

**Upper Delaware Council**  
**PROJECT REVIEW COMMITTEE MEETING MINUTES**  
**October 23, 2018**

Committee Members Present: Larry Richardson, Fred Peckham, Jim Greier, Harold Roeder, Jr., Susan Sullivan, David Dean, Al Henry, Jeff Dexter, Aaron Robinson

Committee Members Absent: Debra Conway

Staff : Laurie Ramie, Pete Golod, Ashley Hall-Bagdonas

NPS Partner: Kris Heister, Jennifer Claster

Guests: Roger Saumure (Shohola alternate)

The UDC's Project Review Committee held its monthly meeting on Tuesday, October 23, 2018 at the Council office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 6:40 p.m. A motion by Greier, seconded by Henry, to approve the Sept. 25 meeting minutes was carried with Richardson abstaining. There was no public comment on the agenda.

**Discussion Items Report:**

**Town of Delaware:** On Oct. 15 Golod and Jennifer Claster met and discussed the Substantial Conformance review of Local Law §220-35 E (9): Zoning, of the Code of the Town of Delaware, which relates to solar energy system standards. Golod is in the process of performing a Substantial Conformance review and will meet with Claster and Carla Hahn later this month. The full Substantial Conformance Review will be presented to the Project Committee next month. This amendment is positive regarding solar energy standards. For example, no facilities shall be permanently connected to an electric grid for purposes for producing power until a certificate of compliance from the Town is issued. Also, they're requiring a virtual reality video presentation to demonstrate perspective view from any major public viewing point. They are also requiring nameplate capacity data for both AC and DC, which had been an issue when we first were presented with this. They're also requesting a fire protection and emergency response plan, and a completed Part 1 full Environmental Assessment Form. They've also lowered the height of the ground down to panels from 12 feet to 10 feet in height. They're requiring a high quality fence. Next, something Golod found important: no facility shall be located more than 1,200 feet from a three phase electric service connection or require an upgrade to existing two phase electric services. Something Golod feels is a beneficial change; as we move into the future with technology, our solar footprint may get smaller with technology advances. Lastly, the ordinance amendment is a reduction in impervious surface area. Originally they had 50% of 20 acres which approximated 10 acres of impervious surface. Now the new amendment has an impervious surface area of 30% of 30 acres, which equates to nine acres of impervious surface area.

**Town of Highland:** Highland Compressor Station: There haven't been any updates on this in over a year as they were performing a baseline study of environmental impact around the 22,400 horsepower compressor station. This was performed by a KC Engineering and Land Surveying. The study examined air and water quality, and measured sound within a mile radius of the compressor station site. Findings reported average levels; however, in the three rounds of testing there were slight spikes in iron and nitrogen dioxide found in one of the rounds. Golod reported it should be noted the site area was not tested for formaldehyde, toluene and benzene, which are toxins released by natural gas compressor stations. Also tests for baseline health statistics in people who live near the site of the compressor station were not conducted either. Peckham asked the relevance of not testing for formaldehyde, toluene and benzene. Golod stated that they are known toxins dispersed from compressor stations. General discussion arose of why didn't they test for those toxins. Golod stated there were no parameters given as to why they did not test for those toxins.

**Town of Lumberland:** The town board had recently adopted a six-month moratorium on permitting or construction of large scale commercial solar that is due to expire in March. That's in conjunction with their current review of town zoning regarding renewable energies.

**Damascus Township:** On Oct. 3<sup>rd</sup> Golod met with Carla Hahn and Jennifer Claster to review a floodplain variance for a proposed open pavilion. Based upon responses to questions that were submitted to the Code Enforcement Officer and due to the minimal impact, it was determined that there was no need to take any further action on this variance. Copies of the letters to the township and Superintendent Heister were provided in meeting packets.

