

MEETING NOTICE

Village of Scarsdale

A meeting of the Land Use Committee of the Board of Trustees of the Village of Scarsdale has been scheduled for Tuesday, June 12, 2018 at 6:30 PM. The meeting will be held in the Trustees Room which is located on the 2nd floor in Village Hall.

Agenda

1. Priority Land Use Items

CS: 5-24-18

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Village of Scarsdale



Memorandum

Village Manager's Office

To: Stephen M. Pappalardo, Village Manager
From: Rob Cole, Deputy Village Manager
Date: May 25, 2018
Re: Land Use Board Discussion Action Items

As a follow-up to the November 2017 Land Use Committee meeting, staff was directed in January 2018 to convene a series of discussions with the Zoning Board of Appeals, Planning Board, and Board of Architectural Review chairs in an effort to identify key concerns affecting member satisfaction with their participation on their respective land use boards and/or impeding their ability to be effective in executing their official responsibilities. After the discussions, a follow-up meeting involving staff, Mayor Hochvert, and then Land Use Committee Chair Samwick took place in February 2018 to consider the feedback received and to identify strategies for addressing the expressed needs. This memo briefly describes the action items arising from the February meeting and provides a status update for each.

Land Use Board Member Orientation

Staff discussions with the chairs confirmed the need for improved new member orientation sessions and refreshers for existing members on a periodic basis.

To that end, and with the annual appointments now completed, staff are scheduling a series of orientation sessions for members of the Zoning Board of Appeals, Planning Board, Board of Architectural Review, and Committee for Historic Preservation. The training is anticipated to take place in June 2018, with CHP orientation already scheduled for June 19th. Key elements will include:

- Duties and obligations, as defined in the relevant Village Code sections(s).
- Ethics, including such topics as recusal and conflict of interest.
- Basic meeting procedures, including voting, public records, and the Open Meetings Law.
- Roles and responsibilities, including application review, site visits, how and where to seek technical assistance, as needed, etc.

It should also be noted that staff are refining the land use board New Member Packets, while the Ad-Hoc Committee on Communications is examining ways to grow public interest in volunteering for a citizen board or commission through improved resident access to information about each of the opportunities.

Tree Preservation and Landscaping Plan Review

The Board of Architectural Review (BAR) expressed frustration over their inability to review project landscaping plans at a stage in the development review process where their viewpoints could exert reasonable, meaningful influence on tree preservation and other landscaping elements.

Historically, the BAR received landscaping plans for new houses with the initial submission, as part of a two-meeting review process. Over time, the procedure changed at the BAR's request to provide for submittal of the landscaping plan *after* the home was constructed, necessitating a three-meeting review process. However, the BAR is now concerned that presenting the landscaping plan so late in the process, i.e., after the building has been constructed, results in lost opportunity for them to exert meaningful influence on tree preservation and other landscaping elements. There was also a sense of ambiguity surrounding their level of authority and the applicable parameters, if any, for them to establish reasonable, project-level tree preservation mandates.

Staff recommended that the landscaping plan submittal be moved forward in the new house review process in order to provide an earlier opportunity for BAR members to review the existing landscaping, thus enabling them to more effectively influence future landscaping elements, such as tree preservation, species diversity, vegetative buffers and screening, etc. Reverting to a two-meeting process by advancing the landscaping review to an earlier stage will also reduce the number of meetings the BAR is required to conduct each year, with meeting volume having been cited by the BAR as one of the issues of concern to them.

While on the topic of meeting workloads, it should also be noted that staff are exploring additional opportunities to reduce LUB workloads, generally, through such strategies as identifying application types that may be appropriate to handle at the staff level rather than through a LUB, and consideration of potential regulatory modifications to address any language giving rise to mandatory reviews that are ultimately routinely approved. In short, staff will examine the question, "Is the regulatory process being bogged down with any types of applications that don't merit LUB review?"

Returning to the recommended procedural update, the change being initiated does not require any change in local law and will yield community benefits in terms of improved landscaping and tree preservation. Of course, the modification does require the development community, and thus residents, to contemplate and present a detailed tree inventory, tree removal plan, and landscaping plan as a project forethought, rather than subsequent to building construction. As noted, however, the valuable countervailing benefits include the potential for enhanced tree preservation and improved vegetative screening alternatives, as well as elimination of one mandatory meeting for each new

construction project reviewed, which represents not only a time savings for the BAR and staff, but also for design professionals and homeowners.

The procedural update will be preceded by member training and orientation that would not only include basic orientation to BAR roles and responsibilities, but also an overview of the modified two-meeting review process and clarification of the BAR's scope of authority concerning landscaping and tree preservation decisions under both new construction and home addition scenarios. With respect to additions to existing homes, as opposed to new construction, the BAR retains the discretionary authority to require a landscaping plan in the same fashion as for new construction. Member training and orientation will provide a refresher in this regard to encourage and support reasonable effort to advance tree preservation goals in the context of projects involving additions. Building Department staff will also undertake efforts to educate the development community about the change in process so as to not contribute to delays in advancing applications for LUB review.

