

## MINUTES of the LAND USE COMMITTEE MEETING

5-10-2010

The meeting was called for 7 pm in the Town Hall. Present were Dedun Ingram (chair) ,Craig Brooks, Stephanie Brown (left 8:45), Tom Collins, Lees Hartman, Joel Rubin (8:15), Deborah Vollmer, Linna Barnes (Council liaison), and Dave Walton (Town staff).

Dedun called the meeting to order at 7:10. Minutes of the April 12 meeting were distributed. Tom moved to accept as distributed. Seconded, passed without dissent.

Dave Walton was present to provide input/feedback on the handbook and to speak on the issue of repair/replacement of developmental nonconformities. A question has been raised about whether the current wording of the Town's building code permits replacement of developmental nonconformities by right or only maintenance/repair. The issue arose in the context of decks (at the rear of a house), stoops (at the front of a house), and bay windows (at the side of a house) that were nonconforming and were in such disrepair that the only way to "repair" them was to replace them. If these developmentally non-conforming structures are allowed to be replaced by right, a permit could be issued without the Town requiring a boundary survey, established building line calculation, and a variance hearing, all of which cost the applicant time and money. In some cases, the expense involved in obtaining /filing these documents exceeds the actual replacement cost of the structure. Because of the time and costs associated with these applications, the Town staff wants to ensure that the Town code is being enforced correctly. The Town attorney opined that the replacement of developmental non-conformities for buildings could be allowed under the code; however, applying that interpretation could lead to unintended consequences.

The committee discussed the issue extensively. The consensus at the conclusion of the discussion was that only the replacement of non-conforming structures that are "projections" (decks, stoops, bay windows, chimneys, etc.) should be allowed by right. Given the costs involved and the small size of these replacement projects, this seems reasonable. However, replacement of non-conforming structures that involves walls should not be allowed by right (except in the case of an act of God as already stated in the code). The reason for this distinction is that when a non-conforming house is torn down, the Town wants the new house to be conforming, they do not want a new house to replace it that is also nonconforming. This would indeed be an unintended consequence of the Town attorney's interpretation. The committee recommended that the code be clarified to permit repair/maintenance of structures in general but replacement only of projections

Town code allows existing non-conforming fences, walls and hedges (in the front yard) to be maintained/repared but not to be replaced. Town staff has adopted a policy by which one-third of the material of a fence/wall may be replaced during any given year. This policy has never been formally adopted and Town staff requests that a formal policy be adopted that allows them to distinguish between repair/replacement of fences and walls. The committee found the 1/3 rule reasonable and recommended that the policy be formally adopted.

With respect to the draft of the Additions chapter, Dave was asked for comments and insight on what to include. What sorts of projects come through as "additions" as opposed to external alterations (porches, decks, etc.)?

Dave: The permitting process is the same. The distinction is projects which require a pre-PAC (adding 500 or more square feet on one floor) vs. not. Some examples:

- Mudroom (5x10 feet): an addition but no pre-PAC required.
- Enclosing an existing front porch: an allowable projection might not be allowed to be enclosed if it extends beyond the Existing Building Line. Enclosing additional space might also violate FAR regulations.
- Replacement windows, new siding: do not require a permit from the Town.
- Digging out a basement to increase ceiling height: does require a Town permit.

Dave also noted that residents might need a tree protection plan and/or a water plan even if the proposed project did not otherwise require a Town building permit. Also, many projects that people see as maintenance actually do require Town permits. Dave noted further that people are generally confused by setback requirements. Town staff will calculate setbacks if given measurements from a survey and the EBL.

Craig suggested that the handbook begin with a list of What Do We Regulate? Then get specific by project type. Also the preliminary plan/pre-PAC process needs to be defined, even though it applies only to large additions and teardowns.

Dave provided members with copies of the Building Permit Flowchart from the Town website.

Dedun reminded the committee that we are scheduled to meet in June and July, off in August.

The meeting adjourned at 9:10 pm.