

## MINUTES OF THE LAND USE COMMITTEE MEETING 12/12/2011

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.

Minutes of the November meeting were approved with minor corrections to grammar and punctuation.

### **Guardrail and handrail regulations**

The committee returned to the question of safety railings on retaining walls. The committee concurred again that the Town should regulate these. The County requires safety railings on new retaining walls 30 inches or more in height that are within 2 feet of a path or driveway on the high side of the wall. The need to revise the committee's previously proposed guardrail regulations arose because a permit was issued for a guardrail along retaining walls in the front yard of a house and the guardrail encloses the entire front yard and has a gate. Thus, it serves de facto as a front-yard fence. The Town does not allow front yard fences, though they can be erected if an administrative variance is obtained. The purpose of the original guardrail regulation was to specify the characteristics of guardrails required by the County to make them as open and low as possible— thus protecting the Town's prohibition on front-yard fences. The installation of the guardrail around an entire front yard (even though no guardrail was required by the County) pointed out the need to rethink the guardrail regulation. The committee agreed that we would propose regulations which would allow guardrails to be installed along existing and new front-yard retaining wells (the portions that are 30 inches or more in height), open stairs with a height of 30 inches or more, and access ramps/wheelchair lifts. The regulations for guardrails along open stairs and handicapped ramps would be treated separately.

After discussion, the following criteria for guardrails on front yard retaining walls were proposed:

- 1) A guardrail can be installed on the portion of the wall that is 30 inches or more in height.
- 2) The railing must meet the following specifications:
  - a) No more than 36 inches high
  - b) Set back at least 2 inches from the top of the wall
  - c) Vertical balusters
  - d) Balusters close to 4 inches apart (County requires less than 4")
  - e) At least 75% fenestration
  - f) No gate
- 3) An administrative variance shall be required in order to ensure that neighbors are notified and have an opportunity to comment. (Front yard fences require an administrative variance and a front-yard guard rail may end up being much like a front-yard fence, so a similar process seems appropriate.).

This proposal was passed without dissent by the committee.

The committee noted that the guardrail regulation should not pertain to railings on front porches. Front porches often project into the front setback and may or may not be 30 inches above the ground. Railings on these porches should continue to be allowed and without obtaining an administrative variance or meeting any height requirement. Thus, the guardrail regulation will have to be worded so it does not affect front porch railings.

Railings on access ramps/wheelchair lifts: The committee noted that the regulation for these should be simpler because access ramps project the minimum necessary into a setback and are clearly limited in location. The following guidelines were proposed and passed without dissent:

- 1) Guardrails shall be allowed on both sides of a ramp.
- 1) As above, guardrails shall be no more than 36" high, with vertical balusters close to just less than 4" apart and have 75% fenestration.
- 2) An administrative variance shall not be required.

Guardrail along open stairs – The committee proposed the following regulation for guardrails on open stairs:

- 1) If the top of a set of stairs is open and more than 30" above the ground, a guard rail may be installed with specifications as above (height no more than 36", open fenestration with vertical balusters close to 4" apart). A permit should be required, but not an administrative variance.

The above proposals will be presented to the Council for consideration at the January meeting.

Hand rails: The committee noted that some railings along steps or walkways are very open and installed to assist with stability or balance only (not to prevent a fall from a height), as compared with guardrails on the open sides of stairways. The following were proposed and passed without dissent:

- 1) If a railing along stairs or walkway is a top rail only, with vertical supports at least 3 feet apart, no permit is necessary for its installation. The top rail should be no more than 36 inches in height.

The above proposals will be presented to the Council for consideration at the January meeting.

### **Rear yard retaining walls**

The committee also returned to consideration of possible regulation of rear yard retaining walls. Currently they cannot be erected within two feet of the rear and side property lines and a given wall can be no more than 6 feet 6 inches in height. They are otherwise unregulated by the Town. If they are more than 6 feet 6 inches high, the County regulates them as accessory structures with respect to setback requirements. Currently, a series of retaining walls could be constructed and a guardrail mounted along the top one, thus creating a huge edifice along an entire rear or side lot line and impacting abutting properties considerably.

Proposal: Place a limit on the total cumulative height of rear/side yard retaining walls and the distance between a series of them. Specifically, rear yard retaining walls shall not total more than 90 inches (7 ½ feet) in height with any individual wall more than 30 inches. And the walls should be spaced

at least 2 feet apart. This would remove the necessity for guard rails. Linna will ask the Council if they wish us to continue to pursue this. Concern is for impact on neighbors of the massively high walls (or series of walls) that would be required in some cases to "level out" a sloping back yard. Leveling of rear yards to an excessive extent runs counter to the Town's historical retention of the natural topography of the land. Also, there is concern that drastically changing the topography of a yard could have numerous and unforeseen negative impacts on neighborhood (water, trees, etc.).

Committee members were asked to look around the Town at possible side yard retaining walls.

The meeting adjourned at 8:50 pm.

Next meeting is Monday, January 9, 2012.