

**NOTES OF THE MILLVILLE
TOWN COUNCIL WORKSHOP
September 24, 2013 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Jon Subity, Council Members Robert Gordon, Joan Bennett and Harry Kent; URS Representative Kyle Gulbranson and Town Clerk Matt Amerling. Town Manager Debbie Botchie was absent.

1. CALL TO ORDER:

Mayor Hocker called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. NEW BUSINESS:

A. Discussion on the Town's ordinance regarding accessory structures in the Residential District.

Mayor Gerry Hocker stated there has been interest from some residents regarding detached buildings and so URS representative Kyle Gulbranson drafted some scenarios to how the Town may regulate these buildings for the Town Code. Mr. Gulbranson stated when the zoning code was drafted about six years ago, there was a lot of discussion about accessory structures and the sizes appropriate for an accessory structure, particularly in the residential district. Mr. Gulbranson stated there is currently only about 15 percent of the Town which is zoned as "residential," and most of the areas in Town that are residential are either zoned as "master planned community (MPC)" or "residential planned community (RPC)," which allows a much smaller, condensed style of development. Mr. Gulbranson stated when the code was originally discussed, the Town set the maximum size for accessory structures in a residential district at 600 feet, which would be a tool shed, potting shed, tree house, etc. – and there was a lot of discussion at the time to set the maximum size for a detached accessory garage at 800 square feet. Mr. Gulbranson further stated living where we live, a lot of people have additional cars, boats, jet skis, etc., and several residents have approached the Town about looking at a way in which the Town could expand the maximum size of an accessory garage. Mr. Gulbranson stated URS looked at examples from around this area, which there were not a lot of examples because most towns have a certain maximum cap on these types of structures, so URS looked outside the area. Mr. Gulbranson stated URS found some towns have gone to a sliding scale for these types of accessory garages. Mr. Gulbranson stated what URS has done is put together a scenario for discussion about one possibility the Town may want to move into to allow a larger accessory garage in the residential district. Mr. Gulbranson further stated the whole premise of what the Council sees before it is Council can allow a larger garage, but, at the same time, it has to be scalable to the size of the property – if a property owner has a larger property, they can have a larger accessory garage, but with a smaller property, 800 square feet is going to be the maximum.

Mr. Gulbranson stated URS placed a better control mechanism in the draft before Council so the

maximum size of an accessory garage would be limited to 20 percent of the rear yard, so if a property owner has a very small lot in a residential district, they may not be able to build an 800 square foot accessory garage because they're limited to 20 percent of the back yard area. Mr. Gulbranson stated the other appropriate aspect if there is a sliding scale scenario, is if there is a larger garage, it will need a much larger setback so the setback is scaled as well, based on the size of the accessory structure. Mr. Gulbranson stated the scenario before Council basically has up to an 800 square foot accessory garage having a setback of five (5) feet, which is comparable to what the Town has now, an 800- to a 1000-square foot accessory garage which would have a 10-foot setback, and anything over a 1000 would be a 15-foot setback. Mr. Gulbranson further stated in any scenario, the maximum size would be capped at 1200 square feet, which is a very large 30 by 40 structure. Mr. Gulbranson stated again this is all for discussion purposes only and there are a lot of things to consider. Mr. Gulbranson stated one of the issues he is uneasy about with when it comes to allowing these large garages is the potential for commercial activities to start being used, and that is one thing the Town needs to consider because it will be a code enforcement issue if it that got out of control. Mr. Gulbranson stated this amendment would work to allow larger structures to give a semblance of balance so the structure would not be overwhelming.

Deputy Mayor Jon Subity stated he thinks it is good the Town is scaling this by the size of the yard but he is curious about whether there was any consideration for scaling on the size of the existing structure on the home. Mr. Gulbranson stated that is another issue is that URS is calling these "accessory garages" and "accessory" means it's an accessory to the primary structure, which would be the house and the residential property. Mr. Gulbranson further stated typically the way zoning codes are written is anything that is accessory should be smaller than the primary structure. Deputy Mayor Subity asked if that code aspect is a given in this instance. Mr. Gulbranson stated the Town's code does not specifically state it, but that is a premise in Planning & Zoning (P&Z).

