

Monthly Work Session
Board of Trustees
May 24, 2022 10:00am Village Hall

Present: Mayor Sander, Dep. Mayor Skilbred, Tr. Abraham, Tr. Diat, Tr. Fiore Clerk/Treasurer Tuohy, Billy Hajek, Village Environmental Consultant.

Mayor Sander opened the meeting at 10:00 am, then called for the Pledge of Allegiance. He then stated that there has been lots of discussion in keeping these work sessions to an hour. We should stay on topic and define action plans.

75 Foot Setback

Tr. Diat stated that after the last meeting there was some uneasy feelings about grandfathering existing structures that were already within a 75-foot setback area. Billy Hajek has been involved with the drafting of this proposed code change and has been involved with the historical discussions that have taken place with the planning board.

Following the draft submitted (attached to these minutes) – Tr. Diat read 163-22 – A. She asked if we can agree on this first point. Mayor Sander asked – what is the definition of a wetland. Billy Hajek stated that to be considered a wetland, three factors must be present:

- 1 – hydrology
- 2 - hydrophytic vegetation
- 3 – soil type

He then proceeded to inform the Board that these are the national guidelines and gave several examples of how these guidelines are used to determine where a wetland is. Mayor Sander used a description of his property to see if he could relate what Billy Hajek described as wetland to his property. Tr. Fiore asked if there are any properties that were not classified as wetland 10 years ago, but are now wetlands. Billy Hajek stated that it would take generations for that transition to occur. Wetlands don't move that dramatically. Mayor Sander inquired about patios. Are they structures-even if they are set in sand? For the purpose of this code, and all codes they are structures and would not be allowed in wetlands. Tr. Diat asked the following: You can repair, maintain a structure, as long as it doesn't exceed 50% of the replacement cost but you can't enlarge, reconstruct install or build new. Clerk/Treasurer Tuohy inquired about the difference between reconstruct and repair. Tr. Diat read the definition from the draft. (Attached) Tr. Fiore questions the 50% rule. He feels it is arbitrary. Billy Hajek stated it isn't arbitrary. It is in the code and is used by FEMA. This is modeled after the FEMA code. Tr. Fiore asked how many times this has happened in the Village. He does not know. That question would have to be answered by the Building Inspector. (George.) To his knowledge there are some boathouses, cottages, patios that are already in wetlands. Mayor Sander inquired about a specific resident's little bridge over water on her property. What is that bridge considered – is it a structure – a dock? Tr. Diat stated that there would be exceptions to this code. Docks, elevated walkway and stairways. Mayor Sander/Tr. Fiore questioned – who determines the replacement cost. Dep Mayor Skilbred asked if they had a permit to install in the first place, why do they need one to repair. Billy Hajek stated that you would want a permit so you can make sure that they are using the correct materials. Tr. Diat at this point stated that this point can be investigated and discussed at a later time. At this point all were in favor of 163-22 Item A.

Tr. Diat then jumped down to 163-23 Coastal Setbacks. She read from the draft. (Attached.) Mayor Sander asked if a beach would be in a wetland. It could. Tr. Diat stated that there are a few structures that may already exist on a beach, dune, bluff or seaward of a bluff line or dune crest. Mayor Sander asked – these would be ok as long as they don't want to reconstruct or replace. Tr. Abraham asked about the Perry property. Tr. Fiore stated that it would benefit owners to maintain, repair their existing structures. Billy Hajek stated – would you want such a structure there in the first place – if it is destroyed it would be a safety issue. What if a structure is wiped out by a Hurricane Sandy – can they rebuild? Based on proposed code – No. Tr. Fiore asked – how did such a structure get there in the first place. Billy Hajek stated – illegal preexisting. Tr. Fiore – nonconforming – preexisting. Billy Hajek stated that is pretty standard language. It mimics what other municipalities are

doing. Tr. Fiore stated that if another storm of the century comes you are out of luck unless you go to the zoning board. All are good with 163-23 Item A.

