



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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MEETING MINUTES

January 17, 2017 – JOINT MEETING WITH AFFORDABLE HOUSING TRUST

For the Zoning Board of Appeals:

Chair: David Femia

Members Present: David Femia (Chair), Barur Rajeshkumar (Clerk), Christopher Olson and Charles Witkus.

Others Present: Secretary Toby Goldstein.

Members Absent: Nathaniel Orciani, John Benson (Associate Member) and Daniel Cronin (Associate Member).

For the Affordable Housing Trust:

Chair: Patricia Halpin

Members Present: Patricia Halpin (Chair), Robert Barrell, John Hadley, Anna Mary Kraemer, and Marc Frieden (Mr. Frieden arrived at 6:15 p.m.).

Also Present: Paula Stuart, Community Housing Specialist; Anita Scheipers, Town Administrator

(Ms. Goldstein took the minutes of the meeting for both groups).

Mr. Femia called the meeting to order at 6:05 p.m. this evening. He stated that this was a joint meeting with the Affordable Housing Trust (AHT). He stated that the topic of discussion was Local Preference for 92 North Main Street (Sajda Gardens). He noted that, for the ZBA, (4) members were present, (1) member was absent; for AHT, the entire board was present. Mr. Femia said that he would defer to Ms. Stuart at this time, informing her that, at the ZBA meeting on December 15, 2016, the ZBA agreed to try for a 70% local preference, rather than 50%. Ms. Stuart explained that this would be informing the State that the Town wants the maximum percentage of units to be Local Preference, and asked if it might be better to suggest 60%, which she asserted might show the State that the Town is willing to work with them?

Ms. Halpin responded, explaining the housing needs analysis that was just completed because of the planned senior housing at Orchard Knoll, 87 Maple Street. She explained that, in order

to have it go forward, three studies needed to be done, an environmental study, an engineering study and a housing needs analysis (just completed). She noted that Bill Scanlan produced the housing analysis. She explained that the study was needed for informed decision making, and added that the AHT was still reviewing the paperwork. Preliminary review indicates a need for affordable rental units especially to meet the needs of the aging population.

Ms. Stuart explained that 70% is the maximum for local preference that can be granted by the State, and asserted that 50% would be easy to attain. She said that there is a concern that West Boylston has a lower cost per rental unit, which might show that there is perhaps not as dramatic a need for the housing except for seniors. She reiterated that there was still more of the report to study, but based on the data, she was not sure that the supposed need for affordable housing was higher than the region, and added that they must provide data to justify the percentage that they ask for. Ms. Stuart opined that the State would review a request for less than the maximum more lightly.

Mr. Femia asked her what would be a safe level with which to begin? Ms. Stuart replied that that 50% would be comfortable, and above that, more statistical data would be needed to justify the request. Mr. Rajeshkumar suggested that, if they suggest 70% and it is rejected, then they could ask for 60%. Ms. Stuart responded that MHP, the monitoring agent, could push back with 70%, but they tend to want to solve regional housing shortages, so she suggested that they ask for 70%.

Mr. Barrell spoke next; he stated that, at 92 North Main Street, there are 20 affordable units, therefore 70% would be 14 units, whereas 50% would be 10 units (only a difference of 4) so he thought that they should try for 70% also.

Ms. Stuart then explained that Local Preference is a starting point for local people, and they have an advantage as there are two pools and they are placed into the two pools. Since she has been a lottery marketing agent, she has not had a problem with 70%, but has not dealt with MHP as monitoring agent before.

Mr. Frieden opined that they should try for the maximum amount so that local people can stay in town. Ms. Stuart added that affordable units cost roughly what market value units cost.

Mr. Femia then asked who makes the determination of how many bedrooms the units will have? Ms. Stuart responded that they identify how many are needed out of the 70% and they generally want to break it up equally in each of those categories. The developer may push back on it so that he can balance profit and loss.

Mr. Frieden opined that there was not a reason not to ask for 70 % if the costs are that close between affordable and market units.

