

Minutes
LARGE HOUSE REVIEW STUDY COMMITTEE
Thursday December 18, 2014 8:00 AM
Charles River Room PSAB

Members Present: Elizabeth Grimes, Mark Gluesing, Imogene Hatch, Jeanne McKnight, Gary Lesanto, Gary Kaufman, Jon Schneider, Jeff Kristeller, Jeff Heller, Krista McFadden, Lindsay Acomb; and Lee Newman, David Roche, Karen Sunnarborg, Alexandra Clee, and Anthony Del Gaizo, staff.

Not Present: Marianne Cooley.

The meeting was opened by Committee Chairperson, Elizabeth Grimes, at approximately 8:10 a.m. Ms. Grimes asked if there were comments or questions on the minutes from the November 7, 2014 meeting. The Committee voted unanimously to approve the minutes of the November 7, 2014 meeting of the Large House Review Study Committee, after three typos were corrected.

Ms. Grimes updated the Committee on her update of the Committee's work to the Board of Selectmen. The Selectmen were on the same page about tackling the smaller issues now and continuing to study the larger issue. Mr. Heller added that the Selectmen were appreciative and supportive of the issues, yet sensitive to how it would be perceived, as well as the community response.

Mr. Heller asked that the Committee receive materials further in advance of meetings. Staff and Ms. Grimes agreed to this. Ms. Acomb asked if the Committee hoped to move all of the proposed zoning changes to Town Meeting in the spring. Ms. Newman stated that the goal is to see what the Committee feels is ready to go forward, but that the fall would be when the main zoning would be presented. She clarified that the Town is starting to move toward allowing zoning to be considered at both spring and fall Town Meetings.

Mr. Gluesing referenced a memorandum from Ms. Newman which explains the draft zoning amendment proposals. The first item listed in the memo is Retaining Walls. Mr. Schneider noted that the way this works in town now can be problematic. If the wall exceeds 100 square feet, it is considered a structure, which means it must meet the setback requirements. It can only get excluded when it's on the boundary. There are circumstances where such a retaining wall makes sense that is not on the boundary. There is not special permit to allow it. That's what the proposed language would allow.

Mr. Gluesing said that the proposal would amend the definition of structure and include an exception for retaining walls. The working group also talked about what a reasonable retaining wall size is. The proposal allows sloping sites to have garages underneath, at street grade. He explained the stepping and terracing of retaining walls, which the zoning encourages. By right, walls less than 6 feet would be allowed. Multiple walls, closer together would need a special

permit. After 6 feet, the Design Review Board approves the wall. Walls over 12 feet would need a special permit from the Zoning Board of Appeals, in addition to the Design Review Board review. The proposed zoning also includes a provision that after 6 feet, the Building Inspector has the authority to require some type of “fall protection,” meaning something to stop someone from falling off of the wall. Terracing is also further described in the proposed zoning.

Mr. Schneider stated he has a problem with the last section of the special permit criteria, which states “that the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.” He stated this is almost never the case. Usually there is some workaround. A lot of retaining walls are for convenience or architectural quality, rather than being absolutely necessary. Ms. Grimes suggested they remove that sentence.

Ms. Hatch asked the Committee if they are worried about walls that are not retaining, such as barrier walls. Mr. Roche said boundary walls are not usually an issue. He is more concerned with retaining walls versus more decorative boundary walls. Mr. Schneider said he would like to see a criterion in the special permit criteria section that addresses the drainage.

Mr. Lesanto noted that the draft says that a building permit would be required for walls of more than 4 feet. He did not remember the working group agreeing on this. Mr. Gluesing stated they will fix that. Mr. Roche said that there’s a catch-all requirement under the building code, but it doesn’t mean an engineering plan needs to be submitted. It comes back to the fall protection issue. Mr. Lesanto said he’d like to see language in the zoning that allows for landscaping to be a viable option for fall protection, and not necessarily at the sole discretion of the building inspector. Mr. Kristeller asked for clarification – anytime there’s a building permit of 4 feet or greater, a building permit is needed, regardless of location? Mr. Roche said if it’s a retaining wall, then yes, if it’s a boundary wall, he doesn’t see the jurisdiction.

