



VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES
WORKSHOP MEETING AGENDA

MEETING DATE: April 9, 2024

AGENDA ITEM SECTION: Discussions

AGENDA ITEM NO. : 1

AGENDA ITEM:

Zoning revisions

ITEM BACKUP DOCUMENTATION:

1. Memorandum dated April 1, 2024 from Valerie Monastra, AICP and Sam Justiniano/Planning Analyst to Mayor Rossillo and the Board of Trustees



MEMORANDUM

TO: Mayor Rossillo and Members of the Village of Dobbs Ferry Board of Trustees

FROM: Valerie Monastra, AICP
Sam Justiniano, Planning Analyst

CC: Robert Yamuder, Village Administrator
Lori Lee Dickson, Esq., Village Attorney
Dan Roemer, Building Inspector

DATE: April 1, 2024

RE: Zoning Revisions

Since September 2023, the Village Board has contemplated updates to the Zoning and Land Use chapter of the Village Code.

Two rounds of edits to Zoning and Land Use chapter were provided and reviewed by the Village Board.

First round of edits update

The first round of edits included the following reviews and updates:

- Reviewed all definitions, tables, and updated any inconsistencies and clarifications. This will include checking all cross-references to ensure that any changes to the definitions will not cause an impediment elsewhere in the zoning chapter.

Special attention was paid to the following subject matters:

- Net versus gross area calculations (remove net from bulk requirements).
 - Minimum lot are per dwelling unit for multi-family districts.
 - Definition of fences, walls, and retaining walls and their regulations.
- Reviewed and developed steep slope regulations.

Second round of edits

The second round of edits included the following review and updates:

- Reviewed the administration and process provisions throughout the chapter and suggested additional ways to streamline the application review process.
- Reviewed the LWRP consistency review provisions and make it better align with the State's model law.

- Reviewed Articles X and XI, which contain the supplementary and district regulations and provided suggestions on clarifications to assist applicants in understanding the zoning requirements.
- Reviewed the PILOP and suggested revisions for broader applications within the Village (currently only allowed in a downtown zoning district). We also added modifications to the parking requirements.
- Added a process for zoning text amendments. There currently is none in Chapter 300.
- Revised stormwater requirements to provide for the review of applications for disturbance of less than one acre in accordance with common practice at the Planning Board.
- Provided amendments to the tree preservation regulations based on recent comments from the Tree Commission and Building Department. We also created an administrative permit process, which will hopefully allow for review of tree removal but speed up the process for certain situations, such as a downed tree.
- Revised the steep slopes regulations.

The Village Board also requested that we reach out to the ZBA, PB, CAB, and Tree Commission to offer them the ability to provide comments on the proposed zoning changes. The comments attached to this memo are the responses we received from the various boards and committees.

Overall, there are two areas where no consensus has been reached, one on the steep slope and the other on tree preservation regulations. Comments we received on the steep slopes raised concerns that the proposed regulations are not specific enough and provide too little guidance on how the Board's should interpret the regulations. Comments on the tree preservation regulations do not specifically relate to the proposed zoning, but rather they relate to the need to develop regulations for exceptions to replace trees or pay in-lieu of tree replacement. While this is a separate issue, by adopting regulations that will include even more trees in need of permits for removal (due to the proposed definition change of tree), it is probably best to consider what, if any, amendments should be made to the tree replacement and pay in-lieu of tree replacement before adopting the current proposed text amendments.

There is agreement on most of the other proposed zoning changes, and I recommend that the Board move forward with all other zoning edits except the steep slopes and tree preservation. Knowing that there are upcoming applications that include properties with steep slopes, it is my recommendation that while the steep slopes issue is still being discussed that the Board adopts revisions to the Zoning and Land Use chapter that clarify the building coverage calculations are for gross lot area as interpreted by the Zoning Board of Appeals in its May 10, 2023, resolution.

CAB COMMENTS

Nice to meet you . . . My name is Graham Nalle, and I am a member of the Conservation Advisory Board (CAB) in Dobbs Ferry. I appreciate that I am responding to the below thread a few days after the requested submission date; my personal work commitments have made it difficult to review and discuss with other members of the CAB, so I would be grateful if you can still take the below into consideration. For the moment I am responding in an individual capacity to gather some additional information in order to make more informed comments after discussing with my colleagues.