On Oct. 3<sup>rd</sup>, Golod, Hahn and Claster reviewed another floodplain variance for a home deck construction in Tammany Flats. It was determined that this project will not create an additional impervious surface, erosion and sedimentation may be affected in the short term, and it is not a use listed as incompatible in the Land and Water Use Guideline's Schedule of Uses. Therefore, per the 1988 Project Review Workbook, this variance does not require additional review. A copy of the letter to the Township and to the NPS Superintendent were provided in meeting packets.

On Oct. 15<sup>th</sup> Golod and Claster performed a Substantial Conformance review of a floodplain variance for a proposed single-family home on Syloro Lane. Golod will conduct the Substantial Conformance review with the Project Review Committee under New Business.

Robinson asked if site plans were provided for the Damascus sites. Golod said the property that did rise to the level of substantial conformance review had a site plan. The property with the deck also had a site plan. For the property with the pavilion there was no site plan but they did provide GIS data. Claster stated the pavilion was going on an existing footprint. Claster noted that boundaries were an issue as Damascus Township requires a site plan and application but they may not do a follow-up on in all cases. In this case the pavilion was going on an existing footprint but it would have been more efficient if we could see where it was. Dean asked Claster if a shed is going in a parking lot is there a need for a survey. Claster stressed it is up to the township's requirements. In this case the township is requiring the application for variance. Golod pointed out that those issues were addressed in the letter sent to the township's Code Enforcement Officer.

#### **FY 2019 TAG's:**

Golod received the signed Grant Contract from the Town of Lumberland for an Informational Brochure for the Town Building Department.

#### **Resource Specialist's Update:**

- On Sept. 28<sup>th</sup> Golod, Hahn and Claster met to review the comments and edits made to the Project Review Guide by Superintendent Heister and Ramie. The next working date is scheduled for Oct. 24<sup>th</sup>.
- On Oct. 5<sup>th</sup> and Oct 19 Golod and Claster began the Land Use Leadership Academy (LULA) training in Montgomery, NY. There are two more sessions scheduled for Nov. 2<sup>nd</sup> and Nov 9<sup>th</sup>.
- On Oct. 15<sup>th</sup> Golod and Claster met and reviewed several flood plain variances for Damascus Township.
- On Oct. 16<sup>th</sup> and Oct. 17<sup>th</sup> Golod, Ramie, Peckham, and Saumure attended the Water, Water Everywhere conference in Hale Eddy, NY.

#### **Old Business**

**Town of Highland Route 97 Project:** Richardson relayed that a meeting has been scheduled regarding the Town of Highland issues that may be hindering UDC's ability to move forward on a Substantial Conformance Review. Richardson said the sub-committee met at 6pm on Oct. 23<sup>rd</sup> and there is a meeting set for Oct. 26<sup>th</sup> at 10:00 a.m. at Highland Town Hall. Claster asked who would be attending and Richardson said he, Dean and Greier would be representing UDC and Code Enforcement Officer Dave Preston, Attorney Michael Davidoff, Highland Town Supervisor Jeff Haas and UDC Representative Kaitlin Haas are expected to be there. Dexter asked whether UDC should be represented by an attorney since the Town of Highland will be; Richardson replied not at this meeting.

**Other:** None

## New Business

**Revised Emergency and Commercial Cell Towers Map from NPS:** Heister said the map now includes commercial in addition to emergency towers. Claster informed the committee some of the counties were able to provide her with data for emergency towers and cell towers. When Claster reviewed the map with the counties that didn't provide their towers it was noted in Pike County there were a couple of towers that did not show up on the map that the E-911 coordinator was aware of that were not emergency towers but commercial towers. Robinson was able to search for them and provide coordinates.

Peckham asked Claster if emergency towers are radio frequency, not cell towers. Claster confirmed they are just towers used for emergencies. Peckham followed up asking is there a possibility to run off the back of the emergency tower as he thought the NPS did that. Heister NPS has their own equipment on the E-911 towers and in some instances they do that. Heister was able to confirm Peckham's questions that that tower would be eligible for cell service. Henry asked if State Police towers were included. Claster said in some of the data-sets it did not say but other data-sets it was easier to pull that information out. So, Claster cannot answer that regarding the entire area. Henry asked about the Callicoon tower and if anyone knew about it. Heister said Hahn would know the answer to that question. Ramie asked Greier who owns the tower in Mileses. Greier believes it is Verizon or AT&T. Richardson asked if the NPS makes use of any commercial towers. Or if they just utilize the emergency towers. Heister said they have one of their own towers and co-locate with at least two emergency towers. NPS is not on any commercial towers.

**Damascus Township Floodplain/Variance Reviews:** Golod covered this under Discussion Items Report and copies of the letters to the Township and the Superintendent were provided in the meeting packet.

**Damascus Township Floodplain Substantial Conformance Review:** Claster relayed that this application like others received from the township appeared to lack certain elements required for this kind of variance by the township. When Golod and Claster looked at this project, some of it was done with GIS web tool, they used other sources to fill in the blanks and back-and-forth with the CEO during which time he provided additional drawings that had not been submitted to the UDC as part of the Review Package that they initially gave the UDC. Claster said it raises the question again of town participation with the review process, if they are holding their applicants to the standards stated in their own regulations. Claster thought initially looking at the application she assumed they were having the applicants go by the complete package; after finding out they had some of the documents requested but hadn't supplied them, that was thrown into question. Regarding the use of a variance in a floodplain, Claster said Damascus Township has an Ordinance that prohibits development in floodplains and requires applying for a floodplain variance. Claster shared in Pennsylvania Municipal Code it states that a variance should not be something that is easy to obtain without knowing how the Zoning Board of Appeals is going to handle these applications. A community can opt to adopt a floodplain ordinance into their zoning but they don't have to; they can do it as a stand-alone ordinance. When it is adopted into their zoning in order to get a variance, the applicant has to demonstrate the hardship standard that's stated in the Pennsylvania Municipal Code as well as the hardship standard that's stated in the Federal Floodplain Regulations. Claster stated it's a very difficult standard for an applicant to meet. Apart from the conformance review, if the towns approve these applications, they are making a change to their zoning which says development shall not occur. Dexter believes that the wording "is mandated" comes directly from FEMA as he was Chairman of the township supervisors last time they made a change to the map. Damascus Township was given a directive that they could not change it; it would be rejected by FEMA and people would not be able to get flood insurance. Claster shared there are four model Ordinances that Pennsylvania DCED has available to communities and it looks like Damascus opted to model their ordinance off some of the language in the model Ordinances but they modified it. The model ordinance doesn't require the Town to prohibit development in the floodplain. That's an option that they can choose to add. Dexter interjected that the option came from FEMA and that it gave them a little more ability to raise the first floor level above the floodplain. Claster explained that what Dexter described is separate from what she was speaking on. Claster referred Dexter to look for the technical document online that the State has prepared that discusses floodplain ordinances and variances that clearly states when a town opts to incorporate a floodplain ordinance into its zoning then it's held both to the zoning standards and the FEMA standards for a variance. The township did not have to do this. Many towns have a separate floodplain ordinance that

is not part of their zoning. When you apply for a variance with that type of Ordinance it still goes before a Zoning Board of Appeals but it is a different set of standards. Robinson said this would be helpful when townships look at changing or amending their zoning. Dexter asked if it was discussed with CEO Ed Lagarenne. Claster said they have not as of yet. Henry believes that Golod should be involved with that as well. Richardson shared a comment regarding variances that when he had training that was conducted out of Albany, NY on zoning, the trainer made a comment that over 90% of the variances granted should never be granted and of the two, an area variance is easier to grant than a use variance.

Golod shared that was a big learning curve and to date this is the first variance Golod or the UDC had received. Still following the 1988 Project Review Workbook, Golod noted, when you think of a single-family home you generally think of Class I or Class II Significant Project. Because this was a variance that was issued along with a building permit and the other permits Golod and Claster had to review this as Substantial Conformance. Golod asked the committee to refer to the Substantial Conformance Review handout while he went over it. **Principle A: Maintain the high water quality found in the Upper Delaware River Objective 1. Soil erosion and sedimentation from construction on steep slopes is limited by:** They marked F. Other as it is a proposed single-family home not located on a steep slope. Under Review they noted the property is a residential river front lot at an average elevation of 756.5' and a Base Flood Elevation (BFE) of 762.9'. Golod and Claster recommended that this Principle A, Objective 1 was substantially met. **Objective 2. Maintain natural cover to control storm-water runoff, limit flooding, protect groundwater supplies and provide erosion control;** Golod and Claster selected E. Other. Proposed earth disturbance is 28,900 sq. ft (.67 acres) on a 3.31 acre parcel. Their review stated an Erosion & Sedimentation Control Plan is required by the Township for any earth disturbance. They did not select Criteria B. Although the Township's bulk schedule allows for 30% clearing without tree clearing/tree removal plan it is difficult to determine the percentage of trees to be cleared. Their recommendation is that Principle A, Objective 2 is substantially met. **Objective 3. Protect special erosion hazard areas along river banks through one or more of the following measures:** They selected A. Requiring that buildings be set back from the river consistent with State required setbacks of septic systems from streams. In New York: 100 feet, in Pennsylvania 50 feet; as well as selecting B. Making construction within 100 feet of the river subject to conditional/special use permits with requirements for plants to prevent erosions. Their review found the right side setback is 49' from the nearest property line, left side setback is 49' 2" from the nearest property line and a 272' setback from the Delaware River. Their recommendation was that Principle A, Objective 3 is substantially met. Robinson asked Golod if the side-setback requirement was from the State or Town's setback requirement. Golod said it's the Township's but it's also a requirement in the Land and Water Use Guidelines. **Objective 4. Protect special erosion hazard areas along the ridge lines through one or more of the following measures:** They selected Other as it was N/A being it is a proposed single-family home is not located on a ridgeline. Their recommendation is Principle A, Objective 4 was substantially met. **Objective 5. Limit pollution problems from septic systems located on poor soils, by one of the following measures:** Golod and Claster selected A. Requiring a town or district wide minimum lot size for new river corridor lots of not less than two acres (outside hamlets). Their review was a proposed single-family home situated on a 3.31-acre lot. Their recommendation concluded that Principle A, Objective 5 was substantially met. Richardson asked if the Zoning requires an engineer to design the septic system. Claster and Golod discussed this but were not provided with the location or design of the septic system, or anything that had said it was approved by the township. Robinson said in some circumstances, but not all, it is required. Henry said normally a Sewage Enforcement Officer would manage that other than if an engineer is required. Claster said it was interesting that the application package had a check box for all required permits being submitted and there was nothing for them to look at. **Objective 6. Solid waste disposal sites must be located outside of the river corridor.** Golod and Claster's recommendation was that Principle A, Objective 6 is substantially met. **Principle B: Provide for the protection of the health safety, and welfare of residents and visitors while also providing for the protection of natural resources. Objective 1. Provide for light, air and an uncluttered landscape through adequate separation of principal structures** Golod and Claster chose A. Requiring a 150-foot river frontage for new lot (with the exceptions for clustering) and C. Requiring a 50 feet minimum side yard standard. Their recommendation is that Principle B, Objective 1 was substantially met. **Objective 2. Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures.** They chose A. Limiting building height to 35 feet with exceptions for farm structures, water and grain towers, small windmills, bridges, etc.; and C. Other: Damascus Township's Schedule of District Regulations. Township regulations set a maximum building height of 35 ft. Golod received confirmation from CEO Lagarenne that the proposed project "will not exceed 35 feet average in

