

**MELROSE PLANNING BOARD
ZONING SUBCOMMITTEE
MEETING MINUTES**

Wednesday, May 15, 2013

7:00 PM

Mayor's Conference Room, 2nd Floor, City Hall, 562 Main Street

PRESENT: Anne DeSouza-Ward, Paul King, Carla Morelli, and Sharon Petrillo

ABSENT: None

Denise Gaffey, Director and City Planner, and Adam Duchesneau, Assistant Planning Director, were present.

The meeting was called to order at 7:15 PM by Ms. DeSouza-Ward.

Draft Meeting Minutes from March 14, 2013 and March 25, 2013

The Zoning Subcommittee briefly discussed the draft meeting minutes from the previous two Subcommittee meetings on March 14, 2013 and March 25, 2013. All Subcommittee members indicated that they had no suggested edits to the minutes and felt they were ready to be brought before the full Planning Board for approval.

"Basement", "Story", and "Story, Half" Definition Zoning Amendments

Mr. Duchesneau began by going over the proposed changes to the definitions of "Basement" and "Story" in §235-5 of the Melrose Zoning Ordinance. Most of the changes in these two particular definitions were simply clerical ones suggested by the Building Commissioner to ensure that the definitions were clearly understandable. One substantive change ensured that in both the definition of "Basement" and "Story" it was clear that a basement would only be considered a story when its ceiling was four feet or more above the average finished grade around a building. The biggest proposed change in the two definitions was the removal of the last sentence in the definition of "Story" which discussed attics and their need to be without human occupancy. The Zoning Subcommittee members reiterated their stance to support the Building Commissioner's suggestion to remove this sentence to allow property owners to be able to finish their existing attic space without needing to seek a Variance from the Board of Appeals.

The discussion then turned towards the definition of "Story, Half" where there was substantial conversation among the Subcommittee members. The latest definition as proposed by Planning Staff and the Building Commissioner would allow for stories directly under sloping roofs (such as gable or hipped types) to not be counted as full stories if the point where the roof rafters and the faces of the exterior walls intersect was less than two feet above the floor level. The reasoning behind this latest proposed change which removed any references to average ceiling height in instances of mansard and gambrel roofs was the difficulty in determining the average height of a floor level for these roof types. The Building Commissioner indicated a preference to allow the "Story, Half" definition to be simple both for interpretation purposes and for applicants who are trying to understand the definition. Simply removing the language regarding the average floor to ceiling height would eliminate any interpretation difficulty for code enforcers, architects, contractors, property owners, and other applicants. The Subcommittee was comfortable with this proposed new wording but there was curiosity on how gambrel and mansard roof types should then be addressed. Mr. Duchesneau indicated that the way the proposed definition would read, gambrel and mansard roof types would be consider full story floor levels.

The Subcommittee then began to discuss whether or not gambrel and mansard roof types should be included in the definition of "Story, Half", or if this would permit structures too much building height.

Ms. Morelli stated that she thought that a mansard roof type should definitely be considered a full story and not a half story. In making this statement she drew upon her experience from working on a project on Trenton Street which had a mansard style roof on the top floor. The top floor of that particular building did not feel like a half story, but a full story. Mr. King then made a suggestion to add wording to the proposed definition specifically to address mansard and gambrel roof styles. He proposed language that would allow for mansard and gambrel roof types to be considered half stories if their entire finished floor to ceiling height was 7'2" or lower. If at any point the finished floor to ceiling height was 7'3" or greater, the floor level would be considered a full story. After some discussion about this proposed additional language, all Subcommittee members felt that the main point of this proposed definition amendment was to regulate the exterior height of the residential structure while still allowing for residents to finish and occupy third levels of their dwellings. The Subcommittee members all agreed that allowing a 7'2" finished floor to ceiling height on the third level of a residential dwelling would allow existing structures to be altered, and new structures to be built, which appeared more like three-story instead of 2½ story buildings. The Subcommittee agreed that this was not their intent in undertaking this proposed revision to the definition of "Story, Half". Ultimately, the Subcommittee decided to retain the originally proposed language for the definition of "Story, Half" as what was presented to them at the beginning of the Subcommittee meeting. This language would consider gambrel and mansard roof types to be full story floor levels.