Council Member Harry Kent stated the business of "habitable space" in the draft is a great concern for him because if one were to go by the definition of "habitable space" is living space. Mr. Gulbranson stated when URS put "habitable space" in the draft it was probably not the best choice of words and URS was not envisioning a living unit within the garage. Mr. Gulbranson stated in building code terms, the word "habitable" means the unit has standards which would allow it to be habitable and what URS was envisioning was storage. Mr. Kent stated he could see "usable storage" but not "habitable space" because that infers utilities and that is a concern. Mr. Kent stated another concern he has is in the Town code – under the R1 (residential) area – there is an 800 square foot garage limit; however, when going back to the supplemental district regulations, getting into accessory structures, there is mention of a 600 square foot use for an accessory building. Mr. Kent further stated he does not understand how the Town talks about accessory use in the Town's primary section as a garage, but in the other section, the accessory structures are defined but garage is not in that definition. Mr. Kent asked if the Town should be defining something else in the code so it all fits in the same category. Mr. Kent stated he also has a problem with the setbacks, which, from his understanding, normal setbacks are set at ten (10) feet or more. Mr. Kent asked why Council would change a setback that is already set at 10 feet to 5 feet because the code would be changed to allow for a bigger structure. Mr. Gulbranson stated he thought accessory structure setbacks were at 5 feet,

and he thinks the side-yard setback for any residential structure is 10 feet, but an accessory structure is 5 feet. Mr. Kent stated he still has an issue with that because a structure that is 800 square feet is going to approximately be 40 by 20 – which is a big facility. Mr. Kent further stated his attached garage to his house is 418 square feet, and that is a big building, and asked how Council and URS are going to take it up to 1000 or 1200. Mr. Kent stated if Council is going to make the setback bigger, then 10 feet should be the “bare bones minimum.” Mr. Kent stated the 20 percent rule sounds good until Council sees how it applies in the particular areas. Mr. Gulbranson stated the 20 percent maximum coverage for the garage is going to limit the number of qualifying residential properties because only the larger lots would be able to take advantage of this ordinance. Mr. Kent further stated he had some concerns about the height of these structures and the 18 foot maximum. Mr. Gulbranson stated the reason for the 18-foot maximum was so the structure could allow for nicely-pitched roof. Mr. Kent stated that is understandable but URS might want to change the language.

Council Member Joan Bennett stated she has a noise concern regarding this ordinance. If the accessory structure is close enough to the five-foot setback, they will be hearing the noise coming from the structure (i.e., saws, banging hammers, air compressors, etc.). Ms. Bennett stated she could not go along with the five foot setback because of the noise consideration for the other neighboring properties. Ms. Bennett stated she lives in a residential area and she lives there because of lot space – she wants privacy and quiet – and she does not wish to have a building close to her property line. Ms. Bennett further stated in considering this ordinance, she is considering the “big picture of the neighborhood” and how it would affect the welfare of the neighbors in the community, which is a bigger number than those who are requesting the ordinance. Mr. Gulbranson stated when the zoning code was first drafted, he thought an 800 square foot garage was a good size, but he understands that some people have greater needs for a bigger structure, and the only way from a planning standpoint to allow a larger structure is to adjust the placement on the lot, the setbacks so it is further from the side-yard, further from the residences, and it’s a function of the size of the property. Ms. Bennett asked if the 20 percent provision with those property owners with larger parcels go up to the maximum which works for them, but also for people with (for example) a 4/10 of an acre, would it work against them. Mr. Gulbranson stated yes, the way this ordinance is drafted, it is a functional size. Ms. Bennett stated this ordinance goes against those who may want an accessory structure in the future but cannot because of the size of their lot. Ms. Bennett stated her concern is after hearing all of the phrases and concerns tonight, this ordinance may go to the Board of Adjustment because of conflicting issues, and maybe this should be dealt with on an individual basis rather than changing the entire ordinance. Ms. Bennett stated she knows there is business in the application fees, but this ordinance may be fraught with peril on too many levels. Mr. Gulbranson stated she needs to remember to be granted a variance from the Town’s zoning code, and the only reason he variance should be granted is due to physical restraints of the property, but the variance should never be granted because of use.

