Review of Code Requirements for Elevating Flood Zone Properties

Five or six years ago, Commissioners considered an analysis of existing code provisions related to elevating properties in a flood zone and some recommendations regarding those provisions. While the effort was not rejected, it was not fully pursued. There is some confusing language in those provisions that should be revisited, and the provisions may not be well understood.

The discussion of increasing freeboard at the last meeting reflects some possible misunderstanding. For example, there was an assertion that properties that encroach on setbacks could not be substantially renovated and elevated. The code does appear to allow that:

- Section 101-27(3) illustrates both opportunity and limit for such properties. "No existing structure which encroaches in any required setback area(s) shall be raised to an elevation higher than the base flood elevation plus town-mandated freeboard plus a vertical tolerance of 0.10 foot unless otherwise provided for in Chapter **185**, Zoning, or repositioned so as to no longer encroach."

- Interpretation of sections 185-59A and 185-60B suggests that in general properties that do not conform with setbacks or other “bulk requirements” may be elevated to FEMA and freeboard levels in the same configuration but subject to the height limit.

- Section 185-46 waives the height limit for substantially damaged properties built before adoption of the flood insurance rate maps.

The above interpretations could be subject to debate, but they also point to the need for clarification.

It seems reasonable to start with consideration of what we want property owners to be able to do in protecting their properties. We could then assess how existing provisions address those interests and make changes to the code as needed.

The Charter and Code Review Committee would be charged with exploring some scenarios that include examples of pre-and post-flood maps, conforming and non-conforming, substantially damaged and voluntarily improved properties and making recommendations accordingly.