

**Residence C Task Force Report to the Planning Board
Fall 2010
Concord, MA01742**

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Introduction

Over the last several years there have been a significant number of houses that have been enlarged, or torn down and rebuilt in the Residence C neighborhoods. This has been particularly prevalent in the Southfield neighborhood. The response of some members of this neighborhood was the introduction of an article at the 2010 Town Meeting that would have instituted a more restrictive set of zoning rules as an overlay to the Southfield neighborhood.

Although the Southfield article was defeated at the 2010 Town Meeting, the selectmen appointed a task force to study the issues raised to see if some changes to Residence C zoning could be recommended that the whole town would approve. (See the Charge for further details.) The Task Force was asked to make recommendations to the Planning Board for their consideration and final proposal for the 2011 Town Meeting.

While the Task Force studied a variety of issues, the most important one seemed to be the size of some of the new or recently renovated houses. The Southfield neighborhood has been particularly vulnerable to these large houses because of the large lot sizes for a Residence C neighborhood, the availability of town sewer for most of the lots, and its proximity to a town center. Since there are other neighborhoods in Residence C with these same characteristics, especially the Prairie Street neighborhood in West Concord, the Task Force looked at the whole of Residence C, rather than just the Southfield neighborhood.

Starting in June of this year, the Task Force spent several months framing the problem, touring the neighborhoods, and determining the process to be used going forward. The result was a decision to work within existing regulatory mechanisms, avoiding the need to create new boards, permits, and other invasive processes. It is interesting to note that the Residence C zone is the most widely varied in the town with only about 50% of the house lots conforming to the existing dimensional minimum requirements. The likelihood of special cases is high and the committee tried to avoid significantly increasing the number of non-conforming structures in Zone C and thus the work-load on the existing town committees.

This memo provides a description of the methods, consideration and the specific recommendations to the Town of Concord Planning Board.

Methodology

The following process was determined to be the most efficient in leading to recommendations for the Town Planning Board:

1. Review materials from other towns, the 2005 Comprehensive Long Range Plan and its appendices, other reports and committee recommendations as called for in our Charge.
2. Hold neighborhood meetings and solicit input from the residents about problems and issues that they perceive.
3. Meet with Planning Staff and the Building Commissioner (John Minty) to solicit their opinions.
4. Convene the Task Force and synthesize from these comments some actions which would start to address the issue(s).
 - a. Of all the issues presented, confine our recommendations to actions which can/should be presentable and will have a reasonable likelihood of approval at the 2011 annual Town Meeting.
 - b. List issues which require further study or which should be presented in the future
 - c. Use an incremental approach, making small adjustments to the current zoning bylaws that are less threatening to residents and will be less likely to produce unintended results rather than trying to develop major revisions to our zoning bylaw in the limited time available to us.

All meetings of the Task Force were posted and were open to the public. Several residents took the opportunity to attend the Task Force meetings and expressed a variety of opinions.

The Meetings

We held three neighborhood meetings specifically to solicit input. The first held at Harvey Wheeler was not well attended because of insufficient publicity. To remedy this, we mailed post cards to all owners of house lots in Zone C. The subsequent meetings were held at Alcott and Willard Schools with 25-35 people attending each - still less than we would have liked or expected. Handouts provided to the attendees are in the appendix

We specifically avoided making presentations or leading the conversations in any particular direction. Discussions generally started with an explanation that many had voiced concerns about the current rate of teardowns and their impact on neighborhoods, especially the Southfield area, and to seek neighborhood input on recommendations to the Town Planning Board.

Specific Issues Rose:

- Home Values and Affordability
 - Some stated that the Task Force should do nothing that would reduce property values by increasing restrictions on what can be built.
 - Some felt that the assessed value of property increased due to larger homes being built, and that as assessments increased, there was added tax pressure on those in the neighborhood who had no desire to sell, thus causing hardship.

