

MINUTES OF A PUBLIC HEARING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MAMARONECK HELD ON MONDAY, MAY 12, 2008 AT 7:30 P.M. IN THE COURTROOM AT
VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT:	Mayor	Kathleen Savolt
	Trustees	Thomas A. Murphy Toni Pergola Ryan John M. Hofstetter Randi Robinowitz
	Village Manager	Leonard M. Verrastro
	Village Attorney	Janet Insardi
	Police Department	Edward Flynn
	Clerk-Treasurer	Agostino A. Fusco
ABSENT:		None

Village Attorney Janet Insardi stated that this is a continuation of the Public Hearing opened and adjourned at the last Board meeting of April 28, 2008. She also stated that there has been correspondence received from residents after the last meeting and that with the comments of the first hearing have been reviewed and considered by the Board. The revised Proposed Local Law had minimal changes to reflect clarification of issues raised at the last meeting. The new version has been posted on the website. Ms. Insardi informed the Board that a letter has been received from the County stating that they have reviewed the matter and find that there are no County or intermunicipal issues of concern to the County Planning Board. They also stated that this is a matter for local determination in accordance with our community's planning and zoning policies.

Mayor Savolt also reiterated that all comments received have been reviewed and clarification to definitions in the Code have been made.

Mr. Tom Yardley, Planning Consultant with BFJ Planning again gave the history of the Proposed Local Law and reviewed the changes being proposed. Mr. Yardley also stated that Phase I of the Master Plan, in which the FAR was studied was adopted in August 2007.

Trustee Murphy reminded all that the proposed FAR is right in the middle of the range recommended by the Master Plan. He also stated that to qualify for a .2 increase in FAR for residential housing in the C-1 zone, at least 10% of the building must be for work force housing. Trustee Murphy also informed residents that comparatively speaking; we have a more lenient FAR requirement than other neighboring communities.

Trustee Hofstetter stated that in the case studies done in different neighborhoods in the Village between 80 and 90% of the existing homes would be in compliance with the new FAR requirements.

Ms. Susan Bresler of Cove Road asked if the new Code would only apply to new construction or renovations as well. She is concerned that builders will leave part of a home standing and build a much

larger structure that does not comply with the new requirement, as has been done in the past. Trustee Murphy stated that the provision in the previous Code which stated that “these ratios shall not apply to additions to existing single family residences where at least 50% of the existing structure is retained and the footprint of the structure is not increased” was addressed and removed from the Code.

Ms. Cheryl Lewy of Constable Drive appeared to commend the Board for the professionalism, depth of analysis and care taken in addressing the issue of FAR. Ms. Lewy is a resident of the Village and also Chair of the Westchester Planning Board. She stated that this will be a model for other municipalities in the County.

Ms. Nora Lucas of Beach Avenue appeared. Ms. Lucas had concerns about the definition of attic and floor and that they should be better defined. She questioned the calculation of cathedral ceilings. It was explained that the intent was to count the cathedral space 1 ½ times. She also feels that the mass of a building should be addressed to preserve the character of neighborhoods and that this code does not do that. She stated that there are many homes in her neighborhood that are under the new FAR requirement, and can therefore be expanded on. If these homes do increase in size, this will change the character of the neighborhood.

Mayor Savolt stated that the definition of attic proposed is a definition that is industry standard and used in many other municipalities. Mr. Yardley reported that as an alternative to FAR, using a volume approach was looked at. The goal was to tighten the FARs and a new code enforcing volume of buildings would be difficult to enforce. Trustee Murphy stated that many municipalities have gotten away from using volume as a way to measure and enforce the size of homes. Trustee Murphy also stated that the purpose of the law is not to stop residents for enlarging their homes, but to control it. There has been reasonable room left to build reasonable additions.

Mr. George Schieferdecker of Prospect Avenue appeared to inform residents that there are other methods in the Zoning Code that control volume. There are lot coverage and height requirements as well. These control the feeling of bulk on a property. Mr. Schieferdecker reviewed questions he had previously sent to the Board. The first was on the double height space. He is concerned that this will negatively affect public, institutional and religious structures in the Village, as it would increase their FAR and would negatively affect their ability to expand. He asked the Board to consider not holding these types of building to this requirement. His second concern is the definition of grade and how it works with the definition of story height. His final concern is the accessory parking over 400 square feet being counted as Floor Area and how that could cause builders of multi family homes to leave parking open, causing a negative visual impact. Trustee Murphy stated that this is covered in the proposed code. He also stated that in so far as the double height restriction is concerned, this is not disallowing cathedral ceilings, however the concern is that as many of these are in residential neighborhoods the issue of bulk needs to be controlled. Trustee Murphy stated that there is always the recourse of going to the Zoning Board for a variance in these cases. Village Attorney Insardi also informed Mr. Schieferdecker that churches and schools are presumably beneficial and have a different set of standards than other types of commercial

buildings. Ms. Insardi also noted for the record that the Village passed the first FAR law in the 1990s. The latest changes were in 2000 and this simply updates the existing law on the books.