Ms. Hatch said that the Committee should think about the height at which fall protection should be required.

Mr. Kristeller asked if retaining walls will be subject to setbacks. Mr. Roche said they should be clear in the zoning on what the intent is. Since the retaining wall already addresses the setbacks and terracing, it should be exempt from the other zoning setback requirements.

Mr. Lesanto said that in Section 6.11.3, it should be clarified that it’s an *average* height of 6 feet with a maximum of 7 feet.

Ms. Grimes asked the Committee if they feel it should be worked on further to perfect and bring to Town Meeting in the spring. The Committee agreed. Ms. Newman said the deadline is around the third week of January. Mr. Schneider said if it could be simpler, it would be better. Mr. Kaufman asked if there will be any public hearing. Ms. Newman replied that any article the Committee moves forward on would have a public hearing with the Planning Board. Ms. Hatch encouraged the Committee to think about the height. She feels 6 feet is a tall wall and 4 feet is better. Additionally, she thinks the fall height could be lowered to about 4 feet. For public land, Federal Law requires that fall protection be provided at a height of 30 inches. Ms. McKnight noted that the fall protection is something that Town Meeting might focus on, so they should

have pictures or diagrams.

Ms. McKnight stated that walls at the front of a property perhaps shouldn't be as high. Ms. Newman confirmed that the proposed zoning allows for the 7 foot wall in the front. Mr. Heller said he would not want to limit it too much because some lots might need it in certain circumstances. Mr. Gluesing said they can explore the front retaining wall issue. Mr. Schneider agreed that a 6 foot wall in the front of the house can be very ugly.

Ms. Grimes introduced item number 3 in the memo, which is Half Story and Dormers. Ms. Newman explained that currently the rule in Needham allows for a dormer in the half story above the second floor provided that the length of the dormer does not exceed 30% of the eave length in which the dormer is placed. The rule has created some design problems. Mr. Gluesing explained the design issues. The way it is written means that any shift in the wall below or the roof line created a different section of roof, so 30% of each different section would make the dormer be very small. The change would be to look at the width of the story below and then the dormer width would not be able to exceed 40% of that length, and each dormer would not be allowed to exceed 20 feet in width. Additionally, the dormer would have to be set in 3 feet from the end of the building line and that it cannot be a flat horizontal plane to look like a third story. Ms. Hatch clarified that it comes into effect both in new construction and renovation.

Mr. Kristeller asked if there's an exclusion for gables. As it's written, it is not excluded. Mr. Gluesing is concerned that adding that exclusion would take it back to where it was that didn't work. Mr. Kristeller said they should be clear that it's the eave line they're measuring. They will take a look at it.

Mr. Schneider asked why the section is limited to single and two family dwellings. There are a reasonable number of three families in town. Ms. McKnight said nowhere in town are three families allowed by right. He does not see the purpose for why it's limited. Ms. Newman said you want to regulate the nonconforming structure.

The Committee is comfortable moving this article forward to Town Meeting.

Ms. Grimes introduced item number 5 in the memo, which is Grading and Drainage Review. Ms. Newman invited Anthony Del Gaizo, Town Engineer, to the meeting to discuss stormwater in town. Mr. Del Gaizo gave the Committee the background. He stated that the Town is under two basic requirements: one is called the Memorandum of Understanding (MOU) with the Environmental Protection Agency (EPA) that the Town signed in 1996; the other one is National Pollutant Discharge Elimination System (NPDES). The Town is required to clean rain water that falls on the ground and has to require a certain amount of infiltration. NPDES requirement came out in 2003; it was a 5 year permit. They are now getting around to creating the next permit. The EPA is anticipating implementation of the new requirements in 2016. Needham is currently broken up into four watershed areas. It is going to be increased to between 12 and 15 watershed areas, which will allow the town to better control the quality of the stormwater and the infiltration etc. In order to do that, they need to identify those areas of town where there's sand or gravel, deposits, where the water table is deeper, that they can infiltrate or require homeowners to infiltrate. The drainage system that carries water away from the street is designed mostly, in

Needham, for a 10 year storm, which is 4.7 inches of rainfall over a 24 hour period. This has been exceeded multiple times over the past decade. Large homes have contributed. All of the water ends up going out to street, or to the neighbor and then out to street, when it has less space to infiltrate.