- There were several requests to make the ability to create an accessory apartment as defined in section 4.2.2.2 of the zoning bylaw a matter of right so as to defray some of the cost of housing.
- There was discussion about preserving value and that selling to a builder may not give a property owner the maximum return, since the value is exclusively the land. A better price could be possible when the buyer wants the house, too.
- Quality of Life
 - There was concern expressed that the streetscape can be negatively impacted for several reasons including different front yard setbacks, massing of the new houses and reduction in the number of mature trees.
 - Some felt that even if property values increased, personal pleasure and quality of life issues for residents of smaller homes may be adversely affected by the presence of large houses nearby. Backyards become open to taller buildings which allow views into neighbors' backyards that had previously been private.
 - Noise of A/C and other equipment placed close to neighbors was a concern, though it is presently prohibited in the primary structure's setback areas by a ZBA decision. It is not specifically documented on the Zoning Bylaws, however.
 - There were complaints that large houses blocked the sunlight entering an abutter's property and can block previously enjoyed views. Clear cutting trees can result in too much sunlight and can be detrimental to drainage.
 - Some are not against big houses per se, but want to keep the character, open space and scale of the neighborhood, preserving play space
 - There was a desire to avoid the feeling of crowding, being in canyons, having to face large blank walls, and being looked down on by much higher neighbors.
 - The issue was raised of being on display when what was formerly a private back yard is overlooked by tall and close by new houses.
 - There was a suggestion that we should avoid allowing back yards that are too small which force kids to play on streets
 - Massing and exaggerated heights are the issue not absolute size in square feet.
 - In general, the issue seemed to center on the mass/size of new buildings, their proximity to lot lines, and how these can be balanced against quality of life issues.
- Water & Runoff
 - Water should be contained and redirected onto neighboring property.
 - Mounded properties tend to simply dump water on neighbors or dump it into the streets where it will then run onto someone else's property.
 - Driveways that are paved right up to the lot line need to offer a water management barrier and should drain into the lot itself and not offer a channel to the street carrying all runoff from the roof
 - Avoid unnecessary clear cutting when large houses are constructed and/or require replanting of mature or large trees along lot lines
- Conclusions
 - Of the issues brought up, most were more complex than can be dealt with this year. The Task Force decided to make proposals which were relatively simple

and easy to understand and which therefore could probably be successfully brought to the floor of Town Meeting. Some of the more complex ones like “preserving neighborhood character” will require much more study and negotiation as the neighborhoods weigh the balance between what they want and the associated tradeoffs required. The term Property Rights was used in two contexts here, the right to enjoy and use one’s property free from interference by what a neighbor does, and the right to build what you want on your own land. For a first round of adjustments, the key factors seem to be:

- Height - because it greatly contributes to a sense of mass
 - Mounding – because it unnecessarily exaggerates height and potentially affects runoff
 - Side Setbacks – because they affect mass, views, and borders with neighbors
- Given the Task Force charge, these only apply to Zone C districts, and assume that the Zoning Board of Appeal is authorized to provide relief from any of them through a Special Permit where such relief is not injurious to the neighborhood and that no other reasonable alternatives exist.

Current Regulation Detail

Concord’s zoning bylaw currently measures the height of a structure from the ground to the midpoint of a pitched roof or the top of a flat roof. Building height is limited to 35 feet. Side yard setbacks are 15 feet. A homeowner may swap 3 feet from one side to the other, making the setback 12 feet on one side and 18 feet on the other. Where accessory buildings (most commonly garages or sheds) are constructed behind the rear wall of a house, the setback can be as little as 5 feet from the side yard property line.

Targets for Solution

Goal	Controlled by Section #
Reduce height and the consequent feelings of being looked down on, being in a canyon, being encroached on. Change height measurement to the peak, not the midpoint, of the roof. Leave the actual number (35 feet) alone to put a definite cap on escalating heights. (This would not have significantly impacted the size of the houses recently built but will prevent future potentially egregious actions.)	6.2.11
Reduce or eliminate artificial mounding and establish a base ground elevation as the average height of the two corners of the lowest points where the foundation wall of the structure to be built meets the ground. All height measurements are to be made relative to the base ground level. Elevations are to be taken prior to the start of demolition/excavation/construction at a time and in a manner determined by the building commissioner.	6.2.11
Improve buffers between properties	6.2.7