Ms. Susan Bresler appeared again to commend the Board on this work. She is also an architect and had a question on the exclusion of land under water. She asked if this is land below the mean high tide of Long Island Sound or land adjacent to the water. Village Attorney Insardi stated that this primarily addressed land that is under water.

Mr. Brian Furlong of Delancey Avenue appeared to ask about the cellar exclusion and believes that the words “lower of” should be deleted. It was agreed that the words “lower of” should be deleted. He also had a question on grade and how that is determined. Ms. Insardi stated the Building Inspector reviewed the definition and believes it takes care of the concern of someone artificially raising the grade of a site so that basement area would not have to be counted. It was further stated that the wall is measured by where the grade is prior to construction.

Mr. Dan Natchez of Alda Road appeared. He is concerned that reducing the FAR in the C-1 District for commercial building discourages building and improvement of the commercial property in that district. In terms of the language exclude underwater lands, he feels the definition is cumbersome. From the language he is not sure if the law is looking at the Sound area or areas around rivers and streams. He also stated that there are several legal definitions for mean high water and this may cause confusion. He is also concerned about how many homes will now be non-conforming with the addition of the exclusion of land under water being part of their lot. He feels that residents may not do improvements to their homes if they have to go to the Zoning Board for approval. He suggests adding a grandfather clause for this. In as far as measuring a basement from the existing grade, as the new FEMA requirements for areas in the Village may require building above the flood plain, residents will be penalized for doing so as this will raise their first level. He feels the Village should be encouraging homeowners and business owners to raise their structures or build new structures above the flood plain.

Mr. John Leitner of Rushmore Avenue appeared. He is president of the Orienta Point Association. This organization is happy to see this law come to fruition. He informed the Board that the Flagler Drive Association has self imposed a .25 FAR and this is what they live by.

Mr. Ed Pomerantz of Cortlandt Avenue appeared. He was also part of the 2025 Committee. He stated that the Committee tried to insure the quality of neighborhoods and the growth of business in both the C-1 and C-2 zones. As the C-1 zone tends to wind through neighborhoods and this is not the case with C-2 this is the reason for the suggested changes. They also wished to drive business to the main downtown area.

Village Attorney Insardi suggested that as the Board has been given an EAF and as this has been classified as an Unlisted Action, it is appropriate that the Board consider a determination of significance. In this case, a Negative Declaration has been drafted and submitted for the Board’s consideration.

Another document submitted to the Board, which is part and parcel of the EAF is the Part II, which is completed by the Lead Agency, which forms the basis of determination of significance.

On motion of Trustee Murphy, seconded by Trustee Robinowitz:

RESOLVED that the Board of Trustees of the Village of Mamaroneck be and hereby declare itself Lead Agency in the zoning code change proposed in Proposed Local Law 5-2008.

Ayes: Murphy, Robinowitz, Hofstetter, Ryan, Savolt
Nays: None

On motion by Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED that the Board of Trustees be and hereby adopt the Negative Declaration as it relates to Proposed Local Law 5-2008.

Ayes: Murphy, Robinowitz, Hofstetter, Ryan, Savolt
Nays: None

On motion of Trustee Murphy, seconded by Trustee Robinowitz:

RESOLVED that the Public Hearing on Proposed Local Law 5-2008 be and is hereby closed.

Ayes: Murphy, Robinowitz, Hofstetter, Ryan, Savolt
Nays: None

The Board thanked the various contributors to the revision of this law.

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED, that Proposed Local Law 5-2008 with deletion of the above noted typographical error (“lower of”) under Section 2, (2) Cellar and basement areas, be and is enacted as Local Law 5-2008 and shall read as follows:

LOCAL LAW NO. 5-2008

A Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck regarding building floor area ratios and their calculation.

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1. Purpose and Intent. In 2000, Floor Area Ratio (FAR) controls were incorporated into the Village’s Zoning Code because an increasing number of extremely large homes impacted visually upon nearby properties. Since that time, and at the Planning Board’s behest, the FAR has been revisited and further analyses have been undertaken. The purpose of this local law is to amend and clarify building floor area ratios and their calculation in accordance with the Village of

Mamaroneck Comprehensive Plan Update (dated June 2007) to assure that new and expanded buildings will be in scale with surrounding buildings and the character of the community.

SECTION 2. Section 342-3 of the Village of Mamaroneck Zoning Code, entitled “Terms defined”, is hereby amended as follows:

ATTIC- The area between the top of the ceiling joists of any story and the roof rafters.

