

THOUGHTS ON THE AVALON ZONING CODE

The Avalon Zoning Code is one of the best we see in our work up and down the NJ coast. It is simple, easy to use and fair. That so few variances are sought is a testament to the quality of the ordinance. It is against this back drop that these thoughts are offered.

Planners and land use attorneys may argue over the purposes, definitions and legal mechanisms of zoning codes, yet in the role of architect practitioner, the abstract text of the ordinance becomes tangible. The tangible has consequences that are both intended and unintended.

Working in so many different towns we compare the ongoing evolution of various zoning codes, the successes and failures. And while the need for stability in any ordinance is paramount, it cannot be a static thing above criticism and above refinement. Each project begins with it the simple notion of how can we make it better. The zoning code should do no less.

The following comments are in no particular order and do not refer to a specific project. Some items are quite simple, others more controversial. These are simply observations from the front lines. The only agenda is the idea of making the town better. Avalon is a fortunate community. We would like to see it remain so, to get better and to permit and encourage better buildings.

- **Building Height:** Avalon permits three story dwellings. For good or ill, it has become a defining characteristic. At issue is the amount of total building height allowed. Designing a three story home is often an exercise in solving a puzzle rather than designing a good building. There is just enough vertical height to design the home, but perhaps not quite enough to do it well. To be clear, we do not propose a substantial height change that impacts light, air, or open space. Rather a 12" increase which would result in no additional habitable space, but would be a significant improvement in the quality and safety of the buildings.

Allowable building height is often the third-rail of local zoning politics. Easily singled out as an enemy, it is far easier to limit how big or tall a building should be than to discuss how good a building can be. A finer grained, more thoughtful approach might trade off FAR or building coverage for a slightly taller building. (See final thoughts below.)

Additionally, some method should be considered to reward or re-introduce 1-story and 2-story homes. (increased/reduced lot coverage, etc).

- **Accessory Building Setback:** A few years ago, the accessory building rear yard setback was increased from 5' to 8'. The results have been less than positive. The added setback areas have become odd no-man's-lands between buildings. The unintended consequence is that this has sacrificed the larger more usable contiguous open spaces. The problem is particularly acute on corner properties where the rear yard is the side opposite the smaller street frontage. It is the "rear yard" in name only and is actually just another side yard. The ordinance forces an over crowding of the structures that results in less open space. Newer ordinances have successfully implemented zero-lot line accessory building setbacks. The result is more privacy and more open space and higher quality buildings.

- **Upland vs. Riparian lot areas:** The maximum allowable building coverage across the Boro's residential zones is 27% of the total lot area. On bayfront lots, it is not uncommon for a portion of the lot to be water-ward of a bulkhead line. Accordingly, homes may utilize 27% of the entire lot (land and water) for the design calculations. But of course, the homes are constructed on the upland area only. In short, very large homes are permitted on very small parcels.

There is a sliding scale for yard setbacks on over-sized lots. A similar approach should be applied to lots with (x) percentage of the lot area water-ward of shore protection structures.

- **Flat vs. Pitched Roofs:** Avalon's zoning code is the only one we see that makes no differentiation between flat and pitched roofs in its allowable building height, (ie. 22' flat, 33' pitched is a typical example). But for a small percentage, flat roofs are simply not permitted. The prescribed minimum roof pitch is 4-in-12. Yet the building community has long since circumvented these rules by folding a series of smaller 4-in-12 pitches across an otherwise flat roof area. The result has been boxy three-story structures that again, focus on "how big rather than how good". Real estate speculation supplants good community design. It is not an easy task, but language should be added to the code to address this loophole.

Additionally, with more interest in solar technology, the code inadvertently limits the solar panel options with this language.

- **Bay Front Grading:** The ordinance requires parcels to be graded towards the street to manage storm water. Similar grading is required on bay-front lots. The required re-grading is often extreme and typically runs against the natural topography. There is concern over cost, environmental impact and even common sense. A recent project was positioned directly over the outfall pipe. Re-grading resulted in water being funneled to the curbside storm drain and then immediately back underground to the bay. The Borough is urged to engage a qualified engineer to explore the current ordinance which may actually be exacerbating flood conditions. Note that many of the lagoon area blocks are quite long have only one storm inlet.

- **Storm Water Management:** The code requires storm water to be retained on site for a given duration. (Typically through gravel-filled retention pits). Other coastal municipalities with similar ordinances have since removed these requirements. It is just minimally effective. Like other coastal towns, Avalon's flooding problems are typically tidal in nature. The retention basins are, of course, not intended for that purpose.

- **Front Steps:** The ordinance makes a nod towards allowing front stairs to encroach in to the 15' front yard setback area. A cumulative stair area of less than 26 square feet is permitted to encroach. Perhaps it is a small issue, but the stair should be allowed to extend into the front yard without governor. The front stair tumbling down from an entry porch engages the home into the fabric on the street and the community. It is both a symbol of the town and a fundamentally civic-minded gesture.

- **Condensing Units:** As air conditioning units have become more and more efficient, they have also gotten quieter. The units have unfortunately become much larger. The code should recognize this fact and reward those who adopt the higher efficiency units by allowing a partial encroachment into the side and rear yards. 24" is recommended for side yards, full encroachment for the rear yard.

- **Outdoor Showers:** An enclosed outdoor shower is not an allowable yard encroachment in Avalon. Yet Avalon is, after all, a beach town. In a random survey it may be more difficult to find a conforming shower than a non-conforming one. Any honest assessment would permit this small nod towards convenience.
- **Auxiliary Dwelling Units (ADU):** A sad reality of current building practice is that a single large building is often situated in the exact center of a given lot. Qualitative outdoor green space is too often an afterthought. The Avalon building prototype prior to 1950 would have had a two-story main dwelling and a detached garage apartment or ADU. And it was beautiful. On a small scale these are enhancements to the community. Quality and density often go hand in hand. Density is not the enemy, but it is often too easy a target in zoning case law. As counterintuitive as it may seem, two smaller dwelling units on a property can reduce building mass and density. The FAR remains the same but it is distributed between smaller structures.

Final Thoughts: The most beloved towns have evolved and grown organically over time. Cape May or the Italian hill town are the result of both careful planning and serendipity in equal measure. The non-conformity is as valued as the conformity. The exception is as valued as the rule. The three and four story structure is comfortable next to the bungalow. It may even be necessary.

Zoning as a basic governing set of rules is a relatively modern idea and an imprecise tool, the very best of which become prescriptive over time. The authors of early zoning codes could hardly have foreseen a time in which every building was built to the razor's edge of conformity. We now start a project with the zoning requirements and then build exactly to those requirements; nothing more and certainly nothing less. The building community now responds to the encoded numbers, to the black and white text of the code rather than the colored texture of the community.

Of course, legal and basic administrative requirements preclude a random approach to zoning. In an ideal model however, the word that is most required in a zoning ordinance, and cannot be there, is "sometimes". Sometimes I want the home to be three stories tall, but not all of them. It would be overwhelming. Sometimes I want the porch and steps to encroach into the front yard and the right-of-way, but not everyone should do so. Sometimes I want two dwellings on the same lot, the garage apartment or granny-flat, but I cannot have everyone do so.

What is required is a controlled randomness in building. Perhaps in that randomness, we get places worth remembering, worth caring about. Indeed, we get places where the future is as good as the past. The quality of the buildings matters. Zoning cannot control that, but it can be a helpful servant. It can and should foster an environment in which good building is encouraged and rewarded.

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