Condition the ability to borrow 3 feet of side setback from the opposite side by requiring that any structure (or part of structure) on the short side be no higher than 15 feet in the 12–15 foot setback area. This bylaw change can reduce apparent massing.	
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Possible Wording for Bylaw Changes for Zone C

6.2.7 Add a Zone C specific sentence at the end that says:

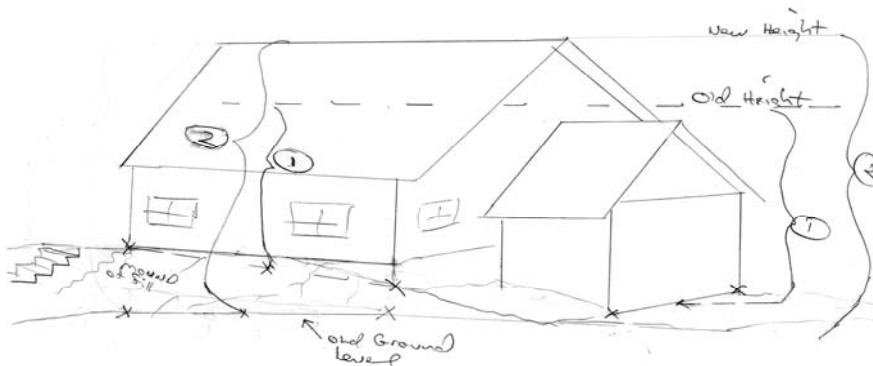
“No structure or part of a structure within the 15 foot setback shall be higher than 15 feet.”

6.2.11 Add a Zone C specific first full sentence which reads as follows:

“The height of a building shall be measured as the vertical distance from the base elevation to the peak of the roof, or the highest point of the exterior in the case of a flat roof. The base elevation is the average of the elevations of the ground where the two corners of the lowest foundation wall of any existing structure meet the ground. In the absence of an existing structure, the base elevation shall be the average elevation (measured as indicated in the previous sentence) of the ground at the location on the site where the new building is to be placed. In new subdivisions, the base elevation is the one indicated on the subdivision plan approved by the Planning Board.”

Non-conforming structures existing as of 6/1/2011 will be grandfathered.

(Note: The Building Commissioner thinks that we should use the same measurement methodology in all zones to avoid confusion and errors.)



Topics deferred for future consideration

- Require a vegetated border at least 3 feet wide between driveways and any side or back lot line in order to provide for snow storage and drainage of runoff. Alternatively make section 6.2.9 apply to residential zones.
 - Optionally, specify the buffer depth in proportion to the size of the lot
- Relax current bylaws to allow the front setback of a new structure to be different from the setback required by the zoning adjusting it to match the average setbacks of the houses on either side of the new structure. This improves conformance to neighborhood standards which may pre-date the adoption of our current ones and works to preserve streetscapes.
- Do not inhibit exterior ornamentation, such as porches, by including them in square footage limits (if such limits are imposed in the future).
- For side-facing garages, there should be a side setback of at least 25 feet to allow cars to enter and exit the garage satisfactorily.
- Improve handling of runoff
 - In cases of new construction, the state building code imposes its own standards for control of runoff.
 - Create a similar mechanism to be triggered by additions
- Increase side yard setbacks proportionately to increases in lot size (or perhaps the minimum required lots sizes in other zones)
- Allow accessory apartments as-of-right under the conditions listed in section 4.2.2.2 .
- Expand section 7.5.2 to require Planning Board approval for the importation of any large quantity of fill, requiring documentation of its source, condition, and quality; the specific triggering quantity to be determined by the Planning Board.
- To minimize pumping and increases in the ground water table, prohibit all construction in the ground water table, with the exception of footings and frost walls.

Recap

After the 2010 town meeting the town selectmen decided to convene a task force for the purpose of reviewing the issues associated with the recent set of tear-downs and building of new houses on small lots. While a variety of issues were raised, the primary areas of concern appear to be related to street-scape, massing and encroaching on the neighboring properties. The Task Force has determined that the most prudent course of action at this time is to make incremental changes in the zoning bylaws that will help to reduce the mass of new houses and additions in Residence C zoning districts. The recommendations are, to change the way building height is measured, to reduce height when borrowing on the side setbacks, and to reduce the impact of mounded property on overall building height.