

The Community Development Committee (CDC) of the Falmouth Town Council was asked by the town's Board of Zoning Appeals (BZA) to clarify language pertaining to the 2006 ordinance amendment prohibiting residential property owners of non-conforming lots or nonconforming single family dwellings from building additions that "unreasonably" impact the water views of their neighbors. Basically, it allowed anyone with a water view over someone else's property to object to any expansion.

The BZA found the language of the ordinance to be too subjective and, therefore, too difficult to fairly enforce. In addition, as the ordinance applied to the entire town, it forced anyone trying to modify or expand a non-conforming a single family dwelling to apply to the BZA for permission creating unnecessary work.

Town staff researched ordinances of other communities that might have similar provisions. With that information, the CDC also considered the core issue of whether upland property owners have the right to impair another's property ownership to preserve their water views. CDC members* Payne and Armitage concluded that no reasonable policy solution was practical that would protect the rights of property owners from unreasonable regulation. They also concluded that, in the absence of an ordinance, those enjoying water views over the property of others can purchase view easements if they wish to preserve their views.

Therefore, the CDC has recommended a two step process.

- 1) That all property east of Route one from the Martin's Point Bridge to Foreside Road, and from Foreside Road (Rt 88) to the Cumberland / Falmouth Town Line be placed in a water view overlay district. By creating this district, the BZA will be relieved of having to review properties elsewhere in town that are unnecessarily impacted by the current ordinance.
- 2) Councilors Payne and Armitage also agree that the creation of the water view overlay district have a sunset clause. If the amendment is adopted, the water view overlay district would expire on December 31, 2013. During the intervening months, the CDC may attempt to create a solution that serves the interests of the town. If they are unable or unwilling to do so, the water view ordinance will be repealed.

The CDC and the Council welcome public input on this issue via email, phone call or at the public hearing scheduled for Wednesday, May 30 at Town Hall.

*(Councilor Rodden has recused herself from this discussion as she is a waterfront property owner with a perceived conflict of interest)