

## Zoning Code Update Comments

### **Received 4/1/25**

1. What is the intent behind Kelley Park and the Tedisco Trail both being zoned residential? Can a separate green space or park zone be created for these areas?
2. The historic overlay should be retained. It is in keeping with preserving the overall character of the Village and the comprehensive plan.
3. Regarding PDDs, there is no apparent limit on density requirements for a PDD. In order to preserve the character of where a PDD is located, density requirements for the underlying zone should be noted as a requirement, correct?
4. It is stated that lighting and street trees are required, but without any density requirements (ex. one light or tree required every X number of feet). There are areas of the village that are poorly lit that this may help with via Site Plan Applications. Additionally, what trees are permitted? There are areas within the village where street trees have overgrown their space. Other municipalities maintain an acceptable tree list with requirements around height, depending on whether the tree is under a power line.
5. Sidewalks are not explicitly mentioned anywhere, although the comprehensive plan and comments solicited over the years indicate that walkability is high on many people's lists. There are significant areas of town lacking accessibility. How does the code hope to hold site plan applicants accountable for including sidewalks in their plans (either reconstructing disturbed sidewalks or creating new sidewalks to bridge between existing walks?)

### **Received 4/2/25**

The new zoning code lacks designated GREEN Space.

Kelly Park and the surrounding area (pool, walking paths along the river, dog park etc), should not be coded any sort of residential and in my opinion it is currently incorrectly coded as residential. Likewise the Jim Tedisco trail and Wiswall park should also be green space. The Village should additionally be looking for another NEW location to add to green space.

Finally, the soccer fields on Hyde are blank, that is school property, yet the actual school appears to be coded as re-zoned, shouldn't that also be blank?

### **Received 4/2/25**

I've been looking through the new zoning map and plan drafts at this link

- <https://www.ballstonspa.gov/home/news/proposed-zoning-code-0>

I've also been trying to compare it with the previous zoning map at this link - chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.ballstonspa.gov/sites/g/files/vyhlf6186f/uploads/village\_of\_ballston\_spa\_zoning\_map\_0.pdf

1. Initially, the first thing I noticed is that the historic overlay portion of the map has been totally removed from the new draft map. Why has it been removed? What does that mean for the village moving forward? What impacts or modifications will result from this change?
2. Is there a document that shows **ALL** of the proposed changes in a **clearly highlighted manner**, so as to provide transparency to residents and stakeholders in a timely manner? As well as clearly explain the difference and how it will impact the community?
3. I heard Trustee Bernadette VanDeinse-Perez mention there would be a google form for the public to make comments, where is the link to that?

I'd like to comment that the historic preservation of this village was a huge draw for me and my husband when buying a house in this area just a few years ago. It would be a shame to remove the current zoning laws that would protect the history of this special village. The communication from the government, Mayor and village trustees feels extremely limited, as if they are gatekeeping and withholding crucial information and motives as well as not providing clarity and transparency to the public and key stakeholders. As a village resident, I'm disappointed and hope that the public can get the information and transparency we deserve on April 3rd.

### **Received 4/3/25**

I have been a resident of the Village since 2014 and before that I was lived in Milton since 94. I was reviewing the draft of the Zoning Code and its attached Map. I see that neighborhood that I am in will be rezoned from an R1 to R1-B which is listed as on single family dwellings. My house and most of the house on the surrounding streets are all multi-family homes up to 3-4 units. How will this impact my residence and my neighbors? Did the consultant not review what is existing in these areas before making the recommendations? I will not able to attend in person and saw there may be zoom link option but I could not find it on the site, can you please provide.

**Received 4/3/25**

The map lacks green space, and the ability to walk and bike isn't a priority. Kids should be able to go outside and be safe, and as long as there aren't areas to walk and bike, they simply won't be able to.

**Received 4/3/25**

Have a concern about the proposed change in zoning involving the properties on Middlebrook Ave and South St. that are being changed from Commercial zone to Residential.

- 1- WHY??
- 2- What advantage does this change provide to the property owners affected by the proposed changes?
- 3- Why was there no consideration given to getting input from the property owners, all Longtime residents, as to whether or not they were OK with the proposed changes?

It is, after all, our property that we have owned for WAY longer than this committee has existed. By limiting our ability to use our property for commercial purposes, as we have had the ability to do since the property was purchased, the limited group of people are devaluing our properties considerably with no compensation or consideration from Our preferences.

**Received 4/3/25**

I find it hard to follow this draft or to understand the maps because of the small size. The collection of Village members' comments and questions at the initial meeting by Chris Kuschel, the Zoning Consultant with Fisher Associates, was to lead to the presentation of their findings and recommendation to the Village and to the Zoning Board Committee. Since that committee was unilaterally disbanded by its chairman, with the approval of the Mayor, it is even more important that the views of the Village of Ballston Spa community be represented. I presume tonight's hearing will be a discussion of those findings.

One thing that jumped out at me was the ADULT District, which was detailed later as sexually oriented in various arenas. I hadn't realized the Village of Ballston Spa would consider such places suitable for our community. I, for one, think this whole section should be removed from the draft.

I also would question any PUDD being considered. That was used to bypass public sentiment in the second Walmart application. We did end up with a grocery store the size fitting the Village which has been an asset to our community. It was the work of the comprehensive plan that gave the framework for that. That should still be our guideline.

I have other concerns which I suspect may be shared by other Village members. I hope they will be addressed by tonight's presentation. After this meeting, I will be able to speak more knowledgeably and will share my views in future writing.

#### **Received 4/4/25**

East Grove St. : it is extremely troubling to see that the proposal is to change to an R2 zone for multi family housing? They seems rather ridiculous given the size of the street and the lots and the cliff into Kelly Park. Also why would Kelly Park not be zoned as green space? Why R2? It is basically wetland which should always remain a park.

#### **Received 4/5/25**

I was at the meeting on 4/3 and am very frustrated with a couple of major issues discussed as described below:

1) During the presentation and question time period on the 4/3 public hearing it was repeatedly stated by the consultant from Fisher that requests being brought up repeatedly from the village residents were "not typical" of other zoning codes. Why do we need to follow what is "typical"? I would like to think we are a unique village with unique assets and residents. If we as the residents would like to protect our assets and shield from unwanted development why can't we have that written into our zoning code? It is our code for our village, not a typical document to be copy and pasted across municipalities. The items that I would like to see customized to our village, and from the public hearing I believe many are in agreement with me, are public green and recreation spaces, PDD's and Residential Cluster Developments, and sidewalks or other items in the right of way. The representative from Fisher stated that he believed any "parks" are protected by NYS, but that doesn't prohibit us from additionally protecting them in case something at the state level changes. We also have public green spaces right now not technically classified as parks such as the soccer fields on Malta Ave and the Jim Tedisco Trail. The Saratoga County Fairgrounds would be another that is not a park nor is it public but would be a major neighborhood change if residences were built there. There is no reason that a small village with most neighborhoods long ago established and developed needs to include PPD's and RCD's in

the zoning code. Especially with the lack of density requirements these could drastically affect old neighborhoods with established zoning. Lack of accessible sidewalks has been a major topic for years without movement. This is a great opportunity to realize the comprehensive plan goals met by requiring sidewalks on new structures in specific zoning areas, particularly Downtown and Downtown Transitional. The proposed code includes landscaping requirements on the Highway Zone, why can't we expand to right of way requirements to other zone types? I don't want our Zoning Code to follow "typical" just to ease the burden on the consulting firm, I would like a Zoning Code that reflects the Village and its resident's priorities.

2.) It is completely irresponsible of the Village Board and Mayor to propose adopting the proposed code this summer without the inclusion of the most controversial items, namely the historic district, PPD's and RCD's, and short term rentals. This is a blatant attempt to pass a half-written code and allow development of major parcels like the Tannery without any defined parameters for the Zoning Board to review. The Mayor promised that these will be completed after and submitted by addendum but even if that was true that leaves a time period in which there will be a legal zoning code without these measures in place. It also allows them to quietly submit less stringent amendments without as much public scrutiny. Exactly what a developer is looking for and what the village residents are opposed to. A village over 200 years old should not have the Historic District zoning boundary and requirements in limbo. Passing this code without a complete document would be at best gross negligence of duty.

### **Received 4/7/25**

Confusing process - I found it very difficult to understand what changes were made to the code that would impact our street. Will the village be posting something that makes this more clear to residents?

- Residential lot sizes decreased - I do not support the residential lot size decreases. I am unsure how these benefit the village and it would make subdivisions of properties more lucrative. For streets like Hyde Blvd with bigger lot sizes I can only see this hurting the villages character. My neighbor's property could be bought, house torn down, and three houses put up in it's place, or even a newly defined "Cluster development" could be built in its place
- Decreased setbacks - I do NOT agree with the setbacks being reduced from 25ft to 10ft for residential areas with larger front yards like Hyde Blvd. One of the beauties

of streets like this is the deeper setbacks. It would look ridiculous to have a new build go up and be placed 10ft from the sidewalk

- Saratoga Ave, Ralph St, and East Grove changed to R2 - I do not agree with these areas being changed to R2. Each of these areas is within sections of our village where we already have a lot of problems with traffic and congestion, I do not understand why we would introduce measures that would only make it worse.
- Sidewalks - I think there should be some type of requirement to fix or maintain sidewalks. I personally think these should be the village's responsibility, but clearly, the majority of homeowners are not going to fix them on their own. If there is anything that can be done via code that would be great - maybe for new builds or new businesses coming in?
- Protection of green spaces - I was hoping the new code might identify new spaces for green spaces and assumed it would help protect parks in some way, but it does not seem to.

#### **Received 4/8/25**

I have reviewed the Zoning Code and have concerns with the proposed setbacks as well as lot size reduction. I really don't see the purpose of this, other than to encourage development and increase population density within the village. This would also add much more traffic to an already too busy downtown. I would like this issue publicly addressed; it feels like it keeps getting brushed off and things like, "We'll look into it."

Our neighborhood is special because of the nice openness of the lots and the amount of trees and green lawn space; if developers are able to put up multiple homes on these larger lots (and have them right up to the road almost, all of that character will be lost.

It feels like a lot of the changes are trying to be snuck in under the radar without transparency. If there was nothing nefarious going on, the village would have no problem being 100% transparent and allowing the residents to see the whole process step by step.

#### **Received 4/10/25**

Questions about zoning code:

1. Can you explain why each zone is chosen where it is? This is particularly important for the DT and R2 zones.

2. It doesn't make sense to see different zoning across the street from each other - why aren't the boundaries drawn behind the parcels instead of causing homes on the same streets to have different zoning?
3. Paved area setbacks - do we have these for the driveway?
4. 50' rear setback seems like a lot for some parcels - is this number correct?
5. Why is Mohican Hill a separate zone? What makes it different from any other apartment complex (or even just senior living apartments) - it is not the only one in the village, it should not be special. Its zoning code reads like a development plan, which is not the same as code, and it should be subject to the same zoning code as any other apartment complex. Just because it was there before doesn't mean it can't change.
6. The building height measurement on page 7 (mean height between eaves) is different from the image on page 24 (shows to the point of the roof). Which is it?
7. I don't understand the downtown transition zone. What is its purpose (since it mostly includes residential homes on W High and Milton Ave), but nowhere else in the village (such as Bath St., which is what is shown in the comprehensive plan). This zone in particular is concerning where it is next to residential zones since it allows a lot of different types of development.
8. I don't want to see a PDD changing the zoning in an R1 residential area to anything other than a residential type zone. I'd like to see the code specify that.
9. I don't understand why you need a special permit for a single family home in the downtown transition zone - especially when there are already a number of single family homes in that zone.
10. Page 61 Use Standards for Accessory uses - C1a - things like garages, sheds etc are subject to dimensional and lot standards. But not all of these standards are listed. You detail the standards for pools, but not for sheds or gazebos. Even in the pool section it just says applicable yard setbacks. What does that mean? Is it the same as for the main building, meaning I can't have a shed within 50 ft of my rear property line? This is not clear. And if it has the same setbacks as the main house, does this mean accessory buildings can be as tall as the main house?
11. It was said in the board meetings that PDD and ADUs were not going to be included and decided on later. Yet they are included in this document. Is this the code relevant or do you plan to change it before this is approved (and then if it's not relevant, why is it here?)

**Received 4/12/25**

Parks should be zoned appropriately, not as R2.

Rezoning the R1 homes on Ralph Street, Grove Street, and Saratoga Avenue, which have frontage on the waterfront also puts the park and waterfront at risk.

The definition of fence should exclude plantings.

The approximately 46 parcels of Village owned land should be delineated.

The term “Nonconforming Bulk should be clarified. Does it mean that all existing structural work that conforms to the existing code will not be subject to the new code? Grandfathering?

I hope that animated message signs will not be permitted in the new code except for firehouses and law enforcement. They do not align with the character of our historic village.

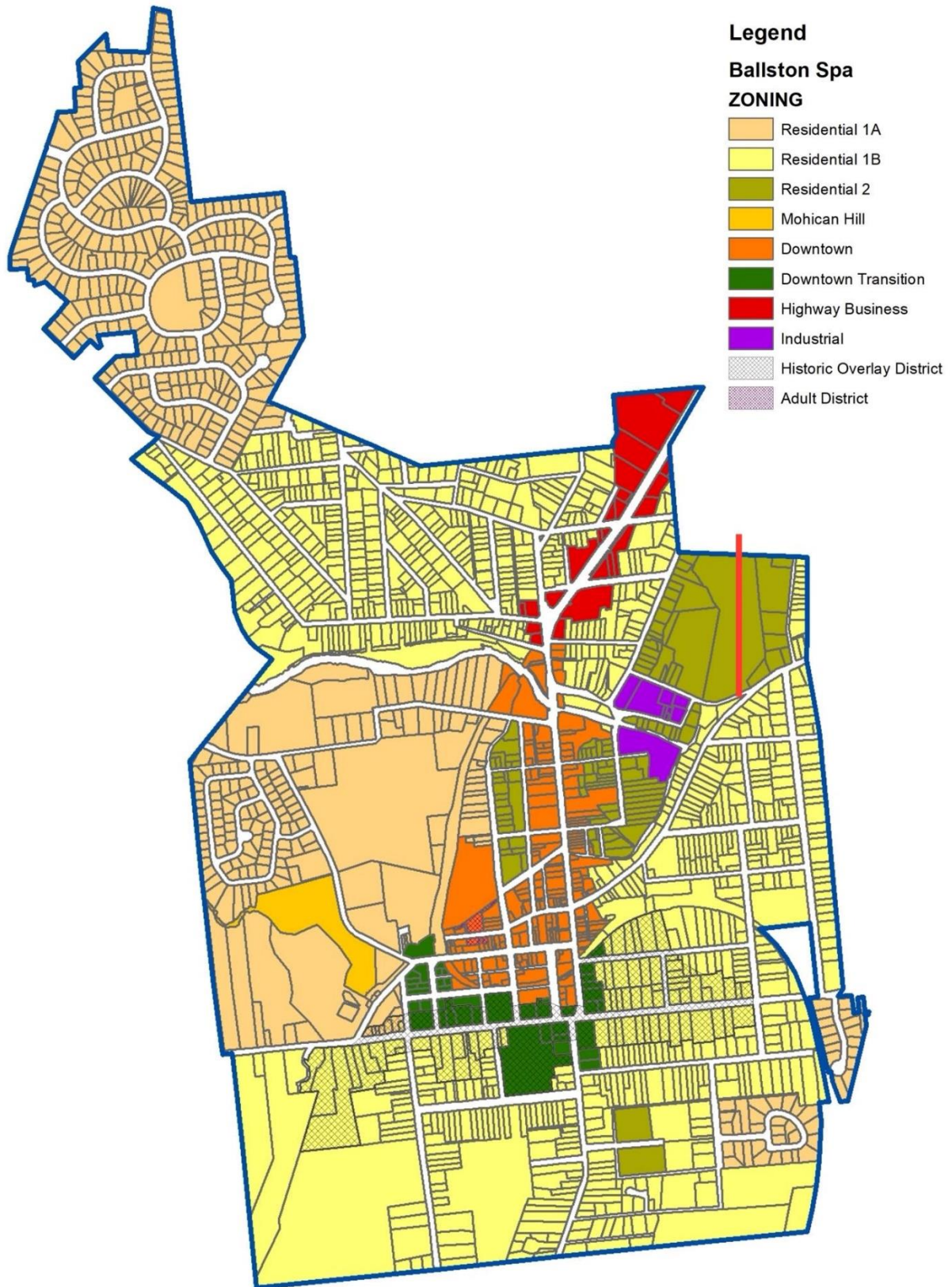
I have compared the old map with the new map, but I would request that an overlay be made available. Please include it in your list of PDFs accessible on the village website.

Finally, I believe that **proceeding with this until all topics have been fully discussed is not prudent**. We have a current code, and we should not adopt a new one until all property uses have been clarified.

**Received 4/13/25**

As a resident of Malta Ave on the corner of East Grove St., I’m concerned that my sides of the two streets will be rezoned R2. I think there needs to be appreciation for the hill behind Kelly park and the boundary line for any rezone. I can’t imagine anyone on East Grove would be happy with multi family housing anywhere on the street given it is already busy and a dead end road. As we have no multi family currently, this should be changed and the boundary moved behind the residential lots. Image below with recommendation.





### **Received 4/14/25**

Unless I missed it, there is nothing in the 150+ page Zoning Code Draft PDF that outlines what the changes from the previous code are, why they were made, and what the results will be of the changes. Without that information, it is impossible for a layperson to read the draft and understand what it means. I would think that this would be the minimum that should be provided to best inform the residents. If there is such a document that outlines the changes, why they were made, and what they mean to residents of those districts, where can it be found?

### **Received 4/18/25**

Why would those properties above (east) of Kelly Park including the west side of Grove St be changed from single family to multiple family homes? More than 85% of the residences are currently single family. I would think that improved and extended sidewalks would add more value to the properties than changing to multiple family residences. Who is identified as benefiting from any such changes. I would suspect only someone specific to making money for those changes, not the current residence owners. The purpose and reasoning behind the changes are very suspicious.

### **Received 4/20/25**

After attending the public review presentation for the Village of Ballston Spa proposed zoning code earlier this month and reviewing the 2022 Comprehensive Plan, I have some feedback on the draft zoning code. My comments are divided into two types:

1. Comments that apply broadly to the draft zoning code (i.e., impact multiple articles), and
2. Focused comments largely constrained to one article within the draft code. These are provided with the article reference.

#### **1. Broad Observations of the Draft Zoning Code**

I am very concerned that the approach taken in this draft of rewriting the zoning to “align with our current state,” will NOT provide us the aspired historic preservation that was outlined in the 2022 Comprehensive Plan. The 2022 Plan highlighted a striking similarity in goals from the prior 1993 Plan. It also states that the goals from ’93 did not come to fruition—suggesting a different approach is needed.

The first step of the new zoning code should be to address the priority issues highlighted in the 2022 Plan to ensure the vision of the 2022 Plan is actualized. Preservation of the historic character was one of these priority goals. The historic character in the Village is a valuable asset and the zoning code is a critical tool for protecting it. Below are my thoughts on how the draft can ensure realization of the historic character goal.

- District Boundaries. One comment made in the public comment period was to move the district boundaries from the center of the road to the rear of properties (Article 3.2.B. District Boundaries). This recommended change to the draft code is a good idea. This change to the draft will create a more seamless transition to both those traveling through the Village as well as those in the respective properties.
- Historic District. As mentioned in the public comment session, the historic district was omitted from the zoning code with the intent of adding it at a later time once some revisions had been made. I am not in support of this approach as it removes a protection for one of our most valuable assets. It's unclear why the current historic zoning code can't be implemented as an overlay district in the current draft plan. The future revisions could always be made at a later date. Incorporating the existing code and leveraging the "evergreen" nature of this new draft code seems to be the approach being used for the Mohican District, why not do the same with the historic district—a critical area of preservation as per the stated goals of the 2022 Comprehensive Plan.
- Waivers/Variances. An important element in preserving the continuity of historic character throughout the Village is demonstrating a burden of proof for a hardship when obtaining an approval for deviating from the established zoning code. This approval should be vested in the Zoning board rather than the Planning board. The approvals for deviations should apply to all elements of the zoning code (building dimensions, setbacks, uses, etc).
- Design Standards. The details for design standards across all of the districts are rather lax. Granularity in this area, like that found in the Village Historic District Design Guidelines, will aid all parties involved in the process and help preserve the historic character and ensure new construction reinforces this asset.

- PDD. These should be only be considered as an overlay to existing zoning codes rather than a greenfield approach to zoning. If not, there is a risk the developer may not adhere to the vision outlined in the 2022 Plan.

The draft code includes some reclassifications that are at odds with the 2022 Comprehensive Plan.

- R-1 to DT. Several parcels at the southern end of the Village have been reclassified from Residential (R-1) to Downtown Transition (DT).
  - McLean to E. High St. East of Rt.50. These three properties are currently zoned R-1. Two of the three parcels are used for residential. The third parcel has two commercial businesses. These businesses are non-conforming under the current R-1 classification and would also be non-conforming under the proposed Downtown Transition zoning. In addition the two residences would be non-conforming under the DT classification creating three non-conforming uses instead of just one. As a resident in this area, I would advocate for retaining the current R-1 designation (proposed R-1B) and enabling the non-conforming use to continue without further expansion via a special (use) permit. Standardizing non-conformities will lead to more of them.
  - McMaster to W. High St. West of Rt. 50. All of the parcels in this area are currently zoned R-1. The proposed zoning has nearly all parcels in the block being reclassified as DT with the largest block by area being the County Seat. Given the proximity of this area to adjacent residential properties, a better use would be R-1B to blend with the surrounding area. A couple of parcels on Rt.50 would be non-conforming but could continue current their current services under a special (use) permit as previously described.
  - Transition Zones. The Comprehensive Plan specifically highlights two areas as “transition zones”— lower Malta Ave. and the residential section of Bath as these lead into the Central Business District (Downtown district in the draft Zoning code). As previously noted, removing the district dividing line from the center of the road highlights the lack of harmony between R-1B (South side of West High) and the proposed DT on the North side. This area on the North side of West High should remain R-2.

The lack of a green/open space district in the zoning code is very troubling. The zoning code should explicitly protect these spaces. The recommendation that green space allocations can be incorporated into the individual districts is necessary but insufficient. Residents need these existing spaces protected: Brookside, Jim Tedisco Fitness Trail, Village Pool, Fairgrounds, Kelley Park, Iron Spring Park, Wiswall Park, Veterans Park, and Colonial Hills Park.

In addition to preserving existing spaces, an overlay district should be considered for expanding these areas to meet the goals of the 2022 Comprehensive Plan. Notably, a thoughtful connection of the different green spaces such as a Village-wide trail system which includes a creekside greenway trail. This is the kind of change and protection our village residents asked for in the current 2022 Comprehensive Plan. Zoning should be written to direct growth in this way.

Village residents highlighted a desire for an improved connection between the residential areas and the downtown via sidewalks and other pedestrian amenities. It is unreasonable to expect residents to walk on the shoulder of a road. The existing draft code does not address this need, but the new zoning code should capture this element of the 2022 Comprehensive Plan.

## **2. Focused Comments Related to the Draft Zoning Code**

- Article 4. The lot drawings should be shown to scale. The general schematic for each of the districts lacks some of the important elements that provide historic character. Much better renditions of these spaces were provided in the Comprehensive Plan. Consider using schematics that capture all elements for a district.
- Article 4.3.B. The table for the Downtown District should capture the number of stories.
- Article 4.1.A. The R-1A and R-1B consist of many different types and scale of housing. A single standard across all of these (e.g., 36 foot height) will be met with mixed success. Another approach is to consider the scale of local homes in defining the standard. This could be accomplished through an overlay or context-based zoning code.
- Article 5.3.C.2.f. It's unclear how "short-term rental" is defined. Should this be any rental?

- Article 4.3.B. There does not appear to be a provision to limit the size of buildings in the downtown district (Table 2). There does not appear to be a story limit to the buildings—only a height cap of 60 feet.
- Article 4.3.B (Table 3). This section states its okay to have reflective roof surfaces if they are intended to radiate solar energy away from the building. The rationale is unclear for how this glare (light reflection) is allowable but light reflection from a solar panel is prohibited (Article 5.5.C.3.d).
- Article 4.4.B (Table 4). The downtown transition serves to buffer the residential zone from the downtown zone. As shown and described, these districts are residential units that have been converted to a low-intensity commercial use or a residence that has a low intensity commercial use. Given this, it's unclear why the height standards in the DT are higher than those in the residential district.
- Article 4.5.B (Table 5). There should be a maximum building square footage in this area. The standard should consider how future (re-)development in this area will occur.
- Article 4.5.C.6. The minimum standard for planting evergreen trees (6 feet) should be raised to 10 feet.
- Article 4.6.B (Table 6). There should be a maximum building square footage for the Industrial district.
- Article 4.6.C.1. In addition to new construction, this standard should apply to modifications, expansions, or other changes to existing structures in the Industrial district.
- Article 4.6.C (Table 7). It is unclear how landscaping can be effectively used to buffer a 50 foot high building from adjacent properties with only a 15-foot set back. Perhaps, the setback should be increased, or the building height capped to match adjacent properties.
- Article 4.8.F. These cluster developments should borrow on the local character of the neighborhood (R-1A/R-1B) and be considered as an overlay to one of the residential districts.
- Article 5.1.A. This section outlines the purpose for the Use Standards is to restrict specific uses to minimize impacts on surrounding properties. It was surprising that hours of operation or days of the week were not included in the

list. This would be especially relevant to the districts which neighbor residential (or transition) areas.

- Article 5.3.B.2 (Light Industrial). If an Industrial district abuts a residential district, the maximum allowable noise from man-made devices shall not exceed 5dB over ambient sound as measured at the property line. (Copied from Wind Turbine Operation, Article 5.3.C.g)i.) This should be applied to other sections with nondescript noise reduction verbiage. Additionally, all work should be done within an enclosed principal building on the premises.
- Article 5.3.B.3.d.i (Vehicle Body Work). Shrubs should be required to minimize the appearance of fences/walls unless the fences are deemed as adding to the historic character of the area. Similar requirements should be in place for Vehicle Repair (Article 5.3.B.5.d.i)
- Article 5.5.C.3. I applaud the specificity in removing solar energy systems that are no longer in use. This clarity should be provided to other areas of the code (e.g., abandoned buildings).
- Article 5.5.C.6. I applaud the clarity offered around home occupations. This level of specificity should be considered for other uses.
- Article 6.5.F. The storage, generation, or use of radioactive waste should be prohibited.

In short, strong Zoning codes and enforcement are needed for us to retain the historic character, green space, and improve walk ability within the Village. These are the priority items outlined in the 2022 Comprehensive Plan that the Village adopted after extensive public comments and workshops. During the 2022 Comprehensive Plan development, we residents were told that the Comprehensive Plan was a broad picture of our shared goals and needs for our village. We were told that the zoning is written to provide the detail that ensures the Comprehensive Plan is followed. The draft zoning should be revised in the areas I have specified above so that it better aligns with our Comprehensive Plan to protect our Village for the future.

**Received 4/20/25**

Things I thought when thinking about zoning

I appreciate everyone's hard work on this to date.

Specific comments are below. Feel free to take what you would like and leave the other ramblings behind.

## 2.2 – Definitions

- Building Height – The definition of building height along with the building height tables, particularly in residential districts would result in taller buildings than currently allowed. Is this intentional?
- Home Occupation – should definition include an expected number of visitors or car traffic per day?
- Mobile Home – add definition?
- Recreational Vehicle – these are defined, but where are they regulated?
- Setback – clarify definition to what part of building. Assuming this is to the eave / overhang / balcony? Awning signs seem to play by different rules?
- Sign, Flashing – references ‘electronic message signs’ but this is not defined anywhere. It may not matter since they’re all not allowed...

## 3 – Zoning Districts and Zoning Map

- Consider extending Downtown Transition area south on Church Ave to Village boundary on both sides of street. Many of these are multi-family currently and this area feels less residential as it is along busy Route 50. I would advocate that this area is nearly the definition of a downtown transition zone, particularly coming from the more business / commercial zone in Ballston to the south. These homes could be a mix of single family residential, multi-family residential, and converted residences to business use. The Comprehensive Plan states that in the DT zone the building ‘form’ is of primary importance. This zone should still look and feel like residential buildings. If the ‘form’ of this area is maintained then it will limit uses by default.
- Consider creating a Downtown Transition zone from Route 50 to Malta Ave School along Malta Ave. Include the Village parking lot and BACC. Many of these are already multi-family homes. Others could be converted to professional office use. This area is ripe for redevelopment and would be a nice transition to the downtown. It would also allow conversion of Malta Ave School should the district ever consolidate campuses in the future.
- Kelley Park and Village pool area should be R-1, not R-2.
- Add a district for parks and recreation. Tie this into the intent of the Comprehensive Plan and the idea of an extended greenway / trail connection.

## 4 – District Standards



#### 4.1 – Residential

- Dimension G in the schematic shows building height differently than the definition. This should be clarified. The definition would allow a taller building height than currently allowed.
- Maintain current rear-yard setback of 25-feet.
- What is the rationale for the 4,000 sq. ft. lot in R-1B? This feels small. It feels like the number should attempt to make a certain percentage of existing lots conforming that may not currently conform. 80? Maybe, 90% Something closer to 6,000 feels more like the right number
- Non-residential uses in R1-A and R1-B are only allowed by Special Permit. Why would we allow increased height and stories? Shouldn't these look and feel like the surrounding residential uses?
- How are accessory buildings dealt with? If they meet the same standards, then would this allow a 36' tall detached garage? Is that the intent? In R1-B, I could see the setbacks for a detached garage being less than the sideyard setback of the primary structure. What about a shed, or an accessory building below a certain square footage? In R1-A, larger setbacks to accessory structures feel correct. In R1-B, I think they should have a different consideration.
- Somehow sidewalks and curbs should be incorporated into all districts. Show them in the graphic and reference them. This is an important aspect of the Village which has been neglected.

#### 4.3 – Downtown

- Much of downtown development is potentially infill development between adjacent existing buildings. Some provisions should be provided in the height standards, or perhaps in Façade Review, to have infill development match or blend with surrounding buildings. They should generally be approximately the same height, with approximately the same first floor height as the surrounding buildings. A short single story infill would look out of place between an existing 3-story building just as much as a new taller building would look out of place between existing single story structures. Is there a way to capture this? What about on sloping streets due to the topography of the Village.
- Design Standards – use consistent language. Sometimes called design standards, sometimes called development standards.

#### 4.4 – Downtown Transition

- See comments in Section 3 regarding expanding this district. If done correctly, professional office use would have little impact on the existing neighborhoods.
- I think form should be the priority here over function. Maintaining the existing ‘form’ of these areas would naturally limit the functions. Think Lake Ave in Saratoga heading to the east out of the city... a mix of professional, residential, recreation, school uses... feels a lot like route 50....
- The Lot Standards of this district are odd. Why is the lot size so different than R1-B or R-2? If we follow the form over function logic, should the size be same for either residential or non-residential use?

#### 4.5 – Highway Business

- Development and site planning in this area has been neglected, but it is critical as pointed out in the Comprehensive Plan as this is the gateway to the Village for many. I like the landscape requirements and the ideas presented for this district. Consider a maximum building setback as well as a minimum? Encourage landscaping and greenspace in the front of the building with parking in the rear.
- I think because of the importance of this district, it should get a design, or development, or whatever you’re calling it, standards table similar to the other districts.
- Street trees, sidewalks and curbs should be mandatory. Suggest all graphics show sidewalks along the street.

#### 4.6 – Industrial

- Allow flexibility of uses in this district. Think of a conversion of 101 Ford to a brewery with outdoor seating... sitting outside in the sun... listening to the creek.... Or an indoor farmer’s market. More of an expansion of some downtown uses in this area would be appropriate. We are beyond the days of industry needing to be located by waterways and this could be nicely utilized space adjacent to the creeks and Kelley Park. Ties into the comprehensive plan – the creeks and natural areas of the Village help set it apart and are currently underutilized.

#### 4.7 – PDD

- PDD's are important to be included in the revised zoning code to allow a developer the opportunity to present a project for consideration to the Village. A PDD is not a guarantee of a project's acceptance. Allowing a developer greater flexibility in developing sites like Maplewood could be beneficial for the Village. There is a balance between a project which is in the best interest of the Village and is economically viable for the developer. If allowed, developers can help find this balance. Not all developers are evil. Allow them some creativity in proposing how they would develop a site. They might propose something great.
- Part of the submission requirements should include a statement indicating how the proposed project conforms with the comprehensive plan.
- At the very least, some framework or path forward for PDD's should be agreed upon before adopting the zoning code

#### 4.8 – Residential Cluster Development

- 30,000 sq. ft. minimum lot size seems small for this to be a viable option. That size lot feels more like a two lot subdivision...
- There is ambiguity between sections D and E. Section D states single family structures and duplexes are only allowed by Special Permit. Section E indicates two-family dwellings are permitted. Not sure how these differ from duplexes...
- Section D.2a – how does this jive with the current sub-division regulations?
- General – use consistent language. The terms Pocket Neighborhood and Residential Cluster are being used. Pick one.
- F.3a – Is a minimum common open space required for any size development? Again, 3,000 sq. ft. common space on a 30,000 sq. ft. minimum lot doesn't feel all that reasonable. How does this play with the current subdivision code? Why would someone choose this option rather than a subdivision for a relatively small lot?
- In general, I think this is a great option for larger lots and could see this working well as part of a redevelopment of Maplewood or some of the county building sites should they ever move. This seems like a nice way to add a little more density while staying away from larger apartment buildings.

#### 5 – Use Standards

- Verify all use categories have definitions
- Verify uses listed match with descriptions from article 4. For example, Downtown district use table allows multi-family residential on the first floor with a special

permit. Article 4 indicates first floor retail / business use in this district. If a special permit is what is needed, then it should be clear in article 4 as well.

- I would study the Downtown Transition zone in more detail. Again, if the concept is that these are converted residential, I'm not sure how automobile sales, commercial parking garages, nursing homes, etc. are viable uses. A parking garage in a converted residence would be quite interesting. I advocate for expanding this district and limiting the form / use. Are parking garages something the Village would entertain in any location?

### 5.3 – Use Standards

- A2a – again, this seems to contradict the use table which states residential is allowed by special permit
- A.3 – use consistent language. 'Residential' vs. 'Downtown' Transition. Residential uses on the ground floor are stated as a use here, but says a SP is required in table
- B5c – should fence requirement be a maximum of 60% open space rather than minimum?
- C.3 – Solar Energy Systems - I am all for roof mounted solar or incorporating solar into parking lots. I'm confused about ground mounted solar and how it fits within the Village. Are ground mounted systems subject to the same setbacks as buildings? Do they count against the bulk area requirements? In essence, could someone take a vacant residential lot and fill it with ground mounted solar? Or essentially fill their entire backyard? I like solar... I think this needs some further thought.
- C5.5 – Wind Energy Conversion System – I'm a huge fan of Mother Earth. I like green energy. I don't get this whole section.... Are we allowing wind turbines in residential districts and throughout the Village? Is there even a viable technology analogous to solar out there right now for a homeowner. What am I missing? We're writing a zoning code that is intended to be a living document. If something like this becomes a reality can we write the code then?
- D Adult District – Are signs for this district addressed anywhere? Or are they held to the same standards as the overlain district?

### Article 6 – General Site Development Standards

- 6.2A – exterior lighting seems like it should apply to residential cluster developments as well.

- 6.4B – roof mounted equipment – Does this apply to roof mounted solar as well?

## Article 8 – Signs

- I've been trying to think of ways to help with the useability of this section. It feels cumbersome. Color code the margin based on what district each type of sign could be placed? I dunno... but I need to read this section 7 more times before I will fully understand it
- 8.7 A5 – graphic shows a banner (I think...) above the first floor and states it may not extend above first floor. Use of 'first floor' language is confusing. Or the graphic is. Or they both are.
- Language throughout this section has not been tailored to the districts elsewhere in the code. Use of terms like 'commercial and mixed use districts' have ambiguity. Is this D, DT, HB, and I? If so, let's just say that....
- In general, the signs allowed are more in number and larger than current code. Is this intentional?
- If you have a 'wall sign – painted' but not a 'wall sign – standard' why are you only allowed half the size? How is a painted wall sign's square footage calculated? Just the size of the lettering, or do we draw a big circle around it like in the picture. Why does this whole section need to be so confusing?
- Drive through signs are permitting in any district, but drive-throughs are only allowed in HB or I. If I get a use variance for my drive-through in D, should I be able to get a drive-through sign as well?
- This entire section could really use some tailoring to the Village with more concise verbiage that matches verbiage used in the remainder of the document.

## Article 9 – Review Authorities

- 9.4 A.4 – change the word Planning to Zoning
- 9.6 – Historic Commission – similar to PDD's, I think at least some framework or concepts to how this will move forward need to be agreed upon prior to the adoption of this code. It would be a shame to have come so far with the new zoning code only to have the existing historic district be stuck in as a 'placeholder' that remains a 'placeholder' for the next 10 years because we can't find any consensus. Is the current code language providing the desired effect? How does the current code protect the 'historic nature,' 'historic charm,' and 'je ne sais quoi' of the Village most

villagers deem as important? How can the Historic Commission become more of a resource?

#### Article 10 – General Procedures

- Useability – historically many folks coming before the Planning Board have never appeared before a Planning Board before, or maybe only a few times. Many are smaller developers or first time applicants. Anything we can do to increase the useability of these next articles would greatly help. Maybe a flow chart of sorts outlining the process at the beginning of this section?
- 10.3 B – here’s an example of the above.... ‘Application shall be considered complete if it is submitted in the required form, includes all mandatory information, blah blah blah’..... where do I have to go to find this? What is the mandatory form? What is all the mandatory information? Refer to relevant sections if they’re in this code
- What’s an Official Map?
- 10.4 C – subdivisions have their own code section. Has this section been looked at as part of this process?

#### Article 11 – Zoning Applications

- 11.3 G – Appeals to administrative adjustments have a 60-day timeframe. How are decisions made by administrative adjustment publicized to start this clock? The public may not be aware of an administrative adjustment decision.
- 11.4 D.1 – what defines a residential development? A two lot subdivision?
- 11.4 D.4 – 20,000 sq. ft. threshold feels big for the Village. I assume other thresholds might kick in as well, but what is rational behind 20,000 sq. ft.
- 11.4 D.5 – Does this include a single family home on a lot greater than an acre?
- 11.4 D.6 – there’s a random “this” hanging around
- 11.4 D.10 – unless deemed dangerous or otherwise unsafe by the Building Official? What about Historic Overlay?
- 11.4 F 2.f Consultants – change “Town” to “Village”
- 11.4 F 2.g Religious or Non-Profit – does this imply a decision regarding signs as well?
- 11.5 A – use of term ‘business districts’ could be ambiguous. Why can’t we just list the districts where this would apply? Or maybe it’s the whole Village...

- 11.5 B – why not include DT, and HB, and I for exterior façade renovation? I would argue that DT and HB are equally important to D for this.
- 11.5 B – refers to design criteria. Where is ‘said criteria’? It seems this will need to be ready to roll out at the same time as the zoning code
- 11.5 C – needs to include Historic Commission and where their role fits within this process
- 11.6 C.2 – refers to an application for certificate of nonconformity. Has this application been produced? This will also need to be ready to go when zoning code is adopted.
- 11.7 A – For what cases is the Zoning Board the special permit granting authority? Should this be defined in this section?
- 11.7 B – careful review .... ‘against fixed standards’. Where do I find these standards?

#### Article 12 – Nonconformities

- I’m having some difficulty squaring this section with the reporting requirements of 11.6. When do you report, and when are you allowed for continuance under 12.2 A?
- 12.2 D.2 – does this imply that you could never seek a use variance for this parcel if it reverted after seven days?
- 12.2 E.4 – Is this an automatic denial by the planning board? Again, I’m a bit confused about how 11.6 plays with 12.2

#### Article 13 - Enforcement

- 13.1 B.3 – is the owner expected to cover the costs of this if found in violation? Should that be stated?

#### Appendix

- Understanding this was a copy / paste, but it refers to appendices and schedules which are not part of proposed code. Somehow needs some massaging.
- I’m tired. I don’t know why anyone would have read this far.....

## **Received 4/21/25**

I have a number of concerns with the zoning code and truly hope time can be spent reconciling the community needs with the code. I am sad to see it is out of the ZAC's hands as I think further discussion and input from a diverse group of community members is still needed before consultant and legal review.

Historic preservations: I agree that a historic zone is not critical (should have broader coverage than it currently does), but the zoning should have historic preservation goals. Each zone should have detailed descriptions of the desired design standards, and define criteria for the classification of historic (year range or other reasonable method). I would really like to see this included in the code, this is easier for developers and homeowners to have one go to document that explains what can be built in any lot/area.

Green spaces: While separate protections may be possible for some of the parks, the zoning should call out park spaces as greenspace/recreation. Areas such as the Kelly Park, Wiswall Park, Tedesco Trail, and most critically the fairgrounds should be zoned as they are intended to be used. Again, the zoning should be the go to guide on desired land use. We do not want to lose these spaces as they are critical to our community, and we should do everything we can at the Village level to maintain them. Also while it was suggested that it is rare to have these park protections in the zoning code, most of the municipalities in the county seem to be including greenspace in their codes.

Downtown Transition: This could be a good thing if used to define mixed use home shop type business, but as it is written it is dangerously general. Additionally the areas covered do not seem to match with the goals defined in the master plan as they do not enhance the walkable character of the core downtown area. If not more tightly defined this area should be removed, and its location needs to be reconsidered.

ADU: These seem to be the exact kind of thing that should be in the zoning code, so I am not sure why it would be anywhere else. If the state comes up with laws regarding ADUs then at that point those laws can be enforced over our own. We shouldn't wait on outside forces to decide how we govern our village. Additionally this seems to be an issue that a lot of the village is looking for clarity on one way or another with the most fervor, so pushing out the ADU decision to hasten the zoning code launch seems backwards to what I have heard from residents.

General: Everything should be much more detailed and refined. As it is currently written, people are debating what could be built in locations (can a chain restaurant go in the transition zone, etc.); this should be very clear to any reader. When in doubt the code



should be overly verbose in its requirements, it's better to have a complex code, than many complex interpretations of the code.

PDD: This is a major issue that should really be well defined and it's very upsetting that the public feedback events occurred without any idea as to what the final PDD section will look like. Using PDDs has the ability to completely undermine the zoning plan as a whole so if they will be allowed they must be well defined. In the end the code should be very specific on the limitations of the applications of a PDD, as well as clearly defining objectives that should be satisfied in order to authorize one. It would be good to see a clear outline of qualifications that parallels the comprehensive plan objectives that would be used in the PDD application consideration. If you look at a lot of the neighboring communities, most of their "regrettable" changes to the community feel have been made under PDD development so if they will be allowed we need to guarantee they will bring positive changes to the community.

More specific zones: Breaking the zoning into more neighborhood specific zones would allow for tighter control on development suited to the existing structures. Trying to make a general residential zone that offers to make all neighborhoods compliant is impossible without being enormously general. Additionally separating the residential district allows more control over specifying sidewalk needs, curbing, lighting, trees/plants and other comprehensive plan goals without forcing things in areas where this would be inappropriate.

Hopefully we get something in the end that helps us advance the comprehensive plan goals!

#### **Received 4/21/25**

Please see my comments pertaining to the proposed Village of Ballston Spa Zoning Code Draft document (PDF) that was posted on the Village website and has a created date of 3/17/2025.

1. Downtown Transition should be zoned residential only, especially on McMaster Street, where it is a residential street and was prior to the Saratoga County building.
2. PDD is a concern in that the parameters are too vague and wide open for types of development. This needs to be defined clearly and included in the zoning before being voted on.

3. Highway Business needs to require sidewalks. The village needs to encourage safe pedestrian areas for residents and visitors. Many people walk along route 50 to store and restaurants.

3a. This development should have parking in the back behind the stores and no drive through businesses.

4. The typical lots in the village are 10,000-15,000 square feet. Res 1B is 4,000 square feet. This is being proposed for much of the Village. This is a drastic decrease in minimum lot size.

4.a. With the proposed increase in density, the Infrastructure needs to be improved to support the density such as safer intersections/sidewalks and street design for pedestrians and bicycles, sewer, drainage, sidewalks.

4. b. The property that was the County nursing home is approx. 15 acres. If this land is developed a percentage of the land should be required to be park space and/or open space.

5. Existing 2 Family properties should be zoned to reflect that it is a 2-Family.

6. It is inconsistent that the Legend Includes the name of a development. This was previously called 2S Res. Senior.

### **Received 4/21/25**

The following are my comments on the proposed zoning code. I am glad the village hired a consultant to work through this with us, it does make sense that the village clean up the zoning and have a clear document that can be updated as needed. It is also important that the village protect our collective investment. If the zoning workshop showed the consultant anything it should have clearly identified how much people really truly enjoy living here and all that we have to offer. We want to maintain and keep it, not make drastic changes. I would also like to suggest that the consultant spend some time walking around the village to better understand how it operates and how we all live here. Maybe even spend some time with residents in each 'section' of our village to show him around to get a first hand perspective on this great place we live in.

It should be noted the consultant said based on the population only a small percentage of us was there at the zoning workshop (at the Cornell building). I can tell you that as a parent of three and a homeowner (of 3 properties in the village) and both my spouse and I working full time jobs, it is very difficult to keep up with everything. Until I spoke to some other

parents at a school PTA meeting, I had heard about the zoning but was not aware of the large sweeping changes that were taking place. Once I learned of the news I immediately started notifying neighbors, who were mostly unaware of this as well. I think the statement that the only residents concerned about the zoning are the ones who showed up to that workshop is incorrect. We are a very busy village, and not everyone can take a few hours in the evening to attend an event like this. Additionally, it was difficult to view the documents on the village website to determine the exact proposed changes taking place to ultimately provide my opinion. That said, here are my comments:

#### Green Space -

As discussed in the workshop, we understand the state can determine and protect areas that we do not want structures on. However, we should also designate it ourselves in our zoning code. Specific areas; Kelly Park, Wiswall Park & the Tedisco walking trail. If someone outside of the village simply looked at the zoning maps and saw a large open space next to a river coded as residential, on paper it looks like a perfect building spot. We should designate this as green space to avoid any further confusion in the future.

#### R1B

It seems that a large part of the (non-downtown area) village is proposed as R1B, which is a minimum lot area of only 4,000 sq feet with only 50 feet of the minimum width of the property. Right now I am in R1 with a minimum 10,000 sq foot lot size. What is the reason for reducing the lot size? Other than to give people the opportunity to stack houses on top of houses? I would not want the lot sizes to decrease at all. Why is this being proposed? Specifically I live in the area around Chapman, Hyde, Columbia etc. The consultant said the suggestion was to make the code match what is currently here. The lots in these are not close to what is being proposed. Again, I do not want my lot size reduced, so that future owners can cut up my lot and add other houses, so what is the purpose of this change?

#### R1A and R-2

Same questions as above, what is the purpose of reducing these lot sizes? R1A, would be our new largest lot sizes at 10,000 sq feet and that zoning is only around the fairgrounds and at current housing developments on the North West side of town. Does this mean the goal is to allow newer housing developments to have larger lot sizes? The location of the largest lot size does not make sense.

Mohican Hills - Still confused on this zoning, why is it different? Why was the consultant apprehensive to offer suggested changes to this area? Why is it ok to just leave this as it is?

I do have other comments but these are the main ones. I agree this should be looked at but we need to ensure all of us who own homes here and have decided to live our lives here by supporting the community and taking care of it are heard and the decisions are made as a collective unit.

**Received 4/22/25**

I would have probably too many comments if I tried to react section-by-section to the proposed updates. Instead, I'll be very brief as I know how challenging the task must be to pull everyone's opinions together and weigh their importance.

I did read through the "zoning\_comments\_2025.pdf" file on the Proposed Zoning Code page and I don't think my comments repeat what others have said, so here they are:

1. Comparison of new vs. old codes: The current code, available as e-Code format on the Village website is difficult to compare to the proposed code, available as a typical PDF document. Can the Village's consultant develop a tracked changes version of the proposed code as if the existing code were edited? Or at least publish an 8.5x11 version of the current code to allow residents to compare more readily?
2. Sidewalks: Please note the image shown on p. 41 of the draft code. It shows the pedestrian sidewalk continuing across driveways. This is considered a proper practice for walkable communities, but it is also becoming a lost art for developers and contractors. As a result, gradually in our Village, nearly every time a driveway is paved, the sidewalk is interrupted by the driveway. This gives the impression of prioritizing the vehicle over the pedestrian, results in cross slopes not suited to accessibility standards for pedestrians, and negatively effects Village aesthetics. The Village may be able to influence this by communication: letting people know through-sidewalks are preferred over through-driveways, but requirements in the Zoning Code should reinforce that. The walk down any Village street should not be sidewalk-driveway-sidewalk-driveway-sidewalk, but simply a continuous sidewalk.
3. Accessory Structure Setbacks: Please apply this rule when reimagining the Zoning – if the proposed Zoning would not allow some of the most noteworthy and characteristic buildings in our Village to be built, the proposed Zoning (or the current Zoning) is flawed, not those buildings! I'm thinking specifically of the small barns and carriage houses that likely are non-compliant with required side/rear setbacks and height limitations. Why? Can't we find a way to allow new structures like those? The same premise may apply to front setbacks, where the common setback

already established on that street should prevail – even if it’s less (or more) than model codes might suggest.

4. **Avoiding Large Mass Buildings:** A good local example is Ellsworth Commons in Malta. Blending a building construction type (concrete and steel first floor, wood platform framing multi-story above) and an approach to commerce (multiple store fronts along a large building frontage), these large mass buildings are popular with developers but are an instant detraction from a municipality’s character. I recently passed another example (see photo below), which took up a full block on a popular street near Vassar College in Poughkeepsie – note all its vacant storefronts 2 years after it was built. If our Village is not careful, we will have our own version soon. How can Zoning prevent this? Perhaps a limitation on the number of storefronts per individual building? Together with a frontage (building length) limitation?
5. **Differentiation:** I see one other resident commented on this – let’s please try not to perpetuate the mistake made throughout Upstate NY municipalities of bowing to the complexity of writing a Zoning code by adopting model code text or provisions developed in other communities simply out of convenience. If it doesn’t fit the Village, it doesn’t fit – be bold enough to do it differently.



## **Received 4/24/25**

### County Property Inappropriately Zoned

How is it that the county property warrants a rezoning to Downtown transition when it is surrounded by Residential R1B?

- This property has always been zoned as R1 to reflect the area in which it's situated.
- What changed in the last couple weeks that perpetrated this change from R1B to Downtown Transition?
- All other exempt properties in the village take on their surrounding zoning. This is true of Wiswall Park, Village Hall, the Library, Kelly Park, the Village Garage and so on. What's the justification here?

### Splitting District Boundaries on Street Centerlines

How can it be a good practice to split district boundaries on street centerlines?

Issues:

- Destroys streetscape character and continuity when one side of the street has one use and appearance and the other a different one. This does not contribute to preserving village character.
- Rather than solving workload problems of zoning and planning boards it will actually increase workload as applicants argue "my neighbor across the street can do it why can't I?"
- Causes discontinuity of neighborhood character and destruction of property values eg: gas station allowed across street from residential R1.
- Attempts to force new uses rather than a major stated goal of rezoning which was to match up with what's actually there.
- Makes much more sense to split zones at the backs of lots as has been done in many other parts of the village.

Examples:

- Saratoga Avenue. East side of street (R2) allows uses such as Multiple Family, Mixed Use, B&B and Professional & personal service uses. West side (R1B) only allows single family dwellings that's it. Further, East side allows smaller lot size, smaller width, less rear setback, higher building coverage percentage, and taller three-story residential buildings.

Why is this when the East side currently has identical use to the West side and is currently zoned R1, the same as the East?

- Malta Ave from Ralph Street continuing East on to East Grove Street. Same situation as Saratoga Avenue only with East and West reversed. Here the lots on the West (R2) side already tend to be much larger than those on the East (R1B) zone and yet the zoning calls for them to be smaller. Same deal that both sides are currently zoned the same as R1.
- West High Street Church Ave to Ballston Ave, Remsen Street, McMaster street from Remsen Almost to Church Ave. On all these streets one side is zoned Downtown Transition while the other side is Residential 1B. The West High Street stretch on the North side from Church Avenue to Ballston Ave currently has uses totally allowed in Residential 1B across the street. Across from Remsen and McMaster Streets is the exempt County property that is currently zoned R1. In fact, new zoning maps up until a couple weeks ago respected this zoning. What suddenly changed? Again, rather than the stated purpose of matching zoning to current use, this is a blatant attempt to force new zoning where it isn't warranted. Who in a R1B single family district would want a gas station, Bar/Resturant, Car dealership, car wash, oil change facility, or three story mixed use building either across the street or next to them? How is this preserving streetscape character and overall character in the village that the comprehensive plan dictates?
- Are there more examples? I think so.

#### **Received 4/25/25**

After review of the zoning code regarding accessory units (sheds) it appears to me the size (125 SF) is too small as many property owners already have sheds larger than that (including BARC sheds at the soccer fields) and it would then require a variance just to replace their shed in-kind when needed since they would be considered non-compliant. A better size would be 200 SF since most sheds would fall at or below that threshold therefore being compliant and would not require a variance to replace.

#### **Received 4/25/25**

##### **Downtown Transition Zone**

The illustration, description and purpose of the downtown transition zone on page 31 is wildly different than the allowed uses in the table of uses. This is an inconsistency that is confusing at best and not becoming of well written code. The descriptive part seems

reasonable upon reading but the allowed uses in such a zone are not supportive of the Village character called out in the Comprehensive plan.

#### Front Yard Setbacks

Many areas of the Village have greater existing setbacks than the allowed distances specified in the proposed code. The existing setbacks contribute greatly to the streetscape and village character. What is to prevent new construction to occur per this proposed code that would break continuity and ruin the streetscape? Shouldn't there instead be code that requires neighboring or block norm setbacks to be used to determine what's allowed for new construction setbacks instead?

#### Non Conformity

What exactly is Non Conformity that the Planning Board deals with? Seems there are not sufficient guidelines to avoid arbitrary and capricious determinations to be made at the Village's detriment. The Village already has existing guidelines posted for use by the Historic District as well as the rest of the village. Why aren't these referenced by the proposed code?

#### Historic District Overlay Mapping

Posted maps that show the Historic District have errors. First, the Verbeck House at 20 Church Ave is in the Historic District but is not shown to be. Second, the boundary behind Pleasant street East of Beach street is shown cutting across lot lines. Instead, the boundary should follow the respective lot lines.

#### **Received 4/25/25**

The new zoning districts go part of the way to realizing the vision of the comprehensive plan, but there are specific issues that need to be addressed in the draft zoning code.

District boundaries throughout the village must be adjusted to ensure the character of neighborhoods remains intact. Specifically, district boundaries should not be in the middle of streets when that division means a significant change in the design guidelines. This currently occurs on West High St., Saratoga Ave., and Bath St., and could lead to significant changes to neighborhood character. *Recommendation: The code should be adjusted to put boundaries at the back of lots as much as possible.*

The Downtown Transition district does not reflect the vision as outlined in the comprehensive plan. This district should maintain its built character while allowing for light commercial uses and home businesses. The comprehensive plan clearly states



“teardowns of existing buildings [in this district] should be discouraged”. The comprehensive plan also recommends that the area of Malta Ave. between Milton Ave. and Grove St. should be zoned in this district as well. Again, not to teardown existing structures, but to allow for lighter commercial activity and home-based business. *Recommendation: Update Downtown Transition to preserve the character of the area while allowing additional uses on property as it is, and to extend the downtown transition zone on Malta Ave east to Pine St.*

Lot standards must be updated to more closely reflect the built environment in each district. A few issues with standards were mentioned during the workshop on April 3<sup>rd</sup>, including: lot sizes inconsistent with built environment, changes to height requirements and inconsistent height requirements on lots, and changes to setbacks. Some of these standards may not need to be changed while changes to others may benefit the community by creating more clarity for property owners and bringing property into compliance. *Recommendation: Lot size minimums in residential districts should be determined by identifying an amount (80% or 90%) of properties that would conform with the minimum. Height standards for non-residential buildings should not be higher than residential buildings. Sidewalks should be incorporated in graphics throughout each district to encourage their construction.*

Use standards must be updated to meet the changing needs of our community as outlined in the comprehensive plan. The comprehensive plan suggests a focus on “form-based” zoning, which would ensure the built character of neighborhoods remain intact while loosening some of the uses. For example, many of the larger lots in the older non-suburban neighborhoods are already used for two-family or multifamily housing. Additionally, uses like professional services (accounting, legal, etc.) require special permits in R-2 and Downtown Transition, but mixed-use development (with commercial uses on the first floor) is allowed in R-2. *Recommendation: The Table of Uses must be adjusted to reflect the existing uses in the village and to encourage the vision as outlined in the comprehensive plan. Home-based businesses like professional services should be allowed in R-2 and Downtown Transition and by special permit in R-1. R-1 should also allow for two- and three-family by permit without encouraging teardowns by focusing on the design guidelines that would reflect the built environment.*

### **Received 4/25/25**

Brief comments on the draft code:

1. The code must align with the Comprehensive Plan.

2. The Zoning Advisory Committee must be the committee to analyze the Public Comments and make final recommendations to the Trustees, according to their Charter. No other committee or group has been empowered or appointed by the Trustees to serve in this function.
3. The boundaries of the Historic District are not correct. They should be updated through consultation with the the Historic District Commission.
4. The Historic District should remain in place because the Public has spoken many times about it at two Public Rezoning Workshops. The Historic District is featured prominently in the Comprehensive Plan and is a priority issue for our Village's economic success and vitality for years to come.
5. The Trustees must invite Frances Stern to a public community meeting to hear a presentation about the Model Preservation Ordinance passed by the Historic District Commission.
6. After the ZAC analyzes the Public Comments and makes recommendations, there should be one final Public Rezoning Workshop.
7. The Mayor's timeline for completing and passing the code is unreasonable. It does not give ZAC, and Legal staff enough time to do a complete review. The Timeline should be shifted to mid to late September.
8. Twenty-four zoning code subjects were removed from discussion by the ZAC and assigned to staff, Legal or the consultant at the beginning of this process. The public deserves an update on the status of these zoning code topics, and their proposed disposition

**Received 4/25/25**

I would like to formally submit my comments on the village Zoning code. First, I would like to see all village green spaces protected indefinitely, regardless of whether this is typically put in zoning codes, or not. Also, I believe there should be restrictions on placing cell towers in any residential (R1, R2) neighborhoods, with no possibility for special permits to get around that.

I would like to hear what the ZAC committee's recommendations are on key issues like Planned Development Districts, the Historic District, Open Spaces, and Accessory Dwelling Units. I would like to see the village maintain the historic district in its current

form. The character and charm of the village should be maintained at all costs. I would also be in favor of banning all neon, LED, or electric signs in the village.

The infrastructure of our village was not meant to sustain unbridled growth. Please consider putting the brakes on this rushed process. Please allow the ZAC committee to reconvene and finish its work and prepare recommendations. Thank you for your time and your service to our village. It is much appreciated.

**Received 4/25/25**

My suggestion is the pre-existing non-conforming that have been vacant for a year require a special use permit vs. a use variance

**Received 4/25/25 4:21pm**

Concerns

- Rushed Process
- Difficulty in obtaining hard copy of documents that should be made readily available to a resident and/or taxpayer
- Difficulty navigating the village website
- Missing information on new draft maps that appeared on existing map – greenspace – parks – fairground and its associated parking lot, Tedisco Trail, Pool, Kelley Park, Recreation field on Hyde Blvd., etc. Are they really parks or are they available for use as the new zoning indicates?
- No list of what changes are from current Zoning to Draft Zoning

The above concerns helped to discourage involvement in the process, and the lack of transparency is concerning.

In regard to my district - currently R-1 as drafted 1-A

- I am against changing the minimum lot width from 80 feet to 50 feet. At 50 feet it will only encourage more density, subdivision in existing neighborhoods that otherwise wouldn't be, whilst this may bring in more revenue in taxes, it will put more strain on aging infrastructure and would change the character of the village. If this use is allowed down the road in the fairground area, the opportunity for significant gain in population as well as potential traffic concerns, lost greenspace and the wildlife that goes along with it. With the density

and the amount of units allowed to fit in the desired property, larger lots would be preferable to encourage growth, as that is inevitable, but not too much growth.

In regard to planned development districts, I am against this as well. As a member of the zoning board of appeals commented to me, “zoning can be complicated”. I don’t believe it has to be if the right information is provided to make informed comments and decisions. I think overlay districts would suffice in situations such as the old Infirmary, the county building space and Angelica. It would seem PDD’s are developer friendly, and Overlay Districts offer more for the resident and taxpayer and the village as a whole to play a role in decision - making.

It would have been beneficial to hear from the Zoning Advisory Committee as tasked, why things were drafted as such, where the faults appear to be in current zoning that they believe need changed, what works as is and does not need changed and their recommendation as to what may or may not work for our village. It seems that a paid preparer created this draft documented, without consultation from those tasked to look into it. Sitting in on the only meeting that encouraged community involvement, I got the feeling the person tasked with creating the document never even drove or walked through the village to identify where specific zones are, who lives there and how their daily lives will be impacted by the zoning. It was said more than once; information was taken from code from other municipalities zoning codes. The Village of Ballston Spa is unique from any other municipality – with its history, with its character, with its residents. Time and taxpayer dollar were spent to create a Comprehensive Plan to identify what direction people feel the village should go in the future. Does this draft do that? I don’t feel it does. This draft code is a failure in the use of the taxpayer dollar to create something without knowing who or where you are creating it for and more time needs to be taken to address all concerns that others and I have voiced to create a precise document, without putting on hold things such as the Historic District and the owner-occupied dwellings. It would be a failure to the residents for members of the board to move forward with an incomplete document and a document that does not take the concerns of its residents into consideration.

**Received 4/25/25 6:51pm**

**Draft Zoning Code Summary**

- Define districts lines as changing at the back lot line to avoid having two districts on the same road.
- Change building height to match existing code, i.e. two story home measured from the mid point should be equivalent to two story home measured from the top in number of feet.
- Create a Park and Recreational district for parks, playing fields, etc.
- Create separate north R-1A North and south R-1A South residential districts with lot sizes and setbacks reflecting differences in those areas.
- Change southern part of Colonial Hills at Dublin Drive south to R-1B.
- Combine three family homes with two family homes under the same regulations. Allow two and three family homes in residential districts R-1B North and R-1B South by Special Permit (SP)
- Create a missing middle category of 4 to 12 units to be allowed in R2
- Change proposed map area R2 to DT and return proposed DT to R2. Only allow large multifamily and townhouses in R2 by special permit (SP). Change lots along McMaster to R-1B
- Keep transition zone (DT) but define it under similar building type as residential with a minimum lot size of 4,000 sf, allowing two and three family buildings. Allow mixed use by special permit (SP) but do not allow any sole commercial.
- Return rear setback for residential properties R-1B South to 25 feet and minimum lot size to 10,000 sf
- Change minimum lot size from 3,000 sf to 4,000 sf in R2
- Create 10 ft setbacks for accessory structures (ie sheds)
- Downtown building heights should not exceed listed standards unless approved by the Village Board not the Planning Board
- Zone Mohican Hills as R2.
- Create a senior citizens overlay district.
- Require installation and repair of sidewalks for any new development or redevelopment of property except in R-1A zone.

- Create ADU definition and requirements similar to formerly proposed ADU law (owner occupied limited to occupancy by renters of at least a six month term (i.e. no STR). Allow ADU as permitted (P) use in R-1B North and South, R2 and DT.
- Do not allow any PDDs in any residential or transition zones. Promote use of overlay zones for the business and downtown districts. Cap PDDs or overlay zones at 50 ft height and no more than 100,000 sf built total. PDD and overlay zones should follow the design standards in place for each district.
- Implement the state recommended model code on Historic Districts. Keep the current Historic District boundaries and consider creating a separate downtown historic district.