FLOOR AREA, GROSS -- The sum of gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. Any interior space with a floor to ceiling height in excess of 12 feet shall be counted 1.5 times, except in the M -1 Zone. The following are excluded:

- (1) Any attic space with a floor to ceiling height of less than seven feet.
- (2) Cellar and basement areas where the average height of all exposed exterior wall or walls is less than three feet measured from the existing grade prior to construction.
- (3) Within single-family zones including R-5, R-6, R7-5, R-10, R-15 and R-20, all accessory parking structures devoted only to accessory off-street parking or loading of 400 square feet or less.

FLOOR AREA RATIO -- Numerical value obtained by dividing the gross floor area, as defined in this Code, within a building or buildings on a lot by the area of the lot excluding under water lands.

HEIGHT, BUILDING -- The vertical distance to the highest level of the highest point of the roof if the roof is flat or mansard or to the mean level between the eaves and the highest point of the roof if the roof is of any other type, measured from the average level of the existing grade prior to construction adjacent to the exterior walls of the building.

SECTION 3. Section 342-11 of the Village of Mamaroneck Zoning Code entitled “Lot requirements; subdivision and non conforming lots”, is hereby amended by adding a new Subdivision F. as follows:

- F. For the purpose of computing the building area, floor area ratio, the size of a lot, rear yards, front yards and side yards, the land lying in the bed of any public or private street adjacent thereto, and the land lying below the high water mark of Long Island Sound, and/or any pond, stream or waterway adjacent thereto shall be excluded.

SECTION 4: Section 342-50 (A)(2) of the Village of Mamaroneck Zoning Code, entitled “Residence Uses in Commercial Districts”, is hereby amended to read as follows:

2. Floor area ratio. The permitted total floor area ratio (FAR) shall not exceed 0.60. The Planning Board may increase the FAR to 0.80 in accordance with the provisions of Article XV of this chapter for below-market housing.

SECTION 5. Section 342-103 (A) of the Village of Mamaroneck Zoning Code entitled “Bonus provision enumerated; definitions”, is hereby amended to read:

<u>Zoning District</u>	<u>Maximum Coverage</u>	<u>Bonus</u>
C-1	FAR 0.60	0.2 FAR bonus
C-2	FAR 2.0	0.5 FAR bonus
RM -1	2,500 square feet of land/unit	20% unit bonus

RM -2	1,500 square feet of land/unit	20% unit bonus
RM -3	1,000 square feet of land/unit	20% unit bonus

SECTION 6. Section 342-107.1 (C) (1) entitled “Additional provisions for the C-2 District” is amended as follows:

C. Development standards.

(1) The development standards of the C-2 District shall apply with the exception of building height, which may be increased from 45 feet to 60 feet, and floor area ratio (FAR), which may be increased from 2.0 to 2.5.

SECTION 7: The schedule of Minimum Requirements for Residential Districts and Non Residential Districts, columns 14 and 5 respectively, captioned “Maximum Floor Area Ratio,” are amended as follows:

SCHEDULE OF MINIMUM REQUIREMENTS FOR RESIDENTIAL DISTRICTS

District	Maximum Floor Area Ratio
R-20 One-Family	0.30
R-15 One-Family	0.35
R-10 One-Family	0.40
R-7.5 One-Family	0.45
R-6 One-Family	0.50
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R-5 One-Family	0.55
R-2F One and Two- Family	0.65
R-4F One to Four-Family	0.70
RM -1 Multiple Residence	0.50
RM -2 Multiple Residence	0.80
RM -3 Multiple Residence	1.2
RM /SC Multiple Residence Senior Citizen	4.0
P Parking	

SCHEDULE OF MINIMUM REQUIREMENTS FOR NONRESIDENTIAL DISTRICTS

O-1 Office	0.50
C-1 General Commercial	0.80
C-2 2 Central Commercial	2.0 ¹²
M-1 Manufacturing	1.0
P Parking	-
MR Marine Recreation	0.15
MC-1 General Marine	1.0

Commercial	
MC-2 Central Marine Commercial	2.0

¹². Within the C-1 and C-2 Districts, the maximum floor area ratio is governed by the provisions of Article XV for below-market-rate housing. [Added 2-14-1994 by L.L. No. 1-1004, effective 3-3-1994

SECTION 8. SEVERABILITY. If a court of competent jurisdiction declares any portion of this local law illegal or unconstitutional such declaration shall not prevent the enforcement of any other portion of this local law.

SECTION 9. Effective Date. This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

Village Law of the State of New York and any other law, rule or regulation inconsistent with this local law.

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF MAMARONECK

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO, CLERK-TREASURER