I have reviewed many of the proposed changes that were circulated, primarily the modifications to the steep slope regs, and had some questions, both on the impetus for the changes and the specifics thereof:

1. We hadn't been aware of the process for revising the zoning code; could you please provide a little color about the motivation for making changes now, and the intent behind the revisions? Also, who is proposing the changes, and why?
2. Specific to the changes themselves:
 - a. Section A.1:
 - i. The formulation that significant natural features have to be protected "to the maximum extent practicable" seems to re-orient the code to focus on cost-efficiency of development rather than on evaluating how any resulting impact on natural resources could affect the health, safety and welfare of Village residents, i.e. development seem to be prioritized over an assessment of the value of preserving natural features; is this the intent? Suggest we revise the wording to ensure that protection of natural resources is also a key consideration of the code, for example by requiring that natural features be protected "to the maximum extent possible".
 - ii. What is the intent of the limitation on the applicability of the section to only "new" "construction"? Is the intent not to cover renovations or other changes to existing structures?—would existing structures be exempt? We should clarify that any development, whether new or renovation takes preservation of natural resources into consideration.
 - iii. The revised requirement is to locate the construction in a way to "avoid impacts"; the burden should remain with developers to demonstrate that proposed projects will not negatively impact existing natural resources.
 - iv. Is the removal of the sections relating to areas of historical/cultural value made because these concepts are now covered elsewhere in the code?
 - b. Section C.1.: for developments on slopes between 15 and 35% I would suggest we clarify that the determination of whether development is "practicable" rests with the village board(s), rather than leaving this unclear; since disturbances on steep slopes could have a negative impact on surrounding property owners, the standard

for evaluation should be linked to the effects on surrounding owners rather than “ensur[ing] the property owner a reasonable use” of the property; the role of the planning board is to ensure the development is in line with the relevant vision plan of the Village to support the safety, health and welfare of its residents, rather than focusing only on any individual’s use of a single property; who determines what a “reasonable use” of a property is?

- c. Section C.2.: development on very steep slopes (>35%) now seems to be permitted by default, subject to requirements the Board may impose vis-à-vis engineering to prevent instability and erosion—however, once something is built on such an overly steep slope, what is the enforcement mechanism if the requested measures fail? Will non-conforming development have to be remediated?; As I read it, the previous code effectively prohibited building on anything greater than 25% or anywhere with “slide potential” unless there is “no” alternative building site; now very steep slopes can be built on if they couldn’t otherwise be “reasonably developed” without disturbing the slope; this drafting seems to open the door to developing on increasingly steeply sloped properties, which could be detrimental to areas surrounding the development—if this is not the intent, what is the rationale for the changes? It seems the surrounding villages refer to a 25% slope limit; is Dobbs Ferry taking a different approach?:

- i. Hastings permits up to 25 (degrees), not 35
(<https://ecode360.com/10990342>)

- ii. Irvington also mentions "up to 25 degrees" in most documentation (<https://www.irvingtonny.gov/DocumentCenter/View/6369/Irvington-Zone-Change-Study-April-2013?bidId=>)

- iii. Tarrytown also mentions 25 degrees (<https://ecode360.com/12284521>)

- d. Section E: I note the tree section has been removed—is this because it is now addressed separately in the Tree Code?

Your reply will be very helpful for the CAB to understand and assess the impact of the proposed changes to the Dobbs Ferry Village Code.

Best, Graham

ZONING BOARD OF APPEALS COMMENTS

I understand that “Comments” were to be sent to Valerie. This process is appropriate for the early comments in this memo which are mostly editorial in nature. However, comments relating to Steep Slopes are more than editorial and I think require careful review by each one of the Board of Trustees. I urge you to read the comments with an open mind.

We feel that it is important that each of you Trustee “deciders” should understand what the ZBA perceives to be the continuing issues with the proposed steep slopes language. While there have been some changes in language, not all for the better, the issues remain the same in our opinion. Each of you can make your own decisions as to the direction that these important Code proposals ultimately take, just as each of you, by your vote, will be responsible for every word added to, or deleted from, the Code.

I have participated in updating the Code in the past and it is difficult work, and it is often mind numbing as you have undoubtedly discovered. For the last update we had a team of ZBA, PB, and AHRB members as well as the BI and Counsel. We knew the specific issues that needed to be addressed, and even so, it took a great deal of time to precisely define the change we needed to produce and the exact language that would produce the change desired, and nothing further. It took many meetings with lots of us sitting around a table exchanging thoughts on the right sentence, phrase, adjective or punctuation. Edits had to be very clear and concise to avoid any ambiguity. We had to solve the problems we detected in the Code without creating new Code ambiguities, contradictions or unintended consequences.

With that as a preface, I hope that you will give our views serious consideration. Thank you.

Peter W Hofmann
Chair
Zoning Board of Appeals

PLANNING BOARD COMMENTS

Valerie

Thank you for the opportunity to weigh in on this most recent round of changes to the code.

Tree Ordinance: The majority of the Planning Board members feel that the tree replacement requirements are very narrowly constructed. The PB believes it is appropriate for the Tree Commission to have more discretion in special circumstances. We understand that a set of guidelines would have to be developed for this and that will be part of a subsequent effort.

Steep Slopes: The majority of the Board feels that the language is too broad and that owners/developers will exploit statements like "to the best of their ability". The PB would like the language to be more assertive.

Thank You

Stephen Hunter, Chair
Planning Board

TREE COMMISSION COMMENTS

Hi I think the tree commission should have some discretion as far as making decisions on tree replanting this is my only comment everything else I am okay with as far as the tree code goes. on the other hand The CAB was preparing a draft to send in. I don't know what happened with that if they have sent it in or not. Thank you all for giving us the opportunity to express our opinion to improve the way we serve our community.

From David Durate