

HISTORIC DISTRICT COMMISSION
BUSINESS MEETING
Judge Welsh Room, Town Hall
Provincetown MA

WEDNESDAY, OCTOBER 25, 2017

Members Present: Chairman Thomas Biggert (TB), Lisa Pacheco Robb (LPR); Hersh Schwartz (HS), Marcene Marcoux (MM), Laurie Delmolino (LD), Martin Risteen (MR)

Others Present: Eric Larsen, Structural Engineer and Construction Manager from Aline Architecture in Orleans (EL); Anne Howard (AH), Community Development – Building Commissioner

The meeting was called to order by TB at approximately 3:30pm.

1. Discussion with Eric Larsen to discuss FEMA and related regulations.

As audio was not recording for the first 10 seconds of the meeting, TB stopped the discussion after a minute and 16 seconds to officially call the meeting to order. HDC board introduced themselves and TB then called on Eric Larsen to re-cap what had just been discussed; to primarily address what triggers FEMA.

a) Eric Larsen introduces FEMA's role in Provincetown regulations

EL introduced the meeting as an advisory discussion with HDC and AH to offer interpretations and points of view as they pertain to changes in the Building Code in effect as of January 1st, 2018, detailed in a 99-page Massachusetts amendment presented to the public on Oct. 20, 2017.

Changes affect flood regulations and defining the scope of work contingent on when a house does or does not comply with median flood elevations. EL pointed to certain triggers that would alert the Code such as if the cost of construction project is greater than 50% of market value of a home, or greater than 50% of the cost of foundation length-wise around and/or any alterations to be found therein. It was noted that the same rules apply to historic structures.

AH clarified that market value applies to building only, not land and according to assessor's record. AH also remarked that there are different formulas if you are using sales value vs. assessed value and the cleanest one is a certified appraisal to get the fair market value of the property

TB inquired about condos. AH said that when the condos are conjoined it's the structure in unity, and then offered a correction in that it is the land, not the building, that has the value in certain cases.

AH said FEMA maps and modeling are consulted, but a site specific elevation certification is the desired article as it will give you the lowest and highest adjacent grade, what flood zone it is in and base flood elevation, all of which are definitive in determining FEMA compliance.

EL stated that the elevation is specific per guidelines found in the NGED; National Geodetic Vertical Data. Also there is language in the amendment provision that the site cannot be filled in unless for minor landscaping to prevent people from artificially changing the grade ahead of time. Another provision is that most structures will by design go up on

pilings and not through a raft or mat foundation or anything that can be scoured away.

b) Applications to Provincetown's waterfront and other structures

LPR asked if there were any areas in Provincetown that might require the structures to be raised more than two or three feet. EL responded by suggesting that many areas are affected in this way, particularly the waterfront. AH remarked that a lateral addition to an existing structure must always meet the FEMA requirement, but if the addition contributes to 50% or more of total improvement to the property than the whole structure must be elevated.

LPR inquired per FEMA's motivation for implementing these new amendments. TB suggested it was due to the increased number of hurricanes and payments by FEMA to insurance companies. AH remarked that FEMA has still not made all payments to the claimants of Hurricane Katrina in New Orleans. EL said that Hurricane Sandy triggered a big push for change to the guidelines.

LPR questioned that if someone was one foot out of a FEMA zone but wanted to safeguard proactively to ward off potential threat by elevating their structure and that new plan was offensive to their abutters, would the abutters have a case. EL confirmed they would and AH agreed.

LD brought up the issue of architectural features of an antique home in that it is usually one found sitting on the sand and as such, is a defining feature; and so to willy-nilly change the artificial features when it not necessarily required would be an issue. TB and MM concurred; TB pointed out that HDC deals in scale, which is something that is often felt. MM added that residents of Provincetown are under the jurisdiction of both local and state bylaws, HDC and Mass Historical, and that having a verification system in place such as FEMA can help to prevent people from building up higher than what was granted by HDC.

LPR suggested to AH having FEMA information in packets for applicants or a line-item on the HDC application.

c) Issues of liability and variance

EL spoke on the code of ethics for those tasked with evaluating property and structure, saying errors can happen due, in part, to things like sediment transport as a differential or how a surveyor's wand might be used in error. But, he said, in general, with engineers and land surveyors their word is their bond as there is too much at stake for all parties. AH added that if there are doubts per a zone ruling or other issues, property owners and contractors can ask for a site-specific FEMA review, or map revision. EL remarked that there is even more of a burden for accuracy as areas of delineation happen so quickly along Commercial Street as well from town-to-town, noting that while the new wind code for the Cape is 140 mph, up from 110 mph, in Truro it is 139 mph and Provincetown, 138 mph. Along Commercial St., AH reported that elevations can go from 15' on the south side to 9' across the street; the beachfront is usually considerably lower. AH reminded the contingent that it is the home-owner's responsibility to make sure they are in FEMA compliance.

d) Designation of historic status

LPR read from forthcoming FEMA code, pp.3-4, under Exclusions 2-3, section 105-3-1-4 to clarify how or if historic buildings in Provincetown can be carved out in any way. AH then read from federal code, Regulations 59.1 in which it is stated that buildings may be federally recognized as historic only by meeting all the requirements as set forth in the various ways presented; by the being listed in the National Registrar, official recognition by the Secretary of the Interior and so on.

AH suggested that historic designation in Provincetown can be difficult to ascertain with so many requirements intersecting at points that don't always line up and with 900 parcels located in the flood plane. AH also pointed out that just because a structure is located in a historic district does not automatically mean it qualifies as historic and can therefore add to the total or percentage of historic buildings the town would need to qualify for insurance discounts.

2. Conclusion to business meeting with FEMA

As the meeting wound down in the final ten minutes, AH detailed a few cases where the A Zone was in effect and how compliance is achieved. EL spoke of the various ways a homeowner might seek to circumvent the 50% ruling to avoid a total structural elevation, such as by doing reconstruction in a more piecemeal fashion or doing a series of changes through time – not all at once. Also, how time-sensitive permitting aids in keeping designations to code. MR reiterated that it is important to determine the responsibility of the owner vs. the municipality.

EL reminded HDC that the FEMA regulations contain a good deal of detailed information and that the guide is there to be referenced for the particulars, which can change from block to block or town to town.

At the conclusion of the briefing, TB made a motion to adjourn the business meeting at approximately 4:29pm; HS seconded the motion and it passed, 6-0-0. TB, HS, LPR, MM, LD, MR.

Respectfully Submitted,
Jody O'Neil
November 21, 2017