Mr. Kent stated he can understand there are those who have RVs, four-wheelers, etc., but is the Town giving someone in a residential district the chance for storage when there is no room. Mr. Gulbranson stated the reason we have zoning is there are different categories of land, and all of us have the free will and options to buy where we want to buy. Mr. Kent stated that is true with

residential planned communities (RPC) or master planned communities (MPC), but what about the commercial zoned (C1), are they being excluded by this change? Mr. Gulbranson stated he thinks it is a person's individual choice as to where they buy property; if a person wants to have a house with a large garage in the backyard, he knows he cannot do that in Millville by the Sea (MBTS), so he'll have to look elsewhere. Mr. Kent stated Mr. Gulbranson is talking about a MPC but he is talking about a district which is not MPC or RPC. Mr. Gulbranson stated the way the Town's code is written, any use that's allowed in residential district is also allowed in the commercial district. Ms. Bennett asked if people in a commercial zone are allowed to do this, could they use the 1200 square foot structure for commercial uses. Mr. Gulbranson stated that is possible, but the appropriate steps for business licenses and site planning would stand. Mr. Gulbranson stated in general if the Council decides to go with this ordinance to allow larger accessory structures, he thinks the proportional structure is the way to go.

Council Member Bob Gordon asked if the 1200 square foot building limit is to be a cumulative total for separate buildings or not, meaning can three separate accessory buildings have a total of 1200 square feet. Mr. Gulbranson stated that is a good question and he's not sure yet. Mr. Kent stated the percentage of space makes sense to him, but on a smaller lot, it is not good. Mr. Gulbranson stated the way the Town's code is drafted now, there is no limit to an attached garage.

Ms. Bennett stated when URS looked at neighboring towns but there were none in the area so URS had to go out of the area. Mr. Gulbranson stated no Town has made a code change but in some of the neighboring Towns, it is stated if the accessory structure is for agricultural use, there is no size limit for it. Mr. Gulbranson further stated some people have been able to use this loophole to make bigger structures because they said it was for agricultural use. Ms. Bennett asked in regards to the "several residents" who brought up this ordinance, who are these residents and how many exactly constitutes "several." Mayor Hocker stated Ms. Bennett would have to ask Town Code & Building Administrator Eric Evans, but, for the Mayor himself, two people have asked him. Ms. Bennett stated she needed the full information before she could continue anymore consideration on this ordinance. Mr. Gulbranson stated over the last five years, he has been asked by about 4 people to give an interpretation on this issue. Ms. Bennett stated her formal request for an exact number of people who requested this ordinance. Mr. Gulbranson stated there is no perfect zoning code and when you have a code that is open to interpretation, there is room for a code revision.

Mayor Hocker stated Council would ask Town Manager Debbie Botchie about the number of people asking for this ordinance, and Council would further discuss this issue at the next workshop as old business.

4. **COMMITTEES – The Millville Great Pumpkin Festival** – Deputy Mayor Jon Subity stated Town Manager Debbie Botchie has done a fantastic job of organizing the event. Deputy Mayor Subity stated the event will take place on Saturday, October 5, from 10 a.m. to 2 p.m., at the Millville Volunteer Fire Company grounds and there will be a new band – 33 1/3 – playing. Deputy Mayor Subity stated because of the pumpkin shortage this year (due to weather), if anyone knows of someone selling pumpkins, please let the Great Pumpkin Festival committee know.

5. **PROPERTY OWNERS/AUDIENCE COMMENTS:**

There were no comments.

6. **ANNOUNCEMENT OF NEXT MEETING – October 8, 2013** – Mayor Hocker announced the next meeting of the Town Council would be a Town Council Meeting on October 8, 2013, at 7:00 p.m.

7. **ADJOURNMENT:**

Council Member Gordon motioned for adjournment at 7:56 p.m. Council Member Bennett seconded his motion. All present voted yes. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk