Many towns lack zoning

Four decades on, more than 80 percent of Adirondack municipalities have failed to adopt APA-approved land-use plans.

By Kim Martineau

The town of Franklin tried to implement zoning regulations after the Adirondack Park Agency approved a subdivision on Union Falls Pond.

The APA's land-use rules were intended to create a minimum level of protection for the Park's three million acres of private land. Lands are divided into categories based on how intensively they can be used. Lands with few restrictions are designated Hamlet, where towns and villages have full control over development decisions. The severest restrictions apply to farmland and backcountry lands zoned Rural Use and Resource Management.

Regardless of how strict a town's zoning rules may be, the APA reviews all Class A projects. Typically, these are projects involving wetlands, large subdivisions, single homes on Resource Management land, and projects of regional importance. In contrast, Class B projects tend to be small subdivisions or single-family homes closer to hamlets. Towns with a master plan consistent with APA's rules are allowed to review Class B projects on their own. In towns with no zoning, like Franklin, the APA reviews both Class A and Class B projects. In towns with some zoning, the APA still reviews Class B projects but must dedicate extra time to make sure they meet both APA rules and the town's individual rules. Class B projects accounted for only 10 percent of the 213 projects the APA reviewed last year, but it's time-consuming work.

In a meeting of the Adirondack Park Agency board in November, APA staff floated the idea of allowing towns with some form of zoning to take control of Class B projects. Towns willing to take on the added responsibility would have to pass a local law to do so. Though still an informal proposal, several towns have expressed interest. Environmental groups said they would not be in favor of such towns making decisions on Class B projects.

The APA model for encouraging towns to develop zoning was based loosely on the Cape Cod National Seashore. In the 1960s, the National Park Service gave all towns with newly minted parkland a deadline for developing zoning rules. If the towns failed to pass zoning that met federal standards, the zoning rules would be imposed on them. "We concluded that wouldn't work in the Adirondack Park, so we came up with a default," said Peter Paine, a lawyer in Willimantic who helped write the APA Act.

Fifty years later, it is hard to generalize about...
the towns that have gotten on board. Relatively prosperous, high-growth towns such as Lake George, Bolton, and Webb have APA-approved zoning, but so does sleepy Arietta, where 96 percent of land is state-owned Forest Preserve and the planning board reviews just one or two housing applications a year. Generalizing about the towns with no APA zoning is just as difficult. Higher-growth towns like Keene and North Elba, home of Lake Placid, have declined APA zoning, but so have tiny towns like Dresden, Putnam, and Fort Ann.

While many towns feel less resentment toward the APA today than in the past, most see little benefit in taking on the added cost and responsibility of developing a sophisticated set of land-use rules. The town board in Inlet voted in March to move forward with APA certification of its master plan. But prior to Inlet, Chestertown was the last to seek APA approval—nearly a decade ago. Years of political argument has stymied efforts in the town of Tupper Lake to develop a plan.

An APA-authorized plan is no guarantee that towns will guard their lakeshores and uplands any better than towns with some zoning or none at all. As the agency points out, APA regulations do not ban any uses outright, making it arguably less restrictive than most towns with zoning. Zoning proponents argue that towns are in a position to make better decisions and keep an eye on development. Towns with an approved plan have planning and zoning boards to administer it and at least one part-time code officer to enforce it.

“People think planning takes options away, but it actually protects you, giving you more, not fewer, options,” said Mark Lapping, a professor at the University of Southern Maine who co-wrote The Small Town Planning Handbook. “I believe in this, because it can, and should be, a democratic process that helps local people define and decide what they want to be as a community.”

The APA’s land-use plan was never intended to be the last word on what towns should do with their private lands, said George Davis, an ecologist who helped to write the APA Act. Formulated before GPS and sophisticated mapping technologies, the zoning classifications were painted in broad-brush strokes. The APA hoped that towns would choose to develop their own master plans, in part to reclassify their lands based on their intimate knowledge of the landscape. Armed with more accurate maps, the towns could take greater control of how those lands could be used.

That was a major incentive for Chestertown. An APA-approved plan could ensure that all Rural Use agricultural land was zoned accurately and also give the town greater control over its fate, said Supervisor Fred Monroe, who also heads the Adirondack Park Local Government Review Board. Chestertown spent $100,000 and nearly two decades developing its plan, and even then a change in leadership on the town board was needed to get it approved. The town ultimately reclassified 1,100 acres, placing stricter controls on some lands and looser controls on others. By taking control of Class B projects, Chestertown also streamlined the approval process for most projects. “We could simplify people’s lives,” said Monroe. “Instead of going to the APA and town, [applicants] only had to go to the town.”

Towns without an approved plan leave critical decisions to the APA, an agency stretched thin by budgetary constraints and struggling to oversee a 5.8-million-acre Park from an office in Ray Brook. The shortcomings of this approach are readily apparent. In Putnam, the APA approved the twenty-three-home Royal Anchorage Estates subdivision on Lake George in 1982. By the time the Park Agency has not done a good job of packaging itself in a way that seems palatable.” One case that left a bad taste in his mouth is when the APA demanded that a gazebo and deck built yards away from Lake Pleasant without a proper permit be torn down when the property sold to a new owner. After a local outcry, the APA backed down, he said.

The map shows the type of zoning, if any, adopted by Adirondack towns.

In Willsboro, the give-and-take with the APA has been mostly positive. Before the APA was created in 1971, the town enacted zoning to stop hundreds of tiny lots approved in the 1920s from turning Willsboro Point on Lake Champlain into wall-to-wall cottages. The town updated its rules to make them APA-compatible in 1996, which allowed Willsboro to tap its APA’s legal and planning expertise to limit the expansion of two marinas and a restaurant-motel on the point. The town and APA still disagree at times, as they did recently over how far to set back the Maple Heights subdivision. The APA wanted two hundred feet to protect water quality on Lake Champlain; Willsboro said 150 feet was fine, and because it was a class B project, Willsboro approved the smaller buffer.

Though some towns remain dead-set against zoning on philosophical grounds, many more are seeing its value as their population and tax base grows. H. Bruce Russell, the supervisor of Bellmont, a rural town near the Canadian border, says he would push for zoning if the town had more money. “You have to understand the protection it brings you,” he said. “People think it violates their property rights, but I view it as a protection of everyone’s rights.”