## Zoning Code Draft - Detailed Comments

### Article 2. DEFINITIONS

- Page 5 – ACCESSORY DWELLING UNIT - Definition of living, sleeping, cooking and sanitation needed to distinguish ADU's (**Cooking facility must contain a sink, refrigerator and at least a countertop heating element and optionally an oven (microwave is not a cooking facility). A sanitation facility consists of not less than one sink, one toilet and one tub or shower.**)
- Page 6 - BED-AND-BREAKFAST – Needs limit on stay –suggest no more than 1 month stay (**transient**)
- Page 6 – BUILDING AREA - Floor area measured from exterior or interior walls?
- Page 8 – BUILDING HEIGHT - the proposed heights are 4 to 6 ft higher than in current zoning due to the difference in how height is defined – from peak of roof in existing zoning code to mid-point on roof in proposed zoning code. **Change the definition or adjust heights in code.**
- Page 8 - DWELLING, MULTIPLE FAMILY – There should be a separate definition for **Dwelling, Three Family** to distinguish three family from multifamily (or put it with two family). ADA regulations start at buildings with four or more units.
- Page 8 – **Add DWELLING, MISSING MIDDLE MULTIFAMILY** – From 4 to 12 dwelling units, change DWELLING, MULTIFAMILY to 13 and above dwelling units
- Page 8 – FENCE – **Vegetation** should not be included under fence. Add constructed **stone walls**. They need to be included in this definition or under a separate definition.

- Page 9 – FLOOR AREA - No description of what is included (in previous draft - basement, elevator shafts and stairwells, attic, etc. and what's not included) 1<sup>st</sup> draft –

**“A.** In particular, the "floor area" of a building or buildings shall include:

- 1) Basement space.
- 2) Elevator shafts and stairwells at each floor; floor space used for mechanical equipment, with structural headroom of seven feet six inches or more.
- 3) Attic spaces (whether or not a floor has actually been laid) providing structural headroom of seven feet six inches or more; interior balconies and mezzanines, enclosed porches and accessory uses, but not including space used for accessory off-street parking.

**B.** The "floor area" of a building shall not include:

- 1) Cellar space, except that cellar spaces used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
  - 1) Accessory water tanks and cooling towers.
  - 2) Exterior stairs.
  - 3) Exterior fire escapes.
  - 4) Terraces, uncovered or open porches and outside balconies.
  - 5) Accessory off-street parking spaces.
- 7) Accessory off-street loading berth

- Page 9 – GARAGE – distinguish Commercial garage from residential garage (“Private Garage – A structure or portion of a structure, used for the private, noncommercial storage of motor vehicles, in and about which no business or industry is conducted.”)
- Page 9 – HISTORIC definition needed
- Page 9 – HOME OCCUPATION – should not be limited to main dwelling, should be able to be carried out in an accessory building too.
- Page 10 – HOTEL OR INN - Define ‘**transient**’ - suggest no more than 1 month stay



- Page 10 – MOTEL - Define ‘**transient**’ - suggest no more than 1 month stay
- Page 11 – MOTOR VEHICLE REPAIR SHOP – how is this related to ‘Garage’ which includes services motor vehicles?
- Page 11 – NURSING OR CONVALESCENT HOME – need to add **ASSISTED LIVING FACILITY** – any dwelling used for the accommodation and care of persons needing assistance with the activities of daily living
- Page 13 – Add “**SCHOOL** – a regularly organized institution of learning, other than a college or university, approved by the Education Department of the State of New York and/or board of regents.”
- Page 13 – Add **SENIOR LIVING RESIDENCE** – any dwelling not providing assisted living or nursing home services that is limited to seniors age 62 and older.
- Page 14 – SIGN, FLASHING – Need to add **SIGN, ELECTRONIC** definition since sign, animated does not include electronic message signs
- Page 16 -Put back - **SIGN, HISTORIC** — Signs are designated "historic" upon the finding that they exhibit unique characteristics that enhance the streetscape or the historic identity of the Village or neighborhood. For example, an historic sign could be an animated sign, ghost sign or landmark sign, the continued existence of which is encouraged and is beneficial to the public good because of the sign's contribution to the historical or cultural character of the streetscape and the community at large.
- Page 16 – Put back - **SIGN, TEMPORARY** — Any sign, including a display, banner or other advertising device constructed of cloth, canvas, fabric, wood or other temporary material, with or without a structural frame and intended for a limited period of display

of no more than 30 days, including decorative displays for holidays or public demonstrations. **Change 30 to 60 days.**

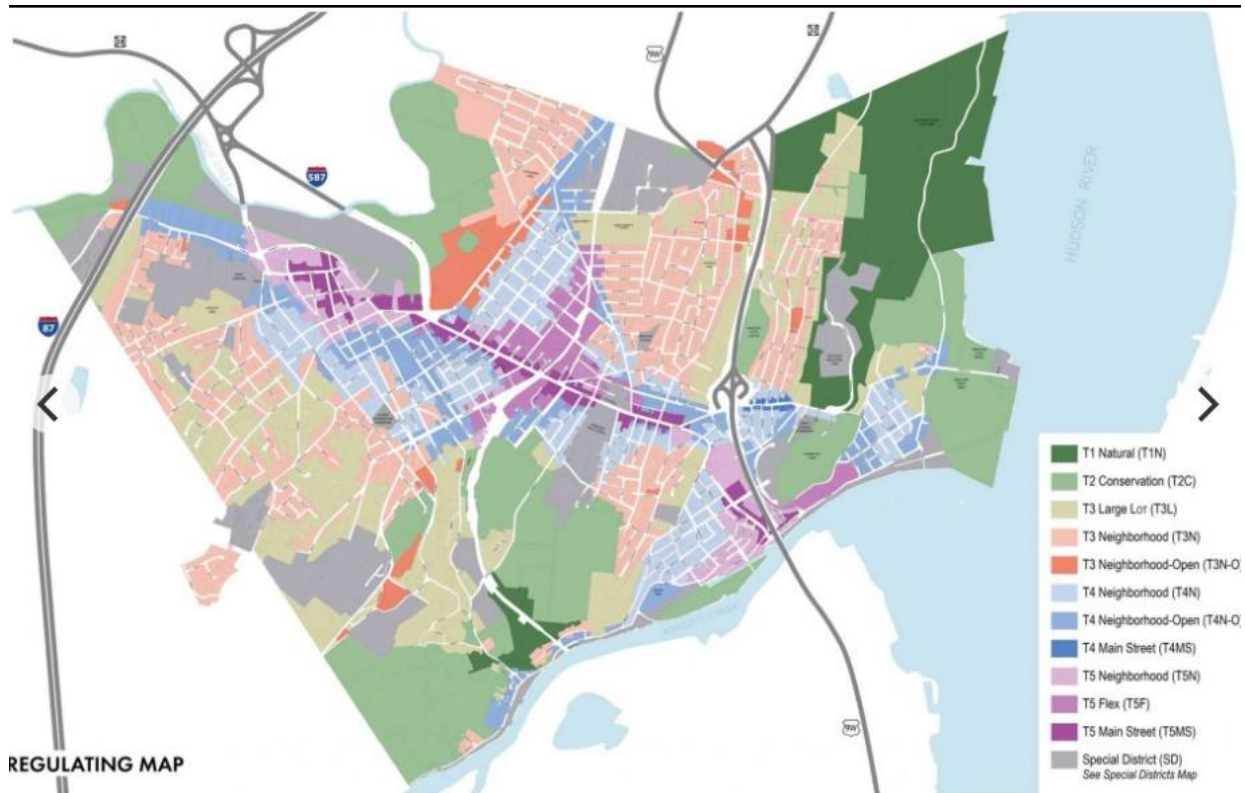
- Page 17 – STORY – refers to definitions of ‘attic’ and ‘basement’ which are not defined in this document
- Page 17- Add “**TEMPORARY STRUCTURE** – Any structure, not permanently attached to the ground, which is moveable in its entirety.”
- Page 18 – In YARD, REQUIRED – what is the superscript in “lot is located <sup>5</sup>” referring to?
- **Additional definitions needed:** LIVING, SLEEPING, COOKING AND SANITATION FACILITIES, DWELLING, THREE FAMILY; STONE WALL; TRANSIENT; ASSISTED LIVING FACILITY; PROFESSIONAL SERVICES; Attic (1<sup>st</sup> draft ATTIC — That space of a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as (1/2) story in determining the permissible number of stories.); Basement(1<sup>st</sup> draft BASEMENT — A story partly below ground but having at least 1/2 of its height above the average grade of the adjoining ground. A basement shall be counted as one story in determining the permissible number of stories); Cellar (1<sup>st</sup> draft CELLAR — A story partly below ground but having greater than at least 1/2 of its height below the average grade of the adjoining ground. A cellar shall not be counted in determining the permissible number of stories.), Coverage (COVERAGE — The lot area or percentage of lot area covered by the building area, including accessory buildings and structures.), Deck (DECK — A flat, floored, roofless area attached or adjacent to a building.), façade (FACADE — The exterior wall of a building which fronts the street and is exposed to public view), satellite antenna – (SATELLITE ANTENNA — A round,

parabolic antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than 135 square feet in area as measured from the edges of the parabolic antenna, while commercial dish antennas are usually those larger than 135 square feet in area and typically used by broadcasting stations.), SCHOOL (see above), TEMPORARY STRUCTURE. Uses in Table 8 where not obvious should be defined in the **Definitions** such as SENIOR LIVING RESIDENCES, SHORT TERM RENTAL, etc.

### **Article 3 ZONING DISTRICTS**

- Page 20 – 39 - Zoning Districts – The redrawing of the districts does not reflect what the comprehensive plan envisioned. Roads should not have different districts across the street from one another. (See below map of Kingston, NY). The boundaries should fall at the rear of properties.
- The north end of the village is very different from the southern end and should have different standards. Create separate north R-1A North and south R-1A South residential districts with lot sizes and setbacks reflecting differences in those areas. Change southern part of Colonial Hills at Dublin Drive south from R-1A to R-1B. Allow two and three family homes in residential districts R-1B North and R-1B South by Special Permit (SP).
- Transition zones (DT) should include the immediate areas to the left and right of downtown which are now designated as R2. Keep transition zone (DT) in the code but define to have similar building types as residential with a minimum lot size of 4,000 sf, allowing two and three family buildings. Allow mixed use by special permit (SP) but do not allow any sole commercial.
- Change proposed map area R2 at Bath Street and lower Malta Avenue to DT and return rest of proposed DT area to R-1B South and R2. Only allow large multifamily and townhouses in R2 by special permit (SP). Change lots along McMaster to R-1B.
- Create a Park and Recreational district for parks, playing fields, etc. (Conservation district in Kingston).
- Mohican Hill should not be in a separate district but could go into the R2.

- The interactive map, as created in Kingston, is recommended for Ballston Spa  
(<https://map.gridics.com/us/ny/kingston-adopted#12.53/41.92713/-73.99158/0/45>).



#### Article 4. DISTRICT STANDARDS

- Page 24 – **4.1 Residential Districts** – Proposed rear setbacks for R-1A, R-1B at 50ft and for R-2 at 30 ft **are longer than current 25 ft**. There is no reason to increase the rear setbacks which will make numerous homes nonconforming and severely limit other homeowners ability to enlarge their homes.
- Page 24 – There are no separate setbacks for accessory structures (existing code: § 205-25 Accessory structures Height 15 feet (**Change to 25 ft**), Rear yard: five feet from the rear property line and 12 feet from any side lot line (**or same as principal building**),

Side yard, street side of corner lot: 12 feet from the side lot line, not closer than 15 feet to a principal building, whether in a rear yard or a side yard.)

- Page 25 – **4.2 Mohican Hill** – there is no reason to maintain the current zoning for this parcel. The owners have had since 1996 to develop this site and should not have the out-of-date standards that were granted almost 30 years ago. Change to R2. **Develop a senior housing overlay zone with current universal design and ADA features.**
- Page 29 – **4.3 Downtown** – Building Height a) **There should not be a special permit to allow the planning board to add to the building height. This permission must only be granted by the Village Board.** b) Requirements – Buildings proposed to have a height beyond that listed in the Downtown Lot Standards Table must not abut or **be next or across the street from an existing buildings of 40 feet or less.**
- Page 31 – **4.4 DT: Downtown Transition** – Why is residential minimum lot sq ft 10,000 when the residential districts allow for as small as 3,000 sq.ft.? **Decrease the residential to 6,000 sq.ft. lot size. Match width (40), front setback (10), side setback (10), rear setback (25), building coverage (30), pervious coverage (30) and height standard (residential 3/36) to match R-2 district.**
- Page 32 - **4.4 DT Downtown Transition** - **There should be standards for the Transition zone like there are in the Downtown, Highway and Industrial districts.**

- Page 40 - 47 – **4.7 Planned Development District** – Is a big mistake to allow PDDs everywhere in the village. With new zoning there should be actually **no need for a PDD at all**. The Town of Ballston got rid of their PDD when they updated their code. If someone wants to do something different, they can apply for a Special Permit or variance which requires certain requirements.
- There appears to be only concept site plan approval by the Village Board for a PDD with a public hearing. There should be a public hearing before the Planning Board makes its final decision. The Village Board should be the lead agency for SEQRA review. The Village Board should approve the final plans of any PDD, holding a public hearing prior to approval.
- Page 40 – **B. Location** - If a PDD is added to the zoning code, then it should **not be allowed in any residential district (R-1A, R-1B, R-2) or the Transition district (DT)**
- Page 41 – **C. District Ownership and Size** - **Add height limit of 50 ft and size limit of a total of 100,000 sq. ft.**
- Page 41 – **D. Requirements and Standards** – **Hold the PDD to the same standards as are in the code for the district which the PDD is located in (density, building and parking setbacks, building height and façade requirements unless a variance is received.** (Menands "For PDDs proposed within the BBD, T4, and T5 Districts, residential density, building and parking setbacks, and building height and facade requirements set forth in Article 3, (Broadway Corridor Form-Based Districts) of this

chapter shall not be modified without an area variance"). **Approval Standards for Special Permits** (on page 135-136) should be applied to PDDs.

- Page 41 - **ADD: Building design is encouraged to contribute to a pattern of spaces and structures rather than a series of unrelated buildings and streets. All proposals shall consider the following: (from previous Village proposed PDD)**

1. Providing infill development and rehabilitation of existing areas with readily available services and infrastructure;
2. Promoting more efficient and economic uses of land, while respecting historic context and landscape features;
3. Protecting the existing scale and architectural character of historic buildings and streets by maintaining compatibility with the architectural context of the district and/or surrounding properties;
4. Encouraging land uses that reduce transportation needs and that conserve energy and natural resources;
5. Providing pedestrian and bicycle friendly environment that emphasizes street level activity through appropriate architecture, land use, and transportation design;
6. Encouraging institutional, cultural, office, residential and retail uses in mixed-use developments, capable of supporting activity in a lively setting;
7. Providing the fulfillment of housing needs appropriate to diverse age groups, lifestyles, and income levels;
8. Encouraging the preservation of natural site features by taking advantage of and connecting to parks, walking trails and water elements; and
9. Protecting quality of life for neighborhood residents through adequate controls on light, noise, air pollution, traffic generation, and hours of operation.
10. Encourage the provision of public amenities including, but not limited to, public art/sculpture, street furniture, plantings, pedestrian scale lighting, public green space.
11. Incorporate green infrastructure and green energy systems to promote treatment of stormwater and conserve energy;
12. Design to accommodate people of all ages and abilities in accordance with village, state and federal standards.

- Page 42 **E.c. Procedures for Planned Development Districts Add from previously proposed PDD:**



A location map showing existing uses and names of owners of abutting lands

- Existing and proposed principal and accessory buildings with proposed use “showing size and composition of building (ie units) with proposed height, floor area, setbacks of all buildings; and calculation of percent of permeable area green space”
- Add: The outlines of the interior roadways and sidewalk systems; intended road ownership, and all existing rights-of-way and easements, whether public or private.
- A landscape plan showing the materials to be used and their treatment for private and common open space.
- Enough information on land areas adjacent to the proposed PDD to show the relationships between the proposed development and adjacent areas, including adjacent buildings, land uses, zoning classifications, densities and intensities, circulation systems, public facilities, and floodplains, wetlands, and other natural resource areas.
- The proposed treatment of the perimeter of the PDD, including land use restrictions, setbacks, landscaping, and other measures, such as screens, fences and walls.
- A general statement on common open space ownership and maintenance jurisdiction.
- A SEQRA Assessment Form.

### **Page 43 ADD DESIGN GUIDELINES (from previously proposed PDD)**

In addition, the applicant shall demonstrate how they have incorporated the following Design Criteria as shown with architectural and engineering drawings:

#### **A. Building Siting**

- i. Buildings in the D Downtown should be located close to the street right-of-way or close to interior streets.
- ii. Buildings shall replicate the setbacks of existing buildings to create a consistently developed edge, to reinforce the established pattern of development, and to enhance pedestrian orientation. Where existing setbacks coincide with the right-of-way line, active street-level uses shall open into the pedestrian zone.
- iii. Building configurations should not create awkward, physically, or visually incompatible relationships with adjacent properties, buildings, and streetscapes.
- iv. Buildings fronting multiple streets should be consistent on each frontage with respect to scale and proportion.
- v. Buildings on corner lots should address both streets.
- vi. Building facades and main entrances should be oriented toward the street, a plaza, or a pedestrian way that directly leads to a street.
- vii. Buildings are encouraged to be sited to create active outdoor spaces. Spaces between building masses (e.g., alleys, recessed entries, courtyards) should maximize the comfort of users.
- viii. Public access should be provided to adjacent waterways where practical.

ix. Service areas, mechanical equipment, and refuse storage areas should be located to the rear or sides of buildings and be screened from view from the street or public space. The use of alleys is encouraged for mechanical, electrical, and utility equipment placement.

b. Building Proportion and Scale

i. Height shall be evaluated on a parcel-by-parcel basis, considering the context of the surrounding development and shall not exceed three stories at the streetside or a maximum height of 42 ft. In the D, DT and Adult Districts, a maximum of 56 ft. in height shall be allowed with either a 28 ft. setback from the edge of pavement at ground level, or a minimum 15 ft. building recessed for the additional floor(s) above the third floor of the building. Building height exceeding three floors in the D and AD districts must be adjacent to a paved roadway of at least 32 ft. wide. In Industrial (I) districts the height shall not exceed 42 ft.

ii. Impact of shading of adjacent parcels should be evaluated.

c. Building Facades

i. Buildings are encouraged to use high-quality materials and craftsmanship.

ii. A mix of complementary building materials are encouraged for a consistent, systematic treatment of all exterior facades. Individual facade elements should respect the scale of adjacent building elements. Facades are encouraged to be organized into clearly defined base and upper stories with strong horizontal elements separating the two.

iii. Varying setbacks on wall surfaces should be encouraged to form entrances, express structural elements, or create special exterior areas incorporating planters, seating, and alcoves.

iv. Visible rear and side facades should incorporate characteristics similar to the front facade.

v. Building details at the ground or sidewalk level should create visual interest and enhance the pedestrian environment.

vi. Art or specifically designed ornamentation integrated into building facades is encouraged.

vii. Large areas of undifferentiated or blank facades facing the streetside are discouraged, and justification for such design is required.

viii. Transparency, the amount of window coverage that buildings offer, is encouraged in all structures when appropriate.

ix. Buildings on corner lots should have features that reinforce both street environments.

x. Awnings and canopies are encouraged at entries and display windows where appropriate.

d. Building Entrances

i. Entrances to individual stores or uses should be oriented toward the public street.

ii. Larger buildings that front multiple streets are encouraged to provide multiple entrances.

e. Building Signage i. Signs in the PDD are subject to all existing sign regulations, as outlined in Village Code §205-12 through §205-18. In addition,

ii. Signs should fit the overall proportions of the building and be integrated into the building design. They should avoid dominating a building's facade.

iii. Signs should not impact surrounding residential areas with light pollution or obstruction of view.

f. Sidewalks

- i. ADA compliant sidewalks at least 5 feet wide are required along all street sides, and sidewalks up to 8 feet in width are encouraged in the CBD, C and Adult Districts.
- ii. New sidewalks should meet DOT standards.
- iii. Existing sidewalks must be replaced or repaired to ADA and DOT standards.

g. Screening

- i. Appropriate screening of parking lots, delivery areas, loading docks, dumpsters, mechanical equipment, utility service connections, ice and vending machines, freezers and coolers, and transformers should be provided.
- ii. Screening should be accomplished by the incorporation of softscape and/or hardscape.
- iii. Plant materials are encouraged for screening uses if they screen adequately year-round.
- iv. Fences and walls used to screen equipment or service areas should be located and sized to conceal the equipment or area.
- v. Fences and walls should reflect and complement the architectural style of the adjacent building and should incorporate similar materials to that of the adjacent building.

h. Landscaping

- i. Tree plantings along the edge of private property facing the street are encouraged.
- ii. Preservation and the creation of green space is encouraged.
- iii. The use of green infrastructure is encouraged.

i. Lighting

- i. Control of light intensity to limit light pollution and glare to residential areas is required. Light spillage over the property line cannot be more than 0.5 foot-candles.
- ii. Lighting of sidewalks and entrances should be a minimum of 2.0 foot-candles, not to exceed 5.0 foot-candles. Parking lot lighting should be a minimum of 2.0 foot-candles, not to exceed 10.0 foot-candles.
- iii. Permanent flashing, pulsating, or moving lights and noncommercial lighting fixtures are prohibited.
- iv. For pedestrian promenades and primary sidewalks, ornamental light fixtures are encouraged to enhance the pedestrian environment
- v. Lighting should be energy-efficient (LED, etc.).

j. Parking

- i. Use of joint parking facilities for residential and nonresidential uses, and creation of publicly shared single row parking along frontage is encouraged where there is no on-street parking. On-site parking, loading areas, and utilities shall not impair the overall character of the streetscape or pedestrian facilities.
- ii. Sidewalks should be used to provide access to parking facilities.

iii. Parking lots should be located at the side or rear of buildings rather than between a primary building façade and the street except where there is no on-street parking where a publicly shared single row off-street parking along frontage is encouraged.

iv. Parking lots should be screened from the surrounding street network.

v. Parking lots should incorporate islands and a minimum of 10% green space to provide shade and visual relief from large expanses of pavement.

vi. Parking lot pavement materials should be reinforced concrete, asphalt, or a permeable alternative. Dirt surfaces are prohibited, with gravel or grass surfaces being discouraged and justification for design required.

vii. Private residential garages are encouraged, with entrances opening onto a public street being discouraged.

k. Parking Structures, if proposed.

i. Parking structures should be within or placed at the back of buildings whenever possible.

ii. The inclusion of retail, commercial, or office uses is encouraged along street frontages on the ground floor of parking structures.

iii. The primary entrances to parking structures should be visible and easily accessed from public streets and sidewalks.

iv. Parking structures that face on a street or public open space should have facades designed to be compatible with neighboring buildings.

v. The use of plant material as a screening element where facades face streets or residential properties is encouraged to enhance aesthetics and assist with storm water management.

- Page 47. Add – **“Properties within the designated historic district shall be required to meet all current historic district requirements as outline in the current code.”**
- Page 47 - **F. Current Plan Submission-** Set an expiration period for PDDs. 5 years for a single phase PDD or any phase not yet completed from the date of the last construction. Based on actual construction, not just earth moving. Allow one 5-year extension.

- Page 48 – **4.8 Residential Cluster development – Add design guidelines.**
- Page 53 – Add a **4.10 Park and Recreational district** – having this district guarantees that there will be no development on those sites vs. parks are an allowed use.

## Article 5. Use Standards

- Page 54-57 – 5.2 Use Table
  - a. Residential - Existing single and two family homes exist in the Downtown (D), Downtown Transition (DT), Highway Business (HB) and Industrial (I) districts.
    - i. Residential uses should be allowed in all commercial districts by Special Permit.
    - ii. Need to add **Three family dwelling** to definitions and allow them by Special Permit.
    - iii. Two family and three family should be allowed in R-1B and DT
    - iv. Add a **Missing Middle Multifamily (4 to 12 units)** definition different from Large Multifamily. Allow Missing Middle in Downtown Transition (DT), Highway Business (HB) and Industrial (I). Allow Missing Middle MM in residential districts by special permit. (they already exist in much of the existing residential district)
    - v. Single and Multiple family should be permitted (P) in the Downtown (D).
    - vi. ADUs, home based businesses should be permitted uses in R-1A, R-1B, R2 and DT.
  - b. Commercial –
    - a. No automobile sales, parking lots, vehicle fueling stations, hospitals, nursing homes, State offices in Downtown Transition (DT).
    - b. Funeral homes and Offices should be allowed in the Highway business (HB) zone as Special Permit.
    - c. Missing Middle, Multiple family, Mixed use, General Services and offices should be allowed in the Adult Use (AD) district so that these areas get developed with favorable buildings.

- c. Recreational Uses – Library or museum should be Special Permit in Downtown Transition (DT) district
- d. Industrial Uses – No senior living. Eating and drinking and office by Special Permit in the Industrial zone. (I)
- e. Accessory Uses –Home based businesses should be Permitted in all residential districts and in the Downtown Transition (DT) district
- f. Solar panel should be Permitted in Downtown (D) district
- Page 58 – 5.3 2 a) Use Standards – **Should allow first floor residential by Special Permit in Downtown (D) district.** Not every site is optimal for commercial on the ground floor in the Downtown (D) district (for example extension of Washington St)
  - g. Need more definitions for the Downtown (D), Downtown Transition (DT) and Highway Business (HB) districts similar to the detail for the Commercial districts
- Page 58 – B. 1. Bed and Breakfast – **remove requirement for” no alterations to the interior“** There are no interior requirements for other uses.
- Page 61-62 – C. 2. **Accessory Dwelling Units** –
  - h. Remove requirement for separate exterior entrance for interior ADU’s.
  - i. Height restriction could limit carriage house ADUs, remove “24 ft”, replace with “Maximum height is height of principal building or height of existing accessory building”
  - j. Add - “There may be no more than 2 people residing in one ADU”

- k. Add – “Any alterations to the principal dwelling shall be performed in a manner that retains the existing character of the principal dwelling. The accessory dwelling unit shall be subordinate to the principal dwelling. “
- l. Add – “The existing foundation and footprint of the principal dwelling may be altered or extended to accommodate the accessory dwelling unit within the principal dwelling no more than 25% of the total square footage of the single-family dwelling. “
- m. Add - “The interior accessory dwelling unit shall be self-contained within the principal dwelling unit. The accessory dwelling unit shall contain separate cooking, sleeping and sanitary facilities from the principal dwelling. “
- n. “The accessory dwelling unit within a single-family primary dwelling shall not occupy more than 40% of the square footage of that single-family dwelling. “
- o. Add – “Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner’s primary residence, except for bona fide temporary absences not to exceed 180 days in any one year. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fi de temporary absences. ADU unit must be owned by the primary property’s owner. No subdivision or secondary property ownership allowed.”
- p. Add – “All ADU owners who have not previously obtained an ADU permit and certificate of occupancy for an ADU located on their lots shall apply to the Building Department within nine months following the effective date of this section (and if necessary, the Zoning Board of Appeals). If application is so made within said nine-month period, the owner of the ADU shall not be deemed in violation of this section. If application is not made within said

nine-month period, the owner of the ADU shall be deemed in violation of this chapter and shall be subject to the penalties provided herein.”

- Page 63 – 5. Wind Energy Conversion Systems - **Don’t allow wind turbines in the Village**
- Page 66 - 68 – D. Sexually Oriented Business – **Restore Separation Requirements** in first draft- Page 35 Ballston Spa Zoning Code Draft\_8\_21\_2024.docx

#### **Article 6. Site Development Standards**

- Page 70 – 6.2 **Exterior Lighting** – A. Applicability - Should apply to residential properties too.
- Page 70-71 – 6.2 C.**Exceptions to Lighting Standards** – Add hours of operation for temporary outdoor recreational facilities, suggest 10 pm limit.

#### **Article 7. Off-Street Parking and Loading**

- Page 75 – 7.1- A-2&3. Multifamily residential properties should also be allowed to use spaces off the lot. Change 400 feet to 1,000 feet (existing parking requirements already in Central business district).
- Page 75 – 7.1 – B-3. -Screening – “with exception of **one to three family residential properties**” Should not be required for one to three family residential properties.
- Page 76 – 7.1-B-4b – Surfacing – “with exception of **one to three family residential properties**” Should not be required for one to three family residential properties.
- Page 76-77 – 7.2 Minimum Off-Street Parking Requirements
  - a. Many municipalities are getting rid of minimum off-street parking requirements. Village should consider doing away with them for the Downtown, Highway Business and Downtown Transition districts.
  - b. Reduce the parking requirements for residential districts to 1 space per dwelling unit for dwellings, and same requirements as downtown, etc. (ie 1 space per 1,000 sq ft) for other uses.



- c. Add Section 3 of current code Local Law 2 of 2018 Schedule C-1 text for Downtown, Highway Downtown and Transition zones

#### **Article 8 Sign Regulations**

- Page 79 - 8.2 General Standards – A. Exceptions – 4. Only flags of nations, states and cities should be exempted not others placed by federal, state or local governments.
- Page 80 – 8.2- B. – 2. If this restricts all signs including temporary signs, then no political campaign signs will be allowed in the right-of-way without a permit. Exempt temporary signs from permits.
- Page 82 – Add **Temporary signs** in all districts allowed with limit of 16 sf and a limit of 60 days. Distinguish real estate signs from temporary signs.
- Page 93 - **Freestanding and Ground signs** should have a height limit of 8 feet in all districts.

## Article 9 Review Authorities

### 9.3 Planning Board

1. Page 99 – K. **Records** – Add – “All minutes should be available on the website as draft minutes five business days before the next meeting with approved minutes posted on the website 2 days after the meeting where those minutes were approved. An audio recording of the meeting and optionally a video recording should also be made available on the website five business days before the next meeting.”
2. Page 108 – L.2. **Notification** – Add to a. **iii. Place on the website the final disposition of the application.**
3. **Add Notice to surrounding residents – The planning board is required to notice by mail all owners of property within 500 feet of any property applying for site plan review, special permits, or Cluster Development at least ten business days before the meeting in which the matter will be discussed. The planning board is required to notice by mail all owners of property within 1,000 feet of any property applying for a PDD at least ten business days before the meeting in which the matter will be discussed.**

### 9.4 Zoning Board of Appeals

4. Page 104 – I. 1. **Record** - Add – “All minutes should be available on the website as draft minutes five business days before the next meeting with approved minutes posted on the website 2 days after the meeting where those minutes were approved. An audio recording of the meeting and optionally a video recording should also be made available on the website five business days before the next meeting.”

5. **Add Notice to surrounding residents – The zoning board of appeals is required to notice by mail all owners of property within 500 feet of any property applying for a variance or appeal at least ten business days before the meeting in which the matter will be discussed.**

## **9.5 Building Inspector**

1. **Page 108 A. Building Permits – Leave out ‘repair’.** You shouldn’t have to get a building permit to repair an existing structure (“Ordinary repair and maintenance or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing”). For example - Painting the interior, changing the countertop, replacing the furnace etc. shouldn’t require a building permit. This is too broad, expensive for taxpayers and adds work for our building inspector.
2. Page 109- 9.6 Historic Commission – put in Historic district text

## **Article 10. General Procedures**

3. Page 113 A. 1. **Village should handle the mailing.** Replace with “**The applicant shall pay for the cost of notifying within ten business days of receipt of the complete application, the village shall notify all property owners within 500 feet of the property line, both within and outside the municipal boundaries of the Village of Ballston Spa.**”
4. Page 114 B. 2. a – Mailed notice – change “Within ten business days of receipt of the complete application, the **Village** shall notify all property owners within **1.000 feet** from the property line, both within and outside the municipal boundaries of the Village of Ballston Spa.

5. Page 114 -b. Published notice – Add “and shall post the meeting on the Village website and on the Village Facebook page”
6. Page 115 3. a. Mailed Notice – change 600 feet to **1,000 feet**
7. Page 115 – 3. – Add “and shall post the meeting on the Village website and on the Village Facebook page”

## **Article 11 Zoning Applications and Approvals**

### **Page 122 – 11.2 Historic District Designation – Restore section per 8.21.2024 draft**

#### **Part II: Procedures Approved by the Planning Board**

1. Page 124 – D.3.a. Administrative adjustment – change 10% to **5%** for administrative adjustments

#### **11.4 Site Plan Review**

1. Page 126- D.1. Site Plan Review Thresholds – **Site plans are not necessary for new single-family, two-family and three-family homes.** Requiring a site plan review for these family homes adds expense and time for a resident building a new home in the village. It also adds work for the planning board.
2. Page 127 – D.7 Change to “The construction of a multi-family dwelling consisting of **four or more units**”
3. Page 127. E. 1 b. change to “the removal of trees of **over 12”** circumference at breast height;

4. Page 127-128 – F. Add “four copies at a scale of Standard format plan 24” x 36” sheet, 10 copies of the same site plans in an 11” x 17” format, **and a PDF copy of the site plan.”**

#### 11.5 Façade Review

1. Page 131 – **Need design standards for the façade to be added to the code.**

#### 11.6 Certificate of Nonconformity

2. Page 133. – **11.6 Certificate of Nonconformity** – Does having this certificate allow a building owner to make an application to the planning board for modifications of the structure (i.e. add a porch, etc.) without having to go to the zoning board of appeals?

#### 11.7 Special Permits

3. Page 135 – **Special Permit Standards – Same standards should apply for Planned Development Districts**

#### 11.10 Variances

4. Page 145 – C.3.c. Add “Within ten business days following such decision or the expiration of such period, the Zoning Board of Appeals shall mail notice of such decision or failure to act to all persons entitled to such notice and file such decision in the office of the Village Clerk **and places the notice on the Village website and on the Village Facebook page.”**
5. **There is no description for Area variances.**

#### 12.5 Nonconforming Signs

6. Page 154 C.3. **Termination by change of Business**- Delete this requirement. Existing signs including historic nonconforming signs should remain if just the business name being advertised changed.

### **Article 13 Enforcement**

1. Page 156 – B. **Inspections and notice of violation** – Add requirement for written notice at least five business days prior to entering a building structure, place or premises.

### **Appendix R-2S Residential District Seniors**

This site should not be a separate district. It should be included in the R2 District. This code is outdated (written in 1996, amended in 2010) and does not follow contemporary requirements for senior housing universal design and ADA requirements. The village should create a senior housing overlay zone with contemporary requirements for senior housing.

**The Following zoning comments have been received from one Village resident.**

**Received 4/8/25**

A review of ZAC's published minutes indicates the question of delineating open space in the zoning code was discussed briefly on January 16, 2025. It appears some members of the committee wanted open space to be noted and the consultant was not sure the zoning code is the right way to do that, but would be happy to include it if the village wants to include it. In the minutes of the Comprehensive Plan Steering Committee of October 15, 2022, a conservation overlay district was suggested for the new zoning law.

Zoning has little to do with open space. If it is open, there are no concerns about set-back, buildings, or use. In a similar manner, many educational and recreational uses do not easily fit into a zoning context. These areas are like negative space on an artist's canvas. They exist, help define other use districts but are not conducive to being regulated through zoning.

If they are included in a zoning district, then the presumption is they are subject to the use requirements of that district, leading people to insist on following a law which may be inappropriate. Rather, it would be less confusing to establish a district for recreation, education, and open space and exempt those properties from most zoning restrictions.

The zone could include lands of Saratoga County History Center (including Foote's Pond), to the Iron Spring Park, to the Tedesco Trail, the Saratoga County Agricultural Society, and to the Kayaderosseras Creek downstream to the Swimming Pool and Kelly Parks. It could also include the village portion of the School's Recreation Field and the railroad bed west to Milton Ave, including the Pine Street Parking Lot and Ballston Area Community Center. Another portion of this zone would be the Village Cemetery.

Regulations could provide that any non-governmental structures would have to further the not-for-profit's purpose, comply with the NYS Building and Fire Codes, and follow the side and rear yard setbacks of the adjoining district. Governmental bodies would be exempt from the code. Private owners that are not not-for-profit would have to follow the rules and regulations of the more restrictive adjoining district. Because special benefits are often given to not-for-profits, I do not believe there is a legal problem by treating them differently than other entities.

**Received 4/9/25**

Perhaps the most enigmatic portion of the proposed zoning code is the section creating a Downtown Transition District. What appears in the proposed code is not based on the Comprehensive Master Plan or discussions of the Zoning Advisory Committee. It is actually contrary to the Master Plan, and no discussion of a transition district appears in published minutes of the ZAC. (Not all meetings had minutes and Google Drive communications are not open to the public.) At the January 18, 2024 ZAC meeting, as part of Fisher's introduction to ZAC, the committee was assured by the consultant "Fisher will approach with meaningful engagement backed by village plans and analysis incorporated into a top quality zoning code."

Being sourced outside of the Comp. Plan, ZAC, or Fisher, this rendition of a Downtown Transition District lacks credibility and should be set aside. In addition, it is likely to result in tear-downs in the Historic District and devalue surrounding residential properties.

Rather, the proposed code should follow the suggestions of the Comprehensive Master Plan, which stated as follows on pages 20 & 21 of the document:

These areas were described as chances to allow residential uses to have home businesses and create a transition between commercial and residential areas. Properties in transition zones are suitable for low-level commercial/business uses and will have to be treated on an individual basis. For instance, one can do much more on a wide well-traveled street like Bath than on Ford Street. It is important that activities related to these home businesses should be properly managed to ensure there is very little impact on neighboring residences. . . Design review should be included in the zone to ensure appropriate consideration to the existing neighborhood context is followed. . . Two possible transition zones between the Central Business District (CBD) and purely residential areas could be the Bath Street area and lower Malta Ave., which could offer home-oriented business."

This suggestion arose primarily from the Comp. Plan Steering Committee's desire to make the Downtown experience more varied and enjoyable for visitors, create walking loops for shoppers seeking places of interest around downtown without diluting the value of downtown retail rental space. The home businesses are envisioned to be mainly low-keyed, family-operated enterprises probably open only on weekends, with other low impact businesses. As an added benefit, the area around Bath Street is in the flood plain, and the transition zone would provide supplemental income for payment of flood insurance.

The proposed zoning law states the transition zone is a buffer between vibrant downtown and quieter residential areas. Most of the proposed zone is not adjacent to the "vibrant downtown" and includes the quieter residential area west of the railroad bed. Further, it



proposes building guidelines of lot area minimums (10,000 sq. ft.- residential & 4,000 sq. ft. non-residential) and height (3 stories), which encourage new construction and teardowns.

The area around Bath Street and lower Malta Ave. is essentially built out and buildings should be preserved as they are. A major exception is the former tannery complex, but it is in the Downtown Zone in the proposal. One can argue it should be in the Downtown Transition Zone. In that case, form-based regulations may suffice, requiring anything built on that site to continue the form of surrounding properties.

As contemplated in the Master Plan, the Transition Zone does not support professional or commercial businesses, unless they are home-based. The proposed zoning law encourages replacing homes with businesses, making housing more unaffordable. The Comp. Plan keeps existing housing and makes it more affordable.

Everything relating to a Downtown Transition Zone in the proposed code should be deep-sixed and totally rewritten, after obtaining public input.

#### **Received 4/10/25**

The Comprehensive Master Plan discusses compact residential land use on page 36 of the plan passed by the Village Board. “The Compact Residential land use area is primarily intended to replace and support development of the unique former nursing home use at the Maplewood Manor property. This character area would be re-imagined as a denser single-family neighborhood with options for small lot detached homes, townhomes, cottage homes and similar compact, efficient layouts organized around useable green space such as a central ‘village green.’”

This description is the closest the Master Plan gets to cluster zoning. As far as the Plan is concerned, the use is appropriate for unused property, represented by Maplewood Manor. It was not recommended for any other portion of the village.

Minutes of the ZAC lack mention of cluster developments, except for one sentence in the January 16, 2025 minutes. “Cluster development is also included [in the code draft] and Chris would like to see questions/comments on these as well.”

Somehow cluster developments appear in the proposed zoning code. They are not limited to an undeveloped area of the village. They can be placed anywhere a developer can come up with a parcel larger than .68 acre (Section 4.8B) A developer need not find vacant land. There is no prohibition against teardowns. There is no provision like an application for a cluster development is not permitted within five years after the last structure had been removed from the property.

As the proposed code is written, the definition of a dwelling also includes a mobile home. Mobile home parks may be prohibited, but for the first time since 1966, mobile homes will be permitted by this proposed code. Small cluster developments and mobile homes are made for each other. Even if mobile homes are modified out of the code, the image of a group of small homes among any of our existing neighborhoods is unsettling.

The Master Plan has multiple references to the importance of the village's historic character. The Plan's three-paragraph vision statement emphasizes this observation twice, ending, "By improving its infrastructure, enhancing its diverse and affordable housing stock and preserving its many historic community assets, Ballston Spa will continue to set itself apart as a unique and valuable destination- **'We've really got a gem here'**." Punctuating our neighborhoods with cluster developments will destroy the village's historical context, threatening the community's main economic driver.

Simply, cluster developments do not belong in Ballston Spa. Even the State of New York agrees. NY Village Law Section 7-738 allows villages to permit cluster developments. However, it states, "The purpose of a cluster development shall be to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands." "Preserve the natural and scenic qualities of open lands," doesn't apply to Ballston Spa, whose scenic open lands are along creek beds.

Section 4.8 Residential Cluster Development should be deleted in its entirety.

#### **Received 4/14/25**

Ballston Spa's current zoning law, like those of most municipalities, does not address the issue of what happens if the Planning Board fails to make a timely decision when a special permit application comes before it. Nor does the present law explain what happens if the Zoning Board of Appeals fails to make a timely decision on a variance request.

The proposed code gives each board a pass in both cases and penalizes the applicant. Dealing with Special Permits, Section 11.7D3b) states, "The failure of the [Planning] Board to act within 62 days shall be deemed a denial of the application."

In the section on procedures approved by Zoning Board of Appeals, Section 11.9C3, of the proposed code states: "Within 62 days following the close of the public hearing, the Zoning Board of Appeals shall render a decision on the appeal in the manner and form specified in Section 10.6. Such decision may reverse, affirm, or modify in whole or in part, the actin appealed. The failure of the Board to act within 62 days shall be deemed a denial of the appeal."

It must also be kept in mind that chairs of both boards are given the power to call meetings. (NYS Village Law Sections 7-718.10 and 7-712.10) In the wrong hands, this gives tremendous power to the individuals serving as chairs. If an applicant dared to take an unpopular position in the past, punishment could come in a purposeful delay. To seek fairness, the applicant would be forced to spend money and time to take an Article 78 in the NY Supreme Court. That would be added punishment.

Furthermore, the applicant would be denied a record on which to appeal or the knowledge of what factors were responsible for the denial so a more appropriate application could be submitted in the future.

Actually, this “pocket veto” is not permitted by NYS Village Law. Section 7-725-B6, which deals with special permits, is definite in its language, “The authorized board shall decide upon the application within sixty-two days after the hearing.” It does allow for extensions on agreement of both parties.

The same applies with decisions of the Zoning Board of Appeals. NYS Village Law Section 7-712-A8 (Board of Appeals Procedure) is similar to 7-725-B6: “Time of Decision, The board of appeals shall decide on the appeal within sixty-two days after the conduct of said hearing.” There is also a provision for mutual extension.

Section 11.6 of the proposed code gives the Planning Board authority to issue Certificates of Nonconformity. This power has no specific parallel in state law. That section carries the same offending language, “The failure of the Planning Board to act within 45 days of a contemplated application shall be deemed a denial.”

In the proposed code’s general provisions dealing with Review Authorities the effect of a pocket veto by the Planning Board is explained:

9.3 Planning Board, K. Failure to Act In any case where this Code provides that failure of the Planning Board to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Planning Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision

Section 9.4G4 carries the same language for the Zoning Board of Appeals, except it adds a phrase at the end, “but, on such appeal, shall be entitled to no presumption of correctness.” The Planning Board’s pocket vetoes are presumed correct; not Zoning’s.

When it comes to applications to amend the Zoning Law, Zoning Map or the Comprehensive Plan, the pocket veto disappears. In the draft code, proposed amendments are referred to the Planning Board. Section 11.1C2 requires the Planning Board to conduct an Informational Meeting (not a public hearing) and, 62 days thereafter, to make a recommendation to the Board of Trustees. However, if it fails to make a timely recommendation, failure is deemed an approval. This switch can make what should be a transparent process more opaque.

None of the above issues are discussed in the minutes of the ZAC. Presumably, the consultant has many samples of zoning administration provisions which conform with state law. It would be interesting to know how unique these pocket vetoes are.

### **Received 4/15/25**

The proposed zoning code includes 14 pages of sign regulations. It provides detailed directions and restrictions for all kinds of signs, including awning, canopy, blade, light-pole banner, banner, wall, animated, digital, monument, balloon, feather, flag, reader-board, projected, push, bandit, snipe, vehicle, A-frame, temporary construction, parking lot, real estate, window, building-mounted, and drive-through signs.

To implement the proposed sign law it will help to understand plane geometry, fractions, and simple math. People who set up businesses don't have the time to digest all the information contained in the proposed code. Instead, they can be expected do what they want and let someone else take the time to read the code. The village doesn't have the money to hire sufficient staff to enforce this complex sign code. That will lead to selective enforcement, usually based on a complaint by a violator's antagonist. This is not conducive to a "Village of Friends."

Because it is a "nuts and bolts" subject and not a "Big Picture" item, signage was not a subject of the Comprehensive Master Plan Committee. The ZAC did discuss it during its November 21, 2024 meeting.

It was aptly noted by a member, "that the code can only do so much with signs. Without effective enforcement, the code language on signs doesn't ultimately matter." ZAC members were also concerned about whether murals were included in the definition of billboard; code language needed to be cleaned up i.e. deleting hotel signs; limiting signs to 1/3 of a window is not consistent with practice; and identifying three options for governing digital signs.

The minutes further indicated sign size could be dependent on setback and size of building; limiting CBD businesses to one sign is not enforced; and sandwich board signs are a "hot

topic.” The ZAC wanted more information from the consultant for sandwich board and flag signs. No decisions were made by ZAC members.

January 16, 2025 minutes stated Article 8 [signage] was completely overhauled based on the feedback from ZAC. The consultant warned because signage can be fraught with potential 1st Amendment issues, the village should follow existing precedent like that included in the draft. In other words, Article 8 was taken off the shelf whether it applies to Ballston Spa or not. One has to really stretch the imagination to tie a code regulating size, position, and form of signage to one’s First Amendment right to communicate on a sign,

On the other hand, the proposed sign law prohibits political and event signs. (Section 8.5J) Nor are signs allowed along village streets. (Section B.2B2) Denying candidates the opportunity to publicize along streets or having temporary signs only benefits incumbents. Community organizations cannot publicize their chicken barbeques and other fund raisers. Forget advertising for a lost cat. The model sign ordinance plugged into Article 8 will not benefit Ballston Spa.

Somewhat symbolic is the drawing in the proposed code of a building-mounted, standard wall sign for the French Bakery & Café. These drawings are meant to illustrate verbiage describing signage. The code states wall signs must be mounted below the second floor of multi-story buildings. The drawing depicts the sign’s top 2/3 over the first story!

The solution to the weaknesses of Article 8 is to sit down with village building and business owners and redevelop parameters for a sign ordinance. Not only will it produce a more workable document, but one which doesn’t insult business owners by trying to run their businesses for them.

### **Received 4/21/25**

Although Short Term Rentals (STR) have been removed from the proposed zoning code for the time being, Accessory Dwelling Units (ADU) have not. This is unfortunate, the two uses are interconnected. They both are auxiliary uses for residential dwellings and are different in layout only because an ADU must have separate cooking facilities. A sink, stove, and refrigerator can be optional for a STR. The two uses are primarily defined by the duration of the lease. Each competes for the same spaces, and more favorable laws governing one use may skew the balance between the two, to the detriment of the village economy. There has to be an effort to differentiate a two-family residence from a single family with an ADU.

The Comprehensive Master Plan found both uses would be beneficial to the village, but if not properly constrained could be seriously abused. Anyone looking into these uses must read the Comp Plan Committee’s minutes for the month of March 2022.

At the end of the minutes of the March 17, 2022 CMPC meeting the month's discussions were summarized:

“Serious enforcement of realistic codes is necessary to preserve the character of this village, which contains people of a wide socio-economic range, and to improve residents’ quality of life. The expansion of uses in residential areas by allowing, in appropriate neighborhoods, home businesses, work from home opportunities, accessory residential structures, accessory apartments, Airbnb rentals, etc. will make housing more affordable for homeowners, provide lower income housing for young people, seniors, and those of modest means. To prevent this flexibility from being exploited by residents, absentee landlords, and large corporate entities, state and (to be devised) local property maintenance codes must be proactively enforced. To be successful in a village, enforcement should begin with incentives and rapid response to small infractions like trash-strewn lawns, un-shoveled sidewalks and excessive noise, involving the homeowner, landlord, and/or tenant.”

Those same minutes dealt with Airbnbs, specifically:

“Airbnb rentals in the village can be abused. If a house is taken for that use, a family is denied homeownership and the village is denied the benefits of that family. Also, guests can abuse the situation by disrupting a neighborhood. Otherwise, allowing Airbnbs guards against a firm deciding to knock down buildings to build a motel in the village. [which the proposed zone code would allow] A vibrant downtown needs places for people to stay overnight. Airbnb guests will patronize restaurants and stores. While the business [Airbnb listing

companies] provides incentive for guests and hosts to behave, local regulations may be necessary.”

The prior meeting on March 3, 2022 was more specific about ADUs:

“Accessory units in larger homes can be a source for moderately priced rentals. It would have to be determined what percentage of living area can be set off into one or more units in a residence. Something would have to be done to make those residences unattractive to non-resident owners. A technique might be for the government to make the resident of the larger unit responsible with the owner for maintenance and the like of the property, Most tenants would not want that responsibility.”

The proposed code fails to recognize the effect of the track season on temporary rentals in Ballston Spa. Residents rent out their homes while going on their vacations. It does not make sense for those rentals to be subject to zoning regulations. A suspension of the effect

short-term zoning law could be considered one week before and one week after a meet at Saratoga Race Track.

Section 5.3.C.2 of the proposed zoning code relating to ADUs has none of the finesse demanded by the Comprehensive Master Plan. Ignoring some of the very large residences, it demands one ADU per residence. It provides no neighborhood characteristics like narrow streets, small yards, overcrowding, or adequacy of utilities that would not be conducive for establishing an ADU. Under the table of uses, they are allowed by special permit in all residential neighborhoods. The special permit disappears when the tenant moves. This provision not only creates uncertainty for the owner but creates a reluctance to evict difficult tenants.

There may be good reasons for demanding attached ADUs have 25% of their surface connected to the primary unit, or ADUs be no larger than 1000 sq. ft, or they be limited to two bedrooms, or a detached ADU not be higher than 24 feet. But we don't know the reasoning behind such requirements.

The January 16, 2025 minutes of the ZAC notes some of these provisions. However, the minutes raise questions and provide no answers:

“ADUs

Topic that needs some discussion as it can be controversial. There are different types of ADUs: a unit within the building itself (basement apartment): detached ADUs (existing carriage house converted to

apartment or new construction), Question is do we want to restrict some versions of these. In the draft includes limitations like 1000 sq ft and 1 bedroom.

Chris has seen different sizes in different municipalities, including as a percentage of the dwelling/property.

Mat raises a question about how to regulate an ADU after the property owner that developed it sells the property- concern is that a new owner could simply convert it into a multi-unit rental. Chris notes that language could be included about requiring the owner to reside on the property.

Marilyn notes that there is already a definition that describes an ADU as an additional dwelling for a single-family home. Question is if we should limit ADUs to a single family property or include multifamily homes. As an example, some larger homes are already multifamily- would these be prevented from adding ADUs? Chris notes that some communities will prevent them from being built on properties with multifamily homes. This requires ZAC to determine how we would want to proceed.”

Twenty-five days later, without holding another meeting, the Chair of ZAC announced at a Village Board of Trustees meeting, the committee's work was completed. As stated in the opening of the above quoted material, ADUs are a topic that needs some discussion. It will be best to remove all references to ADUs from the proposed zoning code and continue the discussion among ZAC members.

**Received 4/23/25**

The Comprehensive Master Plan lays out parameters for the interrelationship of buildings in the downtown area. It also realizes not all buildings in the downtown area are commercial structures, but front rooms of residences can offer commercial uses.

“Buildings in this neighborhood are encouraged to maximize their use of the site, utilizing up to 100% of their parcel for building footprint and extending up to four stories in height, as comparable with neighboring development. (emphasis added) The groupings of downtown buildings form the urban fabric of the center of the community, with multiple adjacent buildings working in concert to create a continuous urban street-wall of welcoming retail windows. Not only does this form reinforce the historic building patterns of the village, but also shapes the outdoor spaces of our public realm where we gather as a community. For these reasons, the form, massing and relationship of buildings within the Downtown CBD is very important.

The first-floor ground level of buildings within the Downtown area should be commercial uses, ideally suited toward retail and/or service uses which primarily to locals but also attractive to visitors and tourists. Some dwellings that are transitioning into commercial may offer the front rooms on the first floor of the building for commercial use and the rear portion for family use, due to their layout.” (Land Use Vision p. 32)

The Master Plan argues for a form-based approach for downtown, which gives more importance to form of buildings than actual commercial uses. But new structures are to be consistent with the form of neighboring buildings. A four-story building may be permitted, but not in areas where it would be out of place with its neighbors. The Comprehensive Plan contemplates the historic nature of existing buildings have formed the village's urban fabric. To protect that fabric, teardowns must be prevented by the proposed code.

The proposal lays out Downtown District Design Standards on Table 3 at pages 28 and 29. Those standards are positive as they discourage automobile-oriented traffic. However, they seem more appropriate for a suburban commercial district than a downtown developed on small lots with Victorian sensibilities. For instance a building can have a blank wall up to 25 linear feet, so long as 40% of the first-story front is window. Most retail structures on Milton Avenue and Front Street are all glass except for upper floor entries. Glass curtain walls are



permitted, but not required to be on different planes as are existing store fronts. Only buildings longer than 100 feet need to break facades with a vertical feature, allowing minimalist commercial fronts in a Victorian/Colonial Revival downtown., and

architecturally, first floors need not be compatible with upper floors, creating modern horizontal massing, while most down town buildings are designed on the 19th century vertical orientation, There is no requirement that a new building's height be comparable with neighboring buildings. A building can be up to 60 feet tall and placed next to a modest structure. Nor is there a prohibition against tearing down exiting structures to clear the way for new construction. The proposed code's standards totally ignore residences that may be transitioning to commercial.

The proposed code adopted suggestions from the Zoning Advisory Committee regarding lot width and coverage in the Downtown. Based on published minutes (which are missing for some meetings), it appears there was no discussion among ZAC members regarding the design standards in Section 4.3D and its Table 3. ZAC members should be afforded that opportunity before the proposed code goes any further.

#### **Received 4/24/25**

In the Comprehensive Master Plan's discussion of "Priority Issues" the first paragraph of Community Character is instructive. "The first priority issue is the definition of the existing community character. This step is crucial to guide infill development that occurs in or adjacent to established neighborhoods. It also informs future preservation methods of community character during the land use review process and will assist in minimizing potential impacts of new development." (Emphasis added)

In that section's conclusion, The Master Plan states, "The Steering Committee reiterated what was also heard from the visioning workshop participants, which is that most residents want to keep things relatively the way they are, and guidelines in the code will help with that goal. There is a consensus that Ballston Spa should not try to be like other communities, but hold on to, nurture and enhance its own unique community character." (Emphasis added)

Put simply, the zoning code should discourage teardowns and promote infill development that is compatible with surrounding structures- in use and especially in form. In too many instances, the proposed zoning code fails to minimize potential impacts of new development and threatens Ballston Spa's unique character by encouraging teardowns.

The Downtown Zone today includes multiple story-and-a-half residences along Milton Avenue on the Flats. Contrary to the Master Plan's suggestions, there are no

provisions in the proposed code to accommodate these residential uses as they may transition to retail or service uses. They are made non-conforming and subject to being replaced by new commercial structures.

Commercial buildings of over 100 feet in length are accommodated in Table 3: Downtown District Designs Standards. Table 2: Downtown lot standards allow 50 feet tall buildings, which can be increased by another 10 feet (4.3.C2.b)iii). Added to these provisions are the parking requirements in Table 7.2, which demand even more land (and buildings) to be taken for a proposed development.

Standards for new construction do not favor small in-fill projects that might be affordable for a local developer. They are written for large-money firms. Maybe Ballston Spa will get a Rite-Aid after all.

It is curious that motels are permitted only in Highway Business but hotels may be constructed in Downtown. In the proposed code's definitions, hotel and inn are synonymous. They differ from a motel only by requiring guests of a motel use separate exterior entrances to their rooms and a hotel and inn is designed for guests to use common entrances.

Parking for a motel requires one space for every room and one space for every two employees. For a hotel, only one space is required for every two rooms. There is no explanation for the favorable treatment.

It doesn't take too much imagination to visualize some of the older buildings on the Flats being raised to build a hotel. This fear was expressed directly during the March 27, 2022 meeting of the Master Plan Steering Committee. "Otherwise allowing Airbnbs guards against a firm deciding to knock down buildings to build a motel in the village." (page 22 of minutes)

The most favorable portion of the code for teardowns is the section dealing with Downtown Transition. Placed in an area totally contrary to the concept developed by the Master Plan, the purpose in the proposed code is "To allow instances of lower intensity commercial uses in formerly residential buildings" (Emphasis added) (Section 4.4.B) The Master Plan envisioned home retail and service businesses not competing with downtown and providing extra income for homeowners in the Bath Steet and lower Malta Ave. areas.

The area designated by the proposed code [W. High, Church and Court and the County properties] is populated primarily by two story, one and two family homes. Yet it allows three story, multi-residential and non residential uses. The village's current economic situation isn't one where businesses are clamoring for office space. Multiple family structures are popular in the area. These would have ready water, sewer, and natural

gas. Apartment buildings are allowed by the proposed code; not even a special permit is required. (Table 8: Table of Uses) There are no restrictions in the Downtown Transition Zone to protect existing buildings.

The proposed code creates a dream for a hit-and-run type of developer. Rip out a few houses and put up apartment buildings. The proposed code fails to define multi-family in its definition section. So, there is no limit to how large an apartment complex can be built in a Downtown Transition Zone, so long as it doesn't exceed 45 feet in height and 3 three stories.

Planned Development Districts can also result in teardowns. Even though the proposed code states, "Existing single- and two-family homes are not permitted sites for a PDD," the language does not prevent homes from being torn down. The key word is existing, presumably existing at the time of application for a PDD. Nothing prevents a developer from buying one and two family homes, tear them down, and then apply for a PDD. It would have made more sense to restrict a PDD on any land that had one or two family homes on it during the most recent five years, if the intent was to prevent teardowns.

There is no attempt to preserve existing structures in the code's section 4.8 creating cluster developments. It is almost assumed the developer would be tearing down one or two homes to have land on which to place a half dozen small residences.

Overall, the proposed code is missing affirmative protection for existing buildings. It could require no demolition permit would be given unless it is shown the structure is unable to produce a reasonable return for its owner, much like what is needed to justify a use permit in a Zoning Board of Appeals hearing. If this zoning code is passed, the village is likely to lose forever the charm the Master Plan stated was the community's most valuable resource, next to its people.

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Article 7 of NYS Village Law deals with land use and lays out the various roles of the Planning Board. Sections 7-718. 13 and 14 specify when it may make recommendations to the Village Board relating to the planning and development of the village, which would include PDDs. Section 7-725-a gives it authority over site plan review, unless the power is given to another administrative body. Section-725-b similarly allows the Village Board to approve special permits. (Planning and Zoning Boards cannot both be given that power.) Section 7-728 provides a Village Board can only delegate subdivision approval to a planning board. Section 7-38 allows the Village Board to give the Planning Board approval power over cluster developments.

It should be noted that planning board authority is severely limited when dealing with aesthetics. Because aesthetics are fundamentally subjective, courts will not recognize a delegation of review authority unless relatively objective criteria is set forth in the delegation of review authority. The Court of Appeals case from 1978, *De Sena v. Board of Zoning Appeals of the Village of Hempstead* explains this position.

The proposed zoning code gives the Planning Board powers that go beyond the statutory authority of Article 7 of Village Law:

1. Granting variances under the name of ‘Administrative Adjustments’ and using a similar criteria as the Zoning Board would use for area variances. (Sections 9.3.L.1c) and 11.3) Statutorily, this power is given to the Zoning Board of Appeals. Also, the Planning Board is improperly given the option of delegating its power to a designee to grant ‘Administrative Adjustments.’ Section 11.3.G allows an appeal of the Planning Board’s determination of an Administrative Adjustment to the Zoning Board, even though NYS Village Law Section 7-740 mandates appeals from a Planning Board must be in the form of an Article 78 in State Supreme Court.
2. Issuing interpretations of the meaning and specific provisions of the zoning code, which is exclusively the role of a Zoning Board of Appeals. (Sections 9.3.L.1d and 11.8) The proposed code sends appeals of the Planning Board’s decisions to the Zoning Board, which is incorrect as stated in item 1, above
3. Determining if a particular use existed prior to the effective date of the code. (It is unclear if the effective date is the first enactment of the zoning code [1949] or passage of the new code.) If it so determined, then the Planning Board will issue a ‘Certificate of Nonconformity.’ (Sections 9.3.L.1f) and 11.6) This is a role usually carried out by the Building Inspector when the legality of a use is called into question. If a person is aggrieved by the Building Inspector’s determination, an appeal is taken to the Zoning Board of Appeals. The proposed appeal process of the Planning Board’s decision is similarly flawed as in items 1 and 2 above.
4. Determining the sequence of review by other boards, including if reviews are to be sequential or in tandem. (Section 10.1.C) This question ought to be resolved in the code rather than having one board control another board’s agenda. This provision also takes a certain amount of discretion from the applicant.

5. Waiving the need for a Building Inspector to have a meeting with the applicant to ensure an application to the Planning Board is complete. (See Section 10.3.A) It is not explained how the Planning Board will have sufficient information to determine the completeness of an application before it is presented to the Planning Board.
6. Establishing fees for individuals to purchase hard copies of applications and documents on file with the Planning Board. (Section 10.4.C.5) Only the Village Board can set fees.
7. Engaging in façade review in business districts, without accessing or including objective criteria. (Section 11.5) This is a role the Planning Board has also taken in the site plan process, even though, contrary to the Court of Appeals, it uses no objective criteria in the site plan process.
8. Forgiving a 12-month abandonment of a grandfathered use in certain circumstances. (Section 12.2.E) This issue is usually identified by the Building Inspector and is subject to appeal to the Zoning Board.

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Fundamentally, governmental ethics boil down to not using one's position to economically benefit oneself or close family members or create the appearance of such conduct. (See Local Law No. 2 of 2023 §27-3.)

There is a major exception to the general rule, as stated in §27-10 C.1.b of Local Law 2. Even if one's vote or use of discretion could be seen as economically beneficial to the official, it is OK if the decision affects all residents or taxpayers of the municipality or those in an area of the municipality or the general public. Otherwise, whole boards may be unable to act on issues for the general good.

Discussion of and enactment of a zoning code falls directly into this exception. But Ballston Spa's zoning code contains an oddity. There is a separate zoning district for Mohegan Hil, which is solely controlled by the Mayor's family. Whatever happens to this zoning district will not directly affect the residents, who are all tenants. It will only directly affect the Mayor and/or his family.

When the proposed zoning code was made public, the Mohegan Hill District Residential 2S was not shown on the proposed zoning map and the local law creating the district relegated to an appendix. Since that time, Mohegan Hill has been added to the map and presumably the proposed code.

Including or excluding Mohegan Hill from the zoning code could have various economic ramifications. What those economic ramifications might be for including or excluding the Mohegan Hill Development from the zoning code is speculative because the public does not have, nor should have, the information to which the Mayor's family is privy. This is where the appearance of impropriety comes into play.

The balance of the proposed zoning code poses no ethical dilemma, it applies directly to all residents or taxpayers of the village or an area of the village, and there are no ethical prohibitions in discussing its merits and weaknesses. But the balance of the code cannot be placed for a vote without a decision being made relating to Mohegan Hill. Because the other four Board members are not so restricted and they constitute a quorum, Local Law 2 of 2023 §27-10 C.2a [multiple disqualifications will not prevent a board from acting] does not provide an exception to the rule, which would otherwise allow a conflicted officer to vote.