higher yields than Germantown) put a moratorium on hospitality for that reason, among others.
18. The committee discussed the possibility of creating a public water supply in the area of Town where the aquifer is located.
19. Will Bell asked what methods could be used to help conserve groundwater and promote recharging the groundwater.
 - a. Steve answered that instituting the thresholds for conducting a groundwater study discussed earlier would be a good start.
 - b. Steve also mentioned that the State Pollution Discharge Elimination System (SPDES) permit process uses 1,000 gallons per day as a base threshold for when new development needs a hydrological impact study.
20. The Committee spoke about parts of town that are water challenged and previous uses that might impact water quality such as a laundromat.
 - a. Steve mentioned that there are methods other than getting public water supply but that such a system would be even more expensive.
 - b. Steve also mentioned that an important aspect of public water supplies is that it needs to be able to service peak yields.
21. The Committee mentioned establishing a water quality management district.
 - a. Steve mentioned that such a district usually pertains to sewer, but that it may be beneficial in reducing pollutants.
22. The Committee agreed that it is better to start planning for water resilience before the situation becomes even more dire.

- a. The Town should look at models from other communities and start saving money to phase in solutions if the situation progresses.
23. The Committee asked if there's enough money in the budget for a preliminary engineering study since they are usually required to get a planning grant.
 - a. It also helps to document a strong need within the community, which Germantown is able to do.
 - b. Matthew stated that the current contract does not include engineering-related studies.
24. The Committee discussed how to plan for groundwater protection and look for funding.
 - a. How pricing would work?
 - b. The Town would also have to look at the desired capacity of groundwater.
25. Matthew said he would look into the various grant programs out there, appropriate studies to conduct, and a budget for beginning such a process.
26. Steve mentioned that this process will likely take time and will require more information.
 - a. Steve offered to share Ancram's process for groundwater protection and the slides to the presentation he gave.

Historic Resources

27. Matthew summarized the June 14 Preserving Historic Resources memorandum.
28. Tony Albino spoke about the importance of prioritizing historic preservation.
29. Matthew mentioned that towns can create historic sites separate from the national registry, one way could be a historic overlay district.
 - a. An overlay creates the capacity for historic preservation to be considered more in-depth.
30. The Planning Board currently considers historic preservation at their discretion.
 - a. Tony mentioned that this provides the opportunity for new development to demolish historically sensitive/ valuable areas.
 - b. Will mentioned that this method of regulation sounds ineffective if the town wants to prioritize historic preservation.
31. Matthew mentioned that a more intense step would be to enact the historic preservation ordinance.
 - a. Matthew explained that with an ordinance, there would be a dedicated commission/board separate from the Planning Board (e.g., Historic Preservation Commission) to review projects and also has the authority to list additional local landmarks. This law would need to be approved by NYS and the Federal Govt. Site plan review would then be a coordinated approach with the Historic Preservation Board.
 - b. Karen wanted to make sure that throughout such a process Germantown would be able to balance historic preservation with incentivizing developers, she does not want the process for historical review to disincentivize people from proposing projects.

32. Ellen asked if there are other ways to incentivize historic preservation.
 - a. Matthew replied that the Town has limited options to incentivize historic preservation. With groundwater limitations, offering density bonuses is not an option.
 - b. Best approach is to seek regulatory authority in certain situations and not rely on voluntary preservation.
33. Tony agreed the Town should have more power to protect historic sites.
34. Tony and Karen asked about design guidelines/standards.
 - a. Using design guidelines/standards is one way to preserve the historic culture of Germantown.
 - b. The design requirements could be established for historic overlay districts – locations already identified by the Friends of Historic Germantown (to be confirmed with Tony A.):
 - i. Queensbury
 - ii. Annsbury
 - iii. Haysbury
 - iv. Hunterstown
 - v. Ford Site (Sunset Circle and Maple Avenue)
 - c. Protections for mapped and unmapped cemeteries and grave sites could also be established.
35. The Committee agreed to design guidelines and standards for historic preservation overlays.
36. Support to prohibit removal of headstones.
37. Both cultural and architectural resources should be protected.
38. The Committee would like to see regulations that would prohibit demolitions within certain or all historic overlay districts
 - a. Coordination with the Town Attorney will be required.
 - b. LaBella will determine if the Town could require a site visit.
 - c. At the least, draft regulations should require the Town to conduct an inspection and document resources.
 - d. The potential for supplemental reviews (i.e., site plan) in certain situations will be explored.
39. Tony referenced a [3-minute video](#) by the Friends of Historic Germantown describing four notable historic sites: Reformed Church Cemetery, Barringer-Overbaugh-Lasher House, Simeon Rockefeller House, and the 1767 Reformed Sanctity Church. Tony since shared the link with the Committee.
40. Matthew recommended Committee members take photos of areas within town which they find captures the historic character of Germantown.
 - a. Could source images from outside town as well.
 - b. These pictures can be used to identify the architectural elements the town would like to preserve and promote.

41. Draft Regulations. Matthew summarized next steps:
 - a. The Town will not be pursuing a full preservation ordinance at this time.
 - b. LaBella will create a historic overlay map based on the historic resources identified by the Friends of Historic Germantown along with the Hamlet.
 - c. Draft regulations and initial design standards/guidelines will be prepared by LaBella for Committee review.
 - d. Demolition – The draft regulations will also address demolition permits. Within the overlay districts noted above, the draft regulations will seek to require inspections for prior to approving demolition. Additional regulations will be drafted related to requiring a supplemental approval (possibly site plan) for certain demolition requests.

Formula Businesses

42. The Committee reviewed the formula business definitions provided by LaBella.
43. Matthew reviewed how a definition can be used to help regulate these types of businesses:
 - a. Based on appearance to fit better into Germantown's character, using design guidelines.
 - b. Setting a limit for the number of such businesses allowed within the Town.
 - c. Size restrictions for buildings.
 - d. Restricting formula businesses to a certain area of town- through existing zoning districts or creating an overlay.
44. For restricting formula businesses within certain areas, there should be documentation on why such restrictions are needed (i.e., negative impacts on local businesses).
45. The Committee established that they would like to limit certain franchises but that there are uses that could be beneficial to the town such as medical facilities and banks,
46. Some committee members felt that limiting based on the size of the buildings may not necessarily help since area variances may be permitted.
47. The Committee discussed the fact that there are more franchise businesses in the area than one might think, including smaller footprint businesses (tax preparation services, cell phone companies, coffee shops, car rentals, etc.) it is not just the larger more noticeable businesses like Home Depot. The Committee will need to be careful about the limits placed on franchise businesses due to this.
48. Only allowing certain uses will also require clearly laid out definitions.
 - a. Matthew suggested creating a list of franchise uses that could be allowed within the town: Health, financial, etc.
49. Can the town prohibit certain signs/logos, etc.? There are concerns about regulating speech.
50. Matthew summarized potential approaches for regulating franchise businesses:
 - a. Clearly define "franchise."

- b. Identify franchise uses the Town may want to prohibit and those that would be permitted.
 - c. Use of architectural standards.
51. Matthew stated that these draft regulations should be prepared in coordination with the town attorney to ensure the language is legally defensible.

Meeting adjourned at 8:38pm

ITEM	ACTION ITEM	OWNER
1	Research safe recharge area distances for public wells as well as minimum lot sizes	LaBella
2	Send supplemental documents/recommendations on well spacing	LaBella
3	Look into budget for a preliminary engineering study	LaBella
4	Share Ancram's process for groundwater protection and related presentation slides	LaBella
5	Share groundwater protection plan presentation slides with the committee	LaBella
6	Provide images of architectural styles, design standards that the town should preserve and promote	Committee Members
7	Draft design standards for historic overlay	LaBella
8	Create list of franchise businesses that would be allowed within the town	Committee Members

The preceding minutes represent the author's understanding of the items discussed and decisions reached. The Committee will determine completeness and accuracy at their next scheduled meeting.

Respectfully submitted,
 LABELLA ASSOCIATES, D.P.C.
 Matthew Rogers, Senior Planner, LaBella Associates
 Cc: All Attendees