163-22 Item B. TR Diat read from draft. (Attached.) She eliminated structurally altered. This was the area where more flexibility with preexisting structures was discussed last meeting. Mayor Sander question what can be done to a house where some of the existing structure is within a 75-foot setback and the remaining portion is not. The portion of the house within the 75 setbacks cannot be touched unless a variance is obtained from the zoning board. Mayor Sander again used his house as an example to understand proposed code change. Mayor Sander suggested that guidance should be given to the zba/planning board. Billy Hajek stated that the ZBA already has their 5 points that address all issues and gave a brief description of how it works. Tr. Diat stated there are a good number of residents who will be impacted by this code change. Most are accessory structures. If someone wanted to replace a pool – which is more than 50% of replacement cost, they most likely couldn't unless they receive a variance from the Zoning Board. Both Tr. Diat and Fiore agreed that they don't know how likely the ZBA would be to give such a variance. Tr. Fiore asked a question – using a diagram – showing a house and pool preexisting within a 75-foot setback. If the pool was damaged – would that resident be able to replace the pool – if the property was in Bay Haven – most likely not. Property value would decrease. How much pain would we be putting these people through? One should be able to replace what was already there. Billy Hajek asked what happens if the hypothetical storm is three times worse than Sandy -what if the property is now beach and can't support a pool? Circumstances change. Mayor Sander did not agree with the statement – that if it was ok then it is ok now. Tr. Diat stated we need to determine the correct language in the code. The ZBA will act on what is in the code. Mayor Sander – if there is a really severe storm – if one had to spend 50% - will I be able to have a pool. He also stated that structures were built in the past that were environmentally wrong – we should not allow anything to be rebuilt if environmental harmful. Billy Hajek stated that this is the case that would be presented to the ZBA by the applicant. Tr. Diat – summarized based on the conversation that preexisting nonconforming should be allowed replaced as long as you don't add to the nonconformance or impact the environment in a more harmful manner. Billy Hajek – said be carefully about the language regarding the impact on the environment – that would be hard to measure-it could be a standard. He is ok with not increasing the degree of nonconformity. Tr. Abraham stated that most would rebuild with modern improvements.

TR Diat – This will be difficult for Bay Haven but we agreed that we will be rezoning Bay Haven at a future time. Mayor Sander questioned if undeveloped lots could be impacted by this new code. Billy Hajek stated that the current clearing code already states that you can't build within 75 feet. A discussion took place. It was determined that there weren't that many lots this would apply for. A few examples were discussed.

Clerk/Treasurer Tuohy asked can your 75-foot setback be the same as your 75-foot buffer. It could, but not always.

Billy Hajek left the meeting at this time (10:47am).

Playground Equipment

Resolution presented to purchase the equipment that was discussed at the BOT meeting on May 17.

Motion by Dep Mayor Skilbred, seconded by Tr Fiore to purchase the playground equipment that was presented at the May 17 meeting. The total amount is \$13,250.20. The resolution (Attached) authorizes the Mayor to sign the agreement and stated that the expense will come out of the Parks & Recreation Fund. All were in favor.

Dark Skies

Tr. Abraham started by saying that North Haven does not currently have a dark skies code. He, and Dep Mayor Skilbred developed the proposed code (Attached) by using the Town of Southampton and the Village of Sag Harbor respective codes. The main focus is to prevent excessive lighting on properties that can affect neighboring property. Limit the time lights can be on. Excessive lighting can cause hazards for both the local wildlife as well as humans – motorists, neighbors, etc.

Tr. Fiore inquired if there is a wattage limit. TR Abraham stated there is a limit and lights must be shielded. There is also an hour limit. A discussion took place with a few examples of houses in the Village that have excessive lighting. TR Abraham stated that there are several quick fixes that homeowners can install to come into compliance with the proposed code.

Dock lighting was discussed. Tr Fiore and Tr Abraham discussed different type of lights.