height above ground.” Recommendation was that Principle B, Objective 2 was substantially met. **Objective 3. Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways.** Claster and Golod selected A. Requiring a minimum front yard of 35 feet; and B. Requiring a minimum building setback of 35 feet. They recommend that Principle B, Objective 3 was substantially met. **Objective 4. Prevent unnecessary sign proliferation by limiting off-premises sign.** They selected D. Other. This does not apply. The variance is for construction of a single-family home within the floodplain, not related to off premises signage. Their recommendation is Principle B, Objective 4 was substantially met. **Objective 5. Business identification (on premises) signs larger than 10 square feet in size should be limited.** They chose F. Other N/A. Review: Variance is for construction of a single-family home within the floodplain, not a business. Recommendation: Principle B, Objective 5 is substantially met. **Principle C. Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource. Objective 1. Encourage recreational providers to locate intensive use recreational facilities outside of undeveloped or scenic segments of the river.** Review: N/A. Recommendation: Principle C Objective 1 is substantially met. **2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational parks.** Review: N/A. Recommendation: Principle C, Objective 2a is substantially met. **Objective 2b. Provide for the orderly development, operation and maintenance of boat liveries and other recreational use.** Review: N/A. Recommendation: Principle C, Objective 2b is substantially met. **Principle C. Provide for orderly development, operation, and maintenance for all recreational uses.** Golod and Claster Chose A. Requiring public facilities to meet the same standards as private ones; B. Requiring all river-related recreational facilities to comply with state health regulations; C. Requiring all proposed river-related recreational facilities be subject to site plan or conditional use review. Site disturbances should be limited and vegetative screening required where necessary. For erosion control purposes, access to the river bank should be limited; and D. Other. Review: N/A. Recommendation: Principle C, Objective 2c is substantially met. **Principle D. Encourage and support agricultural uses in the corridor.** They picked D. Other. Review: N/A Recommendation: Principle D, Objective 1 is substantially met. **Objective 2. Encourage the appropriate location and mitigate the effects of certain intensive livestock operations which are likely to create problems of waste disposal or odors.** They picked D. Other N/A. Their review: Variance is for construction of a single-family home within the floodplain not an agricultural use. Recommendation: Principle D, Objective 2 is substantially met. **Objective 3. Provide for sound timber practices within the corridor by a professional forester’s review with exceptions for agricultural purposes and wildlife management programs.** They chose F. Other. Their Review: N/A. Recommendation: Principle D, Objective 3 is substantially met. **Principle E. Conserve river area resources. 1. Ensure traditional extraction operations (not including subsurface and major surface mining) are permitted but consistent with the protection of the public health, safety and welfare.** They chose C. Other. Their Review: N/A. Recommendation is Principle E, Objective 1 is substantially met. **Principle F. Maintain existing patterns of land use and ownership. Objective 1. Limit housing density and intensity of uses with consideration to the existing character of the River corridor.** They picked A. Establishing a special zoning district for the river corridor within which the minimum lot size is two or more acres. Their review: River District Development Standards require a 2-acre minimum for all new single-family dwellings. Their recommendation: Principle F, Objective 1 is substantially met. **Objective 2. To control density the following considerations must be remembered.** They picked D. Other N/A. The aforementioned objective does not apply to a variance for construction of a single-family home within the floodplain. Recommendation: Principle F, Objective 2 is substantially met. Golod’s conclusion: The intent of Damascus Township’s River District is to conform to the requirements of the National Wild and Scenic Rivers Act, Land and Water Use Guidelines, and the 1988 Project Review Workbook. This is achieved via Article VII of Damascus Township’s Ordinance Standards. The proposed project meets the principles and objectives as laid out in this Substantial Conformance review. In addition, the proposed project intends to be constructed of flood proof design with a finish floor level built more than 18” above a base flood elevation of 762.9’.

