

## MINUTES OF THE LAND USE COMMITTEE 5-4-2011

The meeting was called for 7 pm in the Town Hall. Present were Dedun Ingram (chair), Craig Brooks, Tom Collins, Kathy Flaxman, Linna Barnes (Council liaison), and Dave Walton (Town staff).

Dave Walton was present to discuss his comments on our proposed revisions to section 4-52 of the municipal code.

**Listing of permit requirements:** Dave noted that Section 4-2 lists and clarifies permit requirements, so there is no need to repeat in 4-52.

**Subsurface driveway cuts and associated retaining walls:** In order to better indicate what is not allowed, rather than attempt a definition of 'retaining wall' that would cover all cases, Dave suggested the term "non-vegetative stabilizers". The committee wondered if an interpretation would be adequate to make this distinction, but Dave thought that it was always better to codify if possible. However, Linna suggested that David Podolsky would probably say that we are adding too much to the code.

**Locating plantings along sidewalks etc.:** One of the changes the committee had made in Section 4-52 was to specify that shrubbery, walls, etc. must be set back from the public right-of-way (usually the front property line) by 2 feet. This proposed change greatly simplified the code because it specified one distance and one measuring point, thus eliminating all of the different distances and measuring points currently in the section. But Dave pointed out that, while this was an improvement and much simpler, enforcement would still be difficult. Without a boundary survey, the location of the ROW is not known by the Town and often not by the homeowner either (even though it is their responsibility to know this). Further, at this point many people have nonconforming plantings and while these would be grandfathered in, it is too difficult for the Town to keep track of what was or wasn't there on a given date. . Dave suggested that references to distance from the right-of-way be removed for plantings and that focus be on keeping sidewalks and sightlines clear. Front yard hedges as well as fences, walls, and other non-vegetative items should still be restricted to two feet or more from the public right-of-way. Therefore, because Dave determined that 4-52(a)2 was not enforceable, Dedun moved to scratch it. Craig seconded; passed without dissent. Similarly, 4-52(g)3 regarding front yard hedges was removed on the grounds that 4-52(a)4 covered the necessary restrictions.

**Rear yard walls and earth berms:** Latest revision of 4-52(g) says that no wall, fence or earth berm more than 6'6" in height may be erected in any side or rear yard, and no wall or earth berm may be erected within 2 feet of a side or rear lot line. Dave noted that sometimes retaining walls are needed along a side lot line when a homeowner installs a new driveway. Dedun suggested that if necessary for reasonable grading, a wall or berm could be allowed by variance.

**Safety railings on top of retaining walls or other front-yard structures:** The committee was asked to review how the town should regulate safety railings. Front yard fences are not allowed in the Town, but in some cases safety railings are required by the County. The Town does not want these safety railings

to look like fences. The committee has recommended some language regarding open construction of the railing. Dave noted that if the railing is attached to the wall, the total height of wall plus railing is considered to be the height of the wall for purposes of regulation, but if the railing is set back from the wall (even an inch) then the height of the wall and of the railing are measured separately.

**Allowing projections into (front) setbacks:** The committee continued its consideration of what sorts of projections might be allowed into front, side, or rear setbacks without having a boundary survey done. Dave reported that about 25% of the houses in town have front setbacks less than 25 feet (this means that 25% of houses currently project beyond the minimum front setback by some amount). Some of these have front porches which are allowed to extend 9 feet into the setback (the maximum projection allowed). Another 1/3 of houses have such large front yards that they are entitled to a reduced rear setback; if they have already exercised that reduced rear setback is it fair to now allow them to project into the front setback (this would make the rear of their house nonconforming). The committee discussed the types of projections into a front setback that might be permitted without having a boundary survey done. The following were suggested: stoop, porch/steps, wheelchair ramp, porch covering, bay window, air conditioning unit/heat pump, bay window.

The committee also briefly discussed the issue of the location of generators. The county regulates their location; the Town currently does not but does regulate the location of air conditioners, and heat pumps. Generators may need to be added to the list at 4(f)3. Should the Town require a permit for the installation of generators, air conditioners, and heat pumps? Seems difficult for the Town monitor the location of a/c units because it do not require a permit for their installation. Linna thought that the County does require a permit.

**Further revisions:** Dedun will revise the proposals to incorporate the latest changes. Dave asked that the title of Section 4-52 reflect the order in which the subjects were treated within the section.

The meeting adjourned at 9 pm.