The Subcommittee discussion then turned to the issue of allowing dormers on the half story of a building. Ms. DeSouza-Ward pointed out that the maximum proposed length of dormers on a roof had been reduced to 20% in the latest version of the proposed amendment language. Mr. Duchesneau indicated that in his meeting with the Building Commissioner, the Commissioner had expressed concerns about the 50% length of the roof being much too large of a dormer length allowance. The Commissioner's concern is that by allowing 50% of the roofline on a third floor level to be raised to a full ceiling height, the structure would take on the appearance of a full three story structure in a zoning district where only 2½ story structures are permitted. All of the Subcommittee members felt that limiting the length of dormers to only 20% of the roof line to which they are attached was too small of a percentage. Mr. Duchesneau pointed out that a 20% length limitation would still allow for a property owner to construct a dormer (or dormers) to get the necessary head height for a stairway to the third floor level or for a bathroom shower (or potentially both). Ms. Petrillo asked about a Cape style house and if this would limit someone from putting a large dormer across the rear of their home. Ms. DeSouza-Ward indicated that she had the same thought, but she also pointed out that a Cape style dwelling is only a two story structure and therefore a large dormer on the second story would be permitted as of right. The Subcommittee also decided to add a sentence which indicated that there may be more than one (1) dormer on a roof slope provided the total sum of the horizontal length of the dormers does not exceed fifty (50) percent of the length of the sloping roof to which they are attached. With these few additional changes, the Subcommittee members indicated that they felt the proposed zoning amendment was ready to be discussed in front of the full Planning Board at their next meeting.

Violations and Penalties Zoning Amendment

Mr. Duchesneau then went over the proposed changes to §235-58. Notice of Violation and Order and §235-59. Violations and Penalties. The changes have been crafted based upon conversations with the Building Commissioner, the City Solicitor, and the recommended changes from Ms. Petrillo. The Zoning For the most part, the Subcommittee members indicated that they were comfortable with the proposed changes. Ms. Petrillo raised a question as to if a "violation" and an "order" were the part of the same notice to a violator or if they were separate items. Ms. Petrillo felt that if they were the same, the words "violation" and "order" should always be connected with the word "and". If they were separate items, then they could be connected with an "and/or" wording. Ms. Petrillo went on to indicate that she did not have a strong preference one way or the other on the wording, but she felt that the wording should be

consistent in each section of the Zoning Ordinance. Additionally, Ms. Petrillo indicated that she felt that in the last new sentence proposed by the Building Commissioner and the City Solicitor, the word “shall” should be changed to the word “may”. This would give the Building Commissioner the ability to enforce an order but would not require him to immediately take action. If the word “shall” were to remain in the sentence, a constituent could compel the Building Commissioner to take legal action on the order that had been issued. Ms. DeSouza-Ward indicated her support for this proposed change and the other Zoning Subcommittee members agreed with this wording adjustment as well. The Subcommittee members indicated that they were comfortable with the proposed changes to these sections of the zoning ordinance and felt that this proposed zoning amendment was ready to be discussed in front of the full Planning Board at their next meeting.

Medical Marijuana Moratorium Zoning Amendment

Ms. Gaffey stated that the proposed Medical Marijuana Moratorium language that the Zoning Subcommittee members had in front of them had not changed since the last time the Subcommittee had met in March. Ms. Gaffey reiterated that the proposed moratorium language was based on the same language that had been approved by the Attorney General’s Office for the Towns of Burlington and Wakefield. The Subcommittee members indicated that they were comfortable with the proposed language and felt that this proposed zoning amendment was also ready to be discussed in front of the full Planning Board at their next meeting in May.

Meeting adjourned at 8:40 PM.