

Notice of Public Hearing on Proposed Changes to the Southport Land Use Ordinance

Date: 11/01/2017

Location: Southport Town Offices

Time: 5:30 pm or immediately after the conclusion of the regularly scheduled November Planning Board meeting – whichever is later.

The Southport Planning Board will hold a Public Hearing on the topic of proposed changes to the Southport Land Use Ordinance. The Public Hearing will convene following the Planning Board's regular monthly meeting for November. The public is invited to attend, ask questions, and provide comments and/or suggestions on the proposed changes being considered.

Explanation

According to the Town of Southport By-laws and the Southport Land Use Ordinance (LUO), the Southport Planning Board (PB) is charged with the responsibility for drafting amendments to the LUO that are "desirable." Accordingly, the Planning Board conducts a continuous review of the LUO while working through the normal review of applications for building permits during the course of the year.

This year, 2017, saw a number of applications that raised questions about various parts of the LUO and which the PB felt justified the need for clarifications or adjustments to the LUO to make the process clearer and less complex.

There are five changes that are being proposed this year. What follows is an explanation of why the PB feels the change is needed along with the specific change to the wording of the LUO. These changes were originally proposed and refined in a public workshop held by the PB on October 6, 2017.

Since these changes must be approved by the voters of Southport at the 2018 town meeting, a public hearing will be held by the PB on November 1, 2017 following the PB's regular monthly meeting in order to provide the public with an opportunity to provide input.

Skip Simonds
Chair, Southport Planning Board
(posted 10/23/2017)

[Electronic copies of this notice and the proposed amendments can be obtained by sending the request via email to skipsimonds@mac.com]

1. Timeline for reconstruction of a non-conforming structure

Background:

In the past, the Board has been asked to consider “renewing” a building permit which has expired because either the construction wasn’t started within a year or completed within two years. There has been some confusion as to whether the “renewal” was simply an extension of an old application or constituted a new application.

If it was a new application, should the Board be required to “rethink” the approval previously granted? Or should the Board simply “rubber stamp” the previous approval?

If it was simply a renewal, what, if anything, is the Board doing besides a simple administrative duty? And is that really necessary?

And in either case, there appears to be no limit in the ordinance as to how many times a permit could be “renewed” or re-applied for.

Proposed changes:

Section 2F - EXPIRATION OF PERMIT: All building permits shall expire **after** ~~within~~ 1 year (2 years in the Squirrel Island District) of the date of issuance unless ~~work thereunder is commenced.~~ **a substantial start (30% of the project based on estimated cost) of construction activities approved by the permit is completed.** If work is not completed within two (2) years (3 years in the Squirrel Island District) from the date of issuance, a new application must be made. **Approval of the new application must be obtained within ninety (90) days of the date of expiration of the previous permit.** There will be no additional charge. **This section provides for one such approval for an expired permit. Any additional applications based on the same permit will be considered a new application under the terms of 2C and 2E.**

2. Lot coverage in cases where additions are made that do not touch the ground

Background:

The wording regarding lot coverage is unclear when it comes to additions that are unusual, as for example, a bay window which does not actually touch the ground but does make the structure larger, increasing lot coverage.

Proposed Changes:

Section 8B – Definitions:

Addition: An alteration to a structure which would increase any horizontal dimension (**whether or not it contributes to Floor Area**), height (exclusive of chimneys, antennae, etc.) or land area covered. An addition must form an integral part of the original structure and not merely be connected by railings, steps, or walkways, any connecting elements being architecturally or structurally homogeneous with it.

Area of Structure: The “footprint” (amount of land) of a structure measured horizontally in square feet. This measurement shall include porches and decks **and other Additions**, but exclude the footprint of exterior stairs and roof overhang.

Floor Area: The sum of the horizontal areas of the floor (s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Lot Coverage: The percentage of a lot covered by all ~~buildings~~ **structures**.

3. Change in the requirements regarding rebuilding on the same foundation

Background:

The ordinance allows for a simplified approval of a rebuild if the construction is to take place on the same, previously existing, permanent foundation as the previous structure. The intent was to not require the applicant to be subject to the “greatest practical extent” if the previous foundation was both permanent and to be used for reconstruction. However, in some cases, once approval was granted, the previous foundation was destroyed and a new foundation was constructed. Had the Building Inspector and the Board known that a new foundation was going to be constructed, the new construction should be made to conform to setbacks to the “greatest practical extent”. The ordinance could be worded to make this situation more clear.

Proposed changes:

Section 6B3c. - In determining whether the building relocation, reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the existence of a permanent foundation, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted.

NOTE: A non-conforming structure with a permanent foundation may be rebuilt on the ~~same~~ **existing** foundation. A non-conforming structure without a permanent foundation **(or if the permanent foundation is removed or replaced by more than 50% for any reason)** must be relocated to meet the setbacks to the greatest practical extent.

4. Definition of a structure

Background:

The definition of a structure and historical board decisions have left a fuzzy line between what is and isn't a structure. In 2015, the Board proposed a change to the ordinance to address and clarify this. It was passed in the 2016 Town Meeting, but was never incorporated into the Land Use Ordinance because the State refused to approve the change. However, they did provide some guidance about what could and couldn't be considered a structure based on their model statutes. The proposal is to adopt the state's definition of a structure with the addition of "generators" to the list of things that are specifically included by name as structures in the ordinance.

Proposed Changes:

Structure: ~~Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or attached to something having a fixed location, including but not limited to buildings, billboards, signs, wharves, boardwalks, dams and towers.~~ **Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, generators, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8. (see Building)**

5. Change the wording regarding setbacks from roads to reflect the intent of the original change

Background:

In 2013, changes were made to the ordinance to change the setback measurements from a town road. Previously, measurements had been made by measuring from the center line of the road. The amendments were intended to change the starting point from the centerline to the edge of the pavement for town roads, but leave the measurement as it was for “state-aid” roads (e.g. Rt 27).

Unfortunately the changes to the wording inadvertently changed the measurement of all roads, both Town and State-aid, to be from the edge of the pavement.

Since the intent was to leave the State aid roads as they were, a further change is needed at this time.

Proposed changes:

Section 3Cd (in part) - 25 feet from the edge of the road pavement **for Town Roads. 25 feet from the right of way for State aid roads.** Signs may be as close as, but not within the public right-of-way*.

* Unless evidence is submitted to the contrary, the width of a Town Road (public right-of-way) shall be considered to extend one rod (16 1/2 feet) on either side of the centerline and the width of a State-aid Road (public right-of-way) shall be considered to extend two rods (33 feet) on either side of the center line.