



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

To: Zoning Commission
From: Brittany MacGilpin, Assistant Town Planner
Date: May 6, 2024
RE: Substantial Improvement Text Amendment

Introduction

At the March 4, 2024 regular Zoning Commission meeting, members were provided a list of action items that Planning Department staff can implement relatively quickly while also having an impact to Simsbury's citizens. One of the items on that list was drafting a text amendment that revises the definition of Substantial Improvement, which is found in the flood definitions section of the Town's Zoning Regulations (Sections 6 and 17).

This item is scheduled for public hearing on May 6, 2024. Prior to the hearing the text amendment was brought to the Planning Commission for review per Section 8-3a of the State Statutes, to ensure consistency with the Plan of Conservation and Development. The Planning Commission recommended approval with clarification that the dollars spent on previous improvements are calculated as dollars spent at time the improvements were made (as opposed to current dollars once the threshold is met) so as to not increase the burden on the homeowner. This concept is clarified further in this memo.

The Town of Simsbury has public and private land that is identified by FEMA as being in a Special Flood Hazard Area (SFHA). These areas are defined as having a 1% chance or higher of experiencing a flood each year and is therefore considered high risk. In order to reduce potential flood damage and losses, structures in the SFHA are regulated by the Town's floodplain regulations.

Because a number of structures located in a SFHA existed prior to the creation of the FEMA flood maps, these structures, as they stood, were not constructed in compliance with the floodplain regulations. However, in order for a community to reduce flood hazards over time, alterations/improvements made to these structures totaling more than 50% of the market value of the structure is considered a Substantial Improvement and therefore, requires the entire structure be brought into compliance with the floodplain regulations (i.e., raising of a home's foundation above the Base Flood Elevation, floodproofing a basement, etc.). This can be at a significant prohibitive cost to homeowners.

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Proposed Substantial Improvement Policy Change

While FEMA requires that a Substantial Improvement requirement be included in a town's floodplain regulations, towns are able to determine the time period for when these improvements are tracked and count towards the 50% threshold. Simsbury's floodplain regulations require that all improvements taking place "during the life of the structure" count towards the 50% threshold for Substantial Improvement. This is in contrast to the Town of Canton and other nearby towns where their ordinance states only improvements taken place "over the past ten-year period" counts towards the threshold.

Improvements tracked over the life of a structure where many homes can be 50-100 years old becomes quite restrictive to homeowners, especially new homeowners who would like to continue maintaining a newly purchased home. Often these homeowners choose not to entertain improvements, from additions to a new roof, due to the potential cost burden.

Staff proposes changing the current language of this definition so that Substantial Improvements are measured against a ten-year period instead of for the life of the structure. Shortening the time period allows both flexibility for homeowners to be able to make improvements to their home while also working towards our goal of reducing flood hazards over time.

The following scenario explains the process staff currently takes to calculate if a Substantial Improvement has been met on a structure:

A homeowner submits a building permit for an addition in March, 2024 for a home located in a flood zone. Staff reviews the building permit history for the address going back decades (in many cases) and calculates the total cost of work from these permits. The total cost of work would then be calculated against today's market value of the home to formulate a percentage:

$$\frac{\text{Cumulative Cost of Improvements or Repairs}}{\text{Market Value of Building}} \geq 50\%$$

If the total cost of work on the home over the life of the structure is greater than 50% of today's market value, the home would need to be brought into compliance with the floodplain regulations.

With the proposed change, Substantial Improvement history would only go back for a ten-year period from the date of the building permit. And to address comments by the Planning Commission during their meeting, costs associated with past permit applications would not be recalculated in today's dollar value, but instead the amount spent at the time of permit issuance would be used in the calculation.

After researching similar ordinances in other towns such as the Towns of Canton, Avon, Granby, East Granby, Farmington, it was determined that the 10-year period was most commonly used.

Location	Substantial Improvement Time Period
Canton	10-years
Avon	10-years
Granby	10-years
East Granby	10-years
Farmington	Life of the Structure

Below is the definition of Substantial Improvement included in the Zoning Ordinance, Section 17, Administration and Definitions. Please see the strike-through of current language and the addition of proposed language below:

Improvement, Substantial Improvement: Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, ~~taking place during the life of the structure~~, taking place during a ten (10) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. **(amended April 16, 2018)**

Conclusion

Amending the Substantial Improvement period for lifetime of the structure to a ten-year period greatly reduces the financial burden on Simsbury residents who own property in the floodplain. The change also brings the Town more in line and consistent with most nearby Farmington Valley municipalities.