Golod recommended this to be moved to full Council for a determination to be made by NPS. Golod and Claster did have additional comments as they observed some of the standards of the township application for building permit may not be being entirely met. The application states that the following should be included: #1 Attach Erosion & Sedimentation control plans and specifications to this application; #2 Attach a complete list of contractors and companies who will be on site during this project; #3 Attach proof of worker’s compensation insurances; #4 Additional information should be attached with plans and application; #5 Attach two copies of all construction and drawing specifications including window and door details specifications, energy and heat loss calculation,

foundation specifications, electrical plan, plumbing plan, etc. for each residential permit. A lot of this wasn't supplied with the application. Documents required as listed on the application for the permit are: driveway permit, sewer permit, Erosion & Sedimentation control plans, Erosion & Sedimentation permit certification, Wayne Conservation District letter, National Pollution Discharge Elimination System, 9-1-1 address posted on-site, proof of all current property taxes, etc. None of these were checked off on the application and the ones that were more relevant, for example, the Erosion and Sedimentation Control Plan considering this is a variance for a proposed single family home within the floodplain Cluster and Golod feel should have been attached to the application or sent along and were not checked off, nor provided. Sewage permit was also mentioned, that would have been useful information to know where the sewer is. Golod said they can reach out to the Code Enforcement Officer to help better educate on what they need to properly perform these reviews, as well as for the construction plans. Henry asked if Golod and Claster reviewed the Wayne Conservation District letter to see if it has wetlands and they replied that the letter was not submitted with the application. Golod learned through an Erosion and Sedimentation workshop through NPS for Pennsylvania it's the Zoning Code Enforcement Officer's responsibility to issue the Erosion and Sedimentation Plan; however, it is the contractor that has to get it from the municipality and then the Code Enforcement Officer administers it. Golod said there may be a disconnect there; it may not necessarily be the municipality but the contractor. Henry said with SALDO there is a provision in Berlin Township if there any wetlands involved. Henry was concerned about not hearing about any mention of wetlands during the entire review. Claster said this review process focuses on a pretty narrow set of criteria that is based directly from the Land and Water Use Guidelines. She does not believe the Guidelines talk about wetlands. Claster wondered if it would be more beneficial to the municipalities if they were screening for wetlands and septic design which could be crucial in a floodplain. Heister said Wayne Conservation District does not inspect the sites unless there is a complaint. Sullivan stressed that it's not UDC's intent to generate more requirements but in the property owner's application process with the Township there is a lot of documentation that has to happen and is not being passed along. Dean asked if Pennsylvania was a home-rule state. Claster answered yes. Dean said there's a certain amount of oversight necessary and then once you exceed that it just becomes a burden on the homeowner. Richardson wondered if Pennsylvania requires a site plan review and a site plan map as they do in NYS. Heister said part of this review was about being fair. There is a Town of Highland project issue which is essentially about following their zoning. The UDC has to treat everyone equally, Heister said. Claster said under the 1988 workbook procedure if the project falls under a remedial variance, it's taken through the check list for the Class I or Class II project. If it's not a Class I or a Class II project then it goes through the full substantial review checklist. Claster feels what Golod did walking through all criteria was instructive because so many don't apply to single-family homes and a single-family home is not typically a Class I or a Class II project. Claster thinks this is something think about when working on the handbook revision. Golod will provide a comment letter along with Substantial Conformance Review to be sent to Damascus Township. A motion by Henry to offer the Damascus Township Floodplain Substantial Conformance Review to the UDC and send the recommendation to NPS was seconded by Peckham and carried unanimously. Richardson suggests that the letter Golod will send along with the Damascus Township Floodplain Substantial Conformance Review go out for review before the full council meeting on Nov. 1.

**Other:** None

**Public Comment:** None

**Adjournment:** A motion by Roeder, seconded by Henry, to adjourn the meeting at 7:55 p.m. was carried.

*Minutes prepared by Ashley Hall-Bagdonas, 11/1/18*