Implementation of the new procedure and supporting training was pending the annual Resident Board, Council, and Commission appointments. At this juncture, Frank Diodati, Building Inspector and BAR liaison, is working with Wayne Esannason, Village Attorney, to craft the training and orientation presentation, which is anticipated to occur in June 2018.

Additionally, while the Planning Board's subdivision process does involve tree preservation review, staff has noted their satisfactory level of comfort and ability in supporting tree preservation goals, having also noted that coordination with subsequent land use board reviews is important, particularly as design modifications may take place at later stages of the development process. Pools may also present implications for tree preservation in association with development on single family lots. Staff reports that the Zoning Board of Appeals, the entity responsible for reviewing pool applications, not only enforces applicable screening requirements, but is also cognizant of tree preservation goals and undertakes appropriate actions to protect the canopy without additional guidance being required at this time. On the staff side, tree removal permit requests will be informed by consideration of approved LUB landscaping and tree removal/preservation plans.

Finally, it is also of note that there have been intervening amendments to the tree law, Village Code Chapter 281, which added additional tree protections while not imposing unreasonable restrictions on resident tree removal under routine or emergency circumstances.

FAR and Bonuses – Addressing Single Family Additions and Construction

While opinions varied as to the extent of any problem associated with the trend of larger homes being constructed, either on subdivided or existing lots, there was general consensus among the LUB chairs that some level of adjustment to the applicable land use regulations is in order, but certainly not wholesale change in the regulatory environment. The Zoning Board of Appeals chair, Jeff Watiker, presented a series of recommendations that he felt appropriate to address some of the provisions that may be contributing to the incidence of tear-downs, though he also felt that our

existing regulatory framework has been largely effective in guiding appropriate single family home additions and construction.

Among Mr. Watiker's suggestions were the following actions that staff believe merit further evaluation to understand their impact(s) and effectiveness in reducing the size of single family homes and/or the incidence of construction that is inconsistent with the intent of our land use regulations:

- Create conditions that must be met in order for a special use permit to be granted for construction of a single family home exceeding 15,000 square feet of gross floor area (Village Code Section 310-105), as the special use provision presently lacks necessary standards.
- Eliminate language requiring bonus square footage for additions to existing single family homes be added to the rear of the structure (Village Code Section 310-104), as Mr. Watiker asserts that the provision may encourage tear-downs and may help to reduce volume of variance requests.
- Either reduce the side-yard setback bonus by 33% or implement a 5% across-the-board reduction in all of the FARs, as doing so would result in a marginal reduction to the size of homes, a modification that would not appear to materially impact resident or developer abilities to undertake residential additions or new construction. Care should be taken to consider the extent to which existing properties would fall into non-conforming status, which may impact property values and property insurance coverage, as well as contribute to other unintended consequences.
- Simplify the Garage Exemption to eliminate credit for any excess and to make all second story space count toward the FAR, as Mr. Watiker views the existing rules as unnecessarily complex and potentially contributing to more bulk than would otherwise occur. Making this change would be consistent with the Garage Exemption's original intent, according to Mr. Watiker's analysis. Staff opinion varies from Mr. Watiker's view on this matter, yet there is support for a quantitative assessment to determine whether any such modification is warranted.

As Mr. Watiker's suggestions were framed, they represent an incremental approach to responding to community concerns associated with the appearance of bulky homes and the impacts that such homes may have on neighboring properties and community aesthetics. Testing of Mr. Watiker's suggestions, whether undertaken by staff, a consultant, or other, should consider findings incorporated into the 2015 George Janes study.

It should also be noted that staff are amidst a scan of best practices in addressing single family home construction and additions, including such factors as building height, setbacks, FAR, contextual zoning provisions, etc. Findings and any associated recommendations will be advanced to the Village Board upon completion.

Committee on Historic Preservation – Empowering Sound Decisions

While not in attendance at the discussions held by staff with land use chairs in January 2018, members of the CHP had communicated significant concerns surrounding impediments to their ability to serve the community through protection of historic architectural assets. Chief among their concerns were the linkage in Village Code Chapter 182 of evaluation criteria using an “and” rather than “or,” and the Committee’s function as primarily a demolition review board rather than the more traditional preservation role that a CHP may play.

Accordingly, the Village Board authorized in April 2018 amendments to the Historic Preservation Law to define the term “Master,” address the “and/or” issue identified by CHP members as a significant impediment to executing their charge, and enable CHP membership by a non-resident architect to provide necessary technical support. Additionally, Attorney Esannason is presently drafting a local law to support local historic designations, with his work anticipated to be complete by the end of June 2018, at which point it would follow the standard process for local law adoption, including all necessary public engagement. Building on the 2012 Historic Resources Survey, research of individual properties for potential designation is planned to take place following adoption of the requisite local law.