

MEETING OF THE LAND USE COMMITTEE 6-8-09

The meeting was called for 7 pm in the Town meeting room. Present were Donna Kirk (chair), Sue Blacklow, Kathy Flaxman, Lees Hartman, Dedun Ingram, Jim Roy, Joe Rubin, Joel Rubin (8:05), Bruce Russell, Council liaison Linna Barnes (7:40), and guests Deborah Vollmer (resident) and Dave Walton (TCC Permitting and Code Enforcement Manager).

Donna reported that the Town's Volunteer Day had been held on June 7th with a reception at the end of the Garden Tour. The event was a casual, social one and there was not much discussion with residents about the workings of the committee. Donna also noted that the committee has one more meeting scheduled in July, none in August, and the new committee will start in September. Donna and Bruce are retiring from the committee.

Proposal for a survey of Town rights-of-way: The Town Manager has said that he sees no financial benefit to doing this. We had heard otherwise from the Town engineers. Also if the Town is going to regulate things like front lot coverage, we will need to know where the right-of-way is. We can still recommend the survey and let the Council decide. We may want to send the Manager a memo outlining what we see as the advantages of doing the survey.

Deborah Vollmer said that she was visiting the committee in part because it was one of the ones that she was considering volunteering for, and also because she had specific issues that she wanted to address to the committee. She listed her issues as:

- The house next to hers has been bought by people who want to replace it with a larger house, and she expects her use of the shared driveway to be impaired. The building code does not address the issue of shared driveways.
- Historic preservation.
- Possible use of Town funds to purchase at-risk houses and rent them out to people (teachers, policemen) who otherwise could not afford to live in the Town.

The committee noted that it does not choose the issues that it works on, but receives its mandate from the Council.

The notes of the May committee meeting were approved with two small changes.

Dave Walton was present to offer comments on the committee's memo to the Council. With respect to recommended changes to the 35% front lot coverage ordinance, and simplification of the variance process:

1. Requiring permits for all front-yard surface improvements could greatly increase the number of permit requests that the staff has to deal with. Bruce pointed out that this is the cost if the Town wants to regulate this; otherwise the ordinance is unenforceable.
2. Distinction drawn between a side bumpout and an articulated front façade: He showed a house on 44th St. that seems to violate the definition. We may need to accept a few odd cases as outliers rather than attempt to capture every possible case.
3. With regard to the "architectural front": How is the 35% rule to be applied on corner lots? Linna said that the intent of the Council was that the rule be applied to only one front, although for most purposes corner lots are considered to have two fronts. Dave referenced a new house proposed for the corner of Willow and 44th St. where the address is 7200 44th St. but the new house appears to face Willow (front door and lead walk). He did note that an address can be changed by petition to the Park and Planning Commission. "Architectural

- front” may need to be further defined as it determines which side of the house is to be regulated. –Bruce noted that when the staff determines that code language is inadequate for enforcement, they should ask the Town Council to clarify.
4. Current regulations say that no driveway can be more than ten feet wide in front of the front wall of the house. There may be an issue with side-loading garages in a front projection. (The outlying house referenced in (2) is such a case.) This is related to the issue of what part of the yard is subject to the 35% rule. More clarification may be needed to make this consistent.
 5. Are covered porches part of the front façade? What about open porches? What about the steps up to a porch? Donna: All are to be considered uncovered (unpaved, green) parts of the yard.
 6. Administering the 35% rule as part of the permitting process: Bruce indicated that the percent of coverage should be considered for permitting of walks and driveways, and this is why they have to require permits. Dave: There are currently no zoning standards for lead walks or front patios so there is no variance process. If the variance would be for violation of the 35% rule, then the permit would be for adding to the front covered surface area?
 7. Replacement-in-kind of lead walks etc.: The language of the committee’s memo is “pre-approved under a variance”—not sure what this would mean. This may not have been the committee’s original language, but the intent was to make certain things automatically approved. Could we have a simplified permit process? Dave noted that this could be similar to replacement fences: the Town requires a permit (the County does not) but the process is simplified. Suggested language: “Replacement of lead walks and driveways shall be allowed. This shall include upgrading to 10-foot-wide driveway and 3-foot-wide lead walk.”

Attachments 2 (rear yard setbacks/remediating the “donut hole”) and 3 (rear yard setbacks with unequal side lot lines): Dave had no questions or comments on these recommendations.

Comments on Attachment 4:

1. Grandfathering of FAR regulations—okay.
2. Permits for “right-of-way disturbances”: The code does not define these. Fences, hedges, berms, and dumpster placement are the only things mentioned. When a permit is applied for, if a potential disturbance is not specifically mentioned, it is not always clear whether to approve the permit or not. Bruce: We need to specifically mention the right-of-way and disturbances thereto. Language regarding a Right-of-way Usage License should be added to the code.

Side-yard and rear-yard setback variances: The committee offered new language for the memo’s recommendation that variances for construction of a second floor over an existing non-conforming first floor be dealt with administratively. Dave noted that the only difference with an administrative variance rather than the normal process is that it can be granted without a hearing if there is no objection raised. He expressed concern that the basis for approval can be difficult to articulate and there is some concern for the legal ramifications when there is no Council vote. Joe asked why we could not follow the County in granting such variances subject to other zoning criteria. . Possible replacement language: “allowed by right subject to administrative interpretation.” Dave: The Town does allow building over a non-conforming front. When this was approved, side and rear were not included probably because these potentially encroach more on neighbors. There is concern that if this were allowed by right, more people would start doing it. –Since only four out of 25 setback variance applications involved this issue only, the consensus of the committee was that there was insufficient reason to make a change, and the code language should be left as it is.

Dave also said that he had some housekeeping changes to the code to suggest. For example: The Town defines lot coverage but does not regulate it. New County regulations have changed the definition. He suggests that we remove our definition as not needed. Linna asked him to send his suggestions to the committee for consideration.

Next (and last) meeting: Monday, July 6th.

The meeting adjourned at 9:50 pm.