Questions – Tr Fiore liked the time limit for lights to remain on. He quoted that the planning board code currently has a statement “Outdoor lighting must be shielded and must not shine into the road or a neighbor’s property”. He suggested that the code be simple. He suggested that a simple statement – All lighting must be shielded as to not shine onto the roads or a neighbor’s property. Mayor Sander inquired if a permit was needed to install outdoor lighting. This was discussed. Most lighting plans are included in new building permits. Tr Abraham stated that a resident would most likely not be able to have landscape lighting if our lighting codes was what is just stated in the planning board code. Tr Fiore stated that we can add to the simple statement but is against a 9 page lighting code. He also feels that everyone who already has lighting should be grandfathered. He appreciated the work done in drafting the proposed code. Code Enforcement shouldn’t have to go around a measure the wattage on lights and angles. Tr. Abraham stated that they drafted based on the codes from the Town of Southampton and the Village of Sag Harbor. It is a safety issue.

Mayor Sander – 90% of the people in the Village won’t even know this code will be adopted. If he goes to sell his house 2 years down the road – will he be able to sell his house. Would he be able to get a CO. What will it cost to come into code? How does George determine if the lighting is within code? A discussion took place as to the purpose of lighting – is lighting used for protection or is it harmful? Tr Fiore agrees there should be a code – but it is too overwhelming. Mayor stated in the 14 years he only had one complaint regarding lighting. Maybe this code should be the new standard – preexisting should consider the modifications. If complaints are lodged against a preexisting nonconforming house – then they will have to comply to the new code. Tr Abraham stated that there are houses on his street that have excessive lighting. Dep Mayor Skilbred stated there was a house across the creek from her that has flood lights.

Tr Diat – stated that 67% residents stated that lighting is a concern. Mayor Sander is concerned how to get out the word on the new code if adopted. Advertise. Send postcards – pamphlets.

Tr Abraham – compared to the Towns and Sag Harbors codes this proposed code is a mild. Mayor Sander - How do you manage it? De Mayor Skilbred – we know that all won’t be compliant, but by having a code on the books, maybe some will. Mayor Sander – we police this by the CO.

Tr Diat – The proposed code is a good piece of work. We do need to do something – we only have a couple of phrases. First issue – dock code states no improvement with lights. Lights on docks should not be addressed in this code. We should be consistent with the dock code. Tr Fiore – questions safety concerns on docks. Tr Diat neighbors take portable lights with them. Tr Fiore – what is the offense factor. Tr Diat – looks like a airport runway. Solar lights are on year-round. Dep Mayor Skilbred – we always have code enforcement issues. Tr Diat – pole lights. These lights are upward facing. Mayor Sander – keeps garage lights on until they get home at night. Trs Fiore and Abraham both stated – the lights should be shielded. What about lighting that can’t be shielded? Tr Abraham - allow two lights at entrance/garage that don’t conform. A discussion took place.

Mayor Sander suggestion – preexisting – nonconforming houses are only grandfathered as long as no complaints are lodged.

Tr Diat – we still need to encourage people to comply. New construction will have to comply.

Tr Abraham and Dep Mayor Sander will work on changes.

RENTAL CODE

Mayor Sander thinks there is a conflict in rental code regarding short term rentals. Code says no transient rentals - but code also says they can have two rentals per month. After a discussion – it was decided that no rental will be less than 3 days – then no more than two rentals per month. We are controlling the turnover. Tr Diat – this will be impossible to enforce. Mayor Sander – you can only enforce the properties that are causing a problem. Turnover is an issue. Tr Fiore – only two rentals per month with a minimum of 3 days. Mayor Sander – length of rental not the issue – it the disturbances that cause the issue. Tr Diat – how will three days solve the problem. Take transient definition out – limit to the number of rentals to two per month. Mayor Sander – the disturbances are the real issue.

Motion to go into executive session at 11:30am to discuss personnel made by Tr. Fiore, seconded by Dep Mayor Skilbred. All in favor.

Motion to come out of executive session at 11:45am by Tr. Fiore, seconded by Mayor Sander. All in favor. No action was taken during executive session.

Future Meetings

The next meeting of the BOT is Wednesday, June 22, 2022 at 5:00pm at Village Hall. The next work session will be on Tuesday, June 28, 2022 at 10:00am. Both meetings will take place at Village Hall.

ADJOURNMENT -

Eileen M Tuohy
Clerk/Treasurer