

***Town Council Ordinance Committee  
February 25, 2014 at 6:00 PM  
Town Council Chambers***

Present: Chairman Kenneth DiFazio  
Councilor Michael Smart  
Councilor Jane Hackett  
Councilor Arthur Mathews  
Councilor Patrick O'Connor

Also Present: William McKinney, Chief Financial Officer  
James Clarke, Director of Planning and Community Development  
Abigail McCabe, Principal Planner  
Richard McLeod, Chair-Zoning Board of Appeals

Chairman DiFazio called the Town Council Ordinance Committee Meeting to order at 6:05 PM.

**13 127-Amendment to the Zoning Ordinance-“Exceptions by Board of Zoning Appeals” Section**

The Chairman noted that measure number 13 127 was referred to the Ordinance Committee on November 12, 2013; a joint public hearing with the Planning Board was held on December 16, 2013; and the Ordinance Committee met on November 27, 2014. These all occurred under the prior Ordinance Committee Chair. Chairman DiFazio noted that the following documents were distributed to all committee members:

- Zoning Board of Appeals minutes of September 18, 2013
- Zoning Board of Appeals minutes of October 2, 2013
- Zoning Board of Appeals minutes of October 16, 2013
- Zoning Board of Appeals minutes of December 4, 2013
- Ordinance Committee meeting minutes of December 16, 2013
- Town Council meeting minutes of December 16, 2013
- Correspondence from Tom Tanner dated December 10, 2013 and January 16, 2014
- Planning Boards recommendation dated January 8, 2014.

Mr. Clarke, Ms. McCabe and Mr. McLeod approached the committee and Chairman DiFazio asked that they kindly review the history for the benefit of the newly formed Ordinance Committee. Mr. Clarke expressed his concerns with the letters from Mr. Tanner--since they came in after the public hearing, they shouldn't be considered part of the record. Chairman DiFazio noted for the record that the letters not be considered part of the record.

Mr. Clarke reviewed the code of ordinance section 120-53- which allows for an applicant to submit for a special permit if the surrounding neighborhood dictates so. Minimum lot requirements were established in 1955, amendments were made in 1965 and zoning was adopted by the town in 1969. In 1997, 25k square feet was the minimum established lot size.

Mr. McLeod stated, as Chair of the Zoning Board of Appeals for the last 14 years, that this has always been a grey area and lots can only be defined by looking at surrounding lots and ascertaining at what point neighborhoods begin and end. He raised this issue many years ago; citing his concern for the need to set parameters as it causes contest by abutters. Mr. McLeod agrees for the need to be consistent and clarify ambiguity with abutters. He further noted that the public claims the town is building on every

inch of space. He is requesting that the Council set parameters which establish necessary criteria-he further noted that this would not preclude variance requests.

Mr. Clarke stated the detail of the proposed criteria:

Must be in existence as of December 1, 2013  
Must be 40k square feet to be subdivided  
Must meet frontage requirements

Ms. McCabe reviewed the measure-the Planning Board submitted on January 8, 2014, and recommended by a unanimous vote on January 7, 2014 for favorable action under the premise that this ordinance change establish a specific criteria where none exists today. The Planning Board agrees with consistency and noted that this proposed change is also consistent with the master plan. Ms. McCabe stated that this does not prohibit the variance route ,only the special permit process, and intends to protect open space.

Councilor O'Connor arrives here.

Chairman DiFazio asked for an explanation of the variance option. Ms. McCabe stated that it is included in the bylaws and the applicant must demonstrate hardship resultant from topography of lot or soil conditions. It was noted that the town's zoning variance mirrors the state requirements

Chairman DiFazio asked the meaning of "shall meet frontage requirements". It was stated that this means 40 feet of frontage minimum when subdividing a lot.

Councilor Smart asked if they could put a radius on what is a similar lot delineation. Mr. McLeod stated that residents would use the assessors map to their advantage.

Mr. Clarke noted that the Planning Board is comfortable in determining the composition of a neighborhood.

Chairman DiFazio summarized and asked if it is fair to say that this ordinance revision will limit building on small lots. Mr. Clarke concurred and further noted that an additional benefit is that residential density will not increase in family neighborhoods.

Councilor Mathews asked if any constituents have contacted the Planning Department since the public hearing on this measure, as to concerns that their lot would be effected? Mr. Clarke stated no but noted that there is one issue before the Zoning Board of Appeals, but he can't divulge the details as the case is currently under review. Mr. McLeod noted that the applicant respected that this is pending a vote and didn't rush the case through.

Chairman DiFazio believes this effects many people-noting the need to reach the variance threshold and Mr. Clarke doesn't agree as he feels that the town should raise the threshold.

Mr. McLeod offered that if the committee doesn't agree with the ordinance revision, he would be open to a suggested minimum lot size such that the Zoning Board of Appeals has guidelines and appearances of favoring one applicant over another would dissipate.

Chairman DiFazio asked what the disadvantage for Zoning Board of Appeals is if minimums were set to 30 k and 15k for example.

Mr. Clarke reminded the committee members that the town has decided that 25k is the minimum square footage by town meeting votes in 1985 and 1997, therefore exceptions shouldn't be taken lightly.

Councilor O'Connor supports this measure noting Meredith Way, Central Street to ensure residents protection he agrees wholeheartedly with Mr. McLeod in that consistency and guidelines are necessary and he believes in slowing down residential building so town services aren't impacted.

Chairman DiFazio asked his members if they had an appetite for another meeting or would like to proceed with a vote this evening.

Councilor Smart motioned for favorable action on measure number 13 127, motion seconded by Councilor O'Connor and voted unanimously

#### **14 007-Ordinance Change-Section 5-101-Written Contracts Amendment**

Mr. McKinney presented in request that the written contract amount be raised from \$5,000 to \$10,000. Legislature increased the amount and this is to be consistent with them.

Councilor Smart motioned for favorable action on measure number 14 007-Ordinance Change to Section 5-101-Written Contracts Amendment, motion seconded by Councilor O'Connor and voted unanimously

With no further business to attend to, Councilor Smart motioned to adjourn at 6:55PM-motion seconded by Councilor O'Connor and voted unanimously.

Respectfully Submitted by Diane T. Hachey as Recording Secretary

Approved by Councilor Kenneth DiFazio, Chairman of the Ordinance Committee

Voted unanimously on 7 April 2014.