

MEETING OF THE LAND USE COMMITTEE 10-10-2011

The meeting convened at 7 pm in the Town Hall. Present were Dedun Ingram (chair), Craig Brooks, Tom Collins, Kathy Flaxman, Lees Hartman, and Linna Barnes (Council liaison). No members of the public were present.

It was noted that the Parks subcommittee is still officially under our committee. The Elm Street playground remains to be done.

The Town's hearing on our recommended code changes was moved to November. Once they are passed we will have to revise the handbook.

The committee began a consideration of proposed new County zoning ordinances. The Committee was tasked with examining the proposed changes to see which would affect the Town and whether any run counter to the Town's current land use and building practices. If so, can the current building code be modified to prevent unwanted changes?

In general, the County is moving in the direction of promoting greater density Down County. At some point in the future everything within a mile radius of a Metro stop may be rezoned to mixed use. However, at this point, the proposed changes in the County zoning ordinances are less drastic and involve replacement of current zones with new zones and relaxation of regulations concerning accessory apartments and other types of "mixed" housing. The zoning package lacked some of the supporting documents and lacked detail in a number of sections to make it clear to which zones certain sections would apply. Nonetheless, the committee noted several changes that would impact land use and building within the Town:

- A proposal to combine the current R-40 and R-60 zones to form the new RMD-6 (Residential Medium Density). The Town is currently zoned R-60. No changes to the current County setback and height restrictions for R-60 were suggested in the proposed changes. The Town has more restrictive setbacks and height limits than the County.
- Proposed changes in the rules for accessory apartments were noted. Currently any accessory apartment requires a special exception. The proposed regulations allow such apartments by right IF there is no other such apartment on an adjoining property or within a certain radius. The committee found this odd and potentially unfair. Linna thought that it might be an artifact of how duplexes were treated although the reference to duplexes had been removed. The proposed County changes would permit apartments contained within a house as well as apartments contained in an accessory building.
- Proposed changes regarding "boarding" houses were noted. It was unclear whether these would be allowed in the RMD60 zone.
- No mention of duplex or tandem housing or of retail use was noted in the proposed ordinance.

What can the Town regulate? While the Town building code specifies that main structures are to be single-family housing, the Town cannot regulate use. The Town can regulate building specifications and

thus indirectly impact use. Thus, it would appear that the Town cannot prohibit adding an accessory apartment even though this would make a house no longer single-family. The committee discussed the pros and cons of having accessory apartments in the Town. In general, the Committee was not opposed to apartments contained within a house but was more concerned with apartments contained within accessory buildings. Accessory buildings can be located closer to the rear and side property lines than houses and thus an apartment located within one would potentially impact the neighboring property adversely. The Committee was concerned with the potential effect on parking in the Town of either type of apartment (even though the County zoning ordinance requires one off-street parking place for the apartment), which is already a problem. The Committee considered the possibilities of the Town having some regulatory control over apartments by imposing parking space requirements. The Committee discussed the possibility of limiting apartments in accessory buildings by regulating the size of accessory buildings in order to keep them below the legal minimum for a separate residence. If that minimum is 800 sq. ft., we could limit such buildings to 600 sq. ft. We may need to consult David Podolsky for guidelines. Additionally, it may be possible to require increased setbacks for accessory building above a certain size or containing bathrooms, etc. The Committee may need to look at sample properties in the Town to see if placing apartments in accessory building is really possible in the Town given the current setbacks, lot sizes, lot coverage, etc. It may be that the only real issue will be apartments constructed within houses.

It is not known when or whether the County proposals will pass. Linna will ask Pat Burda and Meredith Wellington for information. We also need a copy of the relevant ordinance section.

A question was raised about a house under construction in the Town where elevator mechanicals appear to project through and above the roof. Is this addressed by the current height limits?

Proposed project for the committee: Review what has been built in the Town under changing building regulations and assess the effects. Have the new regulations had the desired effect?

The meeting adjourned at 8:30 pm.

Next meeting is Monday, November 14 at 7 pm.