Last year Town Meeting approved the creation of a Watershed Management Plan, which will identify which areas in town can be infiltrated. The second piece is the Small Diameter Drain program, which is when people have sump pumps or down spouts (water that they need to get rid of that is no sewage), the town allows connection to its drain system through a small plastic pipe. That water goes directly to the drainage system, as opposed to on the ground or to abutters or to the street. The third part is when there's nothing that can be done on an individual lot, for example, it's built on ledge or wetland, in those areas they could contribute to a fund which would allow the Town to construct a common infiltration area somewhere that is conducive to infiltration. The project should be completed before the end of 2015. Each of the Watershed areas would have its own solution.

The new NPDES permit will require removal of phosphorus. Needham will be required to remove 45% of the phosphorus; it's a monumental task.

The study should be complete by the end of 2015. By that time, they are anticipating some level of requirement to produce the next NPDES permit. The permit will require the town to comply with the above-stated items. One of the things that is being pushed, under the draft, is for a stormwater by-law. Needham can currently do what it needs to do, but it's under multiple sources (such as Decisions, Street permits, building permits). The general by-law would put all of the requirements in one spot. That by-law wouldn't be created until 2016.

Ms. Grimes said that the background helps the Committee understand what the Town is doing and that some of the programs are a few years down the line. Ms. Newman said staff in town has been discussing providing an interim measure that would allow the Building Inspector to require a topographic plan when someone is regrading their lot. He would also have the authority to deny the permit until any issue is resolved.

Mr. Roche said that people sometimes pump their sump pumps into the sewer lines, which is problematic, expensive and illegal. He said he wants to know where homes are disposing the water. Mr. Lesanto asked if the first priority is to go into the town drainage system. Mr. Del Gaizo said the first preference would be to infiltrate the roof water if the soil allows for that. The second preference would be to extend a small diameter drain. The third preference would be to contribute to a fund for the town. This proposal would allow the Building Inspector to require infiltration or connection to a drain system to prevent the builder from discharging water either to the street or to adjacent properties.

Ms. McKnight asked if there is a permit for when someone wants to add flow to the Town's drainage system. Mr. Del Gaizo said the DPW issues a Drain Connection Permit.

Mr. Kristeller asked how many properties this would affect in this interim step. Mr. Roche stated they see about 100 homes a year and also includes renovations. Ms. Hatch clarified that this

regulation would also apply to any regarding, including landscape projects. Mr. Schneider said that landscaping projects wouldn't trigger it if they don't need a building permit.

Mr. Kaufman asked why the general law does not cover this already. Mr. Roche said that is after-the-fact and they are trying to get at it before it happens. Mr. Del Gaizo added that it is considered a dispute between private parties and must be dealt with civilly, and not a Town enforcement.

Ms. Grimes asked if the Committee is interested in moving this subject along. Mr. Heller said he thinks it is a priority for the Committee.

Mr. Kaufman said the newer homes have 3 or 4 feet of crushed stone under the house that the older homes didn't have. He said he's in favor of working on this because he doesn't believe it is always the fault of new construction.

Ms. Hatch stated that the by-law should talk about erosion control during construction. Mr. Schneider thinks it should include statement that the Building Inspector can require a plan and can also require infiltration. It should be clear where it could go, and not just a black hole of options depending on what the Building Inspector decides. Ms. Newman said additional detail can be added.

Mr. Kristeller said there should be guidance for anyone who wants to do work on their home or build a new home. It should be specific. Mr. Roche said specificity helps them enforce it too.

Ms. Hatch asked if there is interest in incentivizing, like tax breaks for adding dry wells or other infiltration. Mr. Del Gaizo said it was a good idea. Mr. Kaufman agreed.

Ms. McKnight asked what the timing is the stormwater regulation. Ms. Newman said she hopes to bring it to spring Town Meeting.

The working group will meet January 9, 2015 at 8:30 a.m.

Wrap up – The next meeting is January 22, 2015 at 8:00 a.m. The meeting adjourned at approximately 9:40 a.m.