Ms. Stuart continued, that they will begin marketing, and there will be a waiting list due to more applicants than openings; resident preference will happen only at the beginning.

Ms. Scheipers, referring to the Scanlan report, tables 4 and 5, regarding vacancy rate, asked if the results justified that the Town had enough need for affordable housing? (There was a discussion then about the ZBA not yet receiving a copy of Mr. Scanlan's housing report). Mr. Femia then asked if MHP considers who is on the lottery to determine how many bedroom units there will be? Ms. Stuart responded that there is a drawing for Local Preference and general applications, and they move down the list; she explained that the caveat is, if the entire family can live in one bedroom, they will not have a three-bedroom apartment. If there are four people, they will have a three-bedroom even if they are further down on the list. Mr. Femia asked, if no applicant needs a one-bedroom apartment, will that be taken into consideration? Ms. Stuart replied that they have to market non-affordable apartments also, and won't change the configuration of the units at this point.

Mr. Femia then asked if the Franklin Street affordable housing development had Local Preference? Mr. Barrell replied that the Housing Authority monitored that. Mr. Femia commented that he did not know about the Local Preference option until Dean Harrison sent the board an e-mail about it. Ms. Stuart asked if the original regulatory agreement had some discussion on Local Preference? Mr. Femia replied that he did not recall discussing it at all. Ms. Stuart suggested that it was probably discussed previously with the early versions of the Comprehensive Permit and perhaps it was thought that it was taken care of; she recalled reading that Local Preference "shall" be an option. She noted that she had not experience with many towns that did not want Local Preference.

Mr. Barrell then commented that they should address Ms. Scheipers' concerns about amount of vacancies. Ms. Stuart clarified that the percentage of vacancies is 4.3%, lower than that of the State and local areas, but she noted that there could be some substandard rental developments counted in that total.

Mr. Hadley agreed that they should ask for 70%, and Ms. Stuart agreed.

Mr. Femia asked if they should tell Dean Harrison when they meet with him on February 2? Ms. Halpin replied that they should do that. Ms. Kraemer asked if Ms. Scheipers' question would be enough to dissuade them from asking 70%? Ms. Halpin suggested that they take out data for Mr. Harrison to substantiate the request. She said that she will forward the housing study to ZBA tomorrow, reiterating that the AHT had not had a chance to discuss it and added that they can use data as a case to Mr. Harrison. Ms. Stuart agreed.

In response to a question from Mr. Hadley, Ms. Stuart replied that they do not need to take an actual vote on the Local Preference decision and the 70% decision, they can just be stated; Mr.

Femia, however, stated that the ZBA took a vote on that, and that it is on the agenda for January 19 to take a formal vote. (He instructed Ms. Goldstein to send an e-mail to them of that vote). Ms. Stuart responded that they will need all the data at the February 2 meeting with Dean Harrison.

Mr. Femia then asked Ms. Stuart, if the board asks for 70%, and the subsidizing agency does not grant this, should the request drop by 10 or 20%? Ms. Stuart responded that she did not think that the percentage was a major issue. In response to a question from Mr. Femia, Ms. Stuart replied that she did not think there would be push back from the developer, because Local Preference is an option, and it is not like public housing where residents pay according to their income.

Mr. Femia commented that the Building Inspector told him that the development is changing from gas to electric, with air conditioning and heat. Ms. Stuart responded that affordable unit rent includes utilities. She noted that they use data from the housing authority including type of buildings and average costs of the different utilities in calculating the rent. Mr. Femia reiterated that the ZBA will vote on the percentage on January 19 and e-mail the Trust with the results, and Ms. Stuart said that she will go through the housing study in detail Thursday and Friday of this week.

Mr. Femia added that Mr. Scanlan recalculated the Town's Subsidized Housing Inventory, and they are at 1.53 %. Ms. Stuart responded that, according to DHCD, the Lancaster Street unit is listed but there is no deed restriction, which does not mean that it does not count. She noted that some older units continue to count even if they fall off the deed restriction. Lancaster Street is affordable and does count towards the Town total. Ms. Stuart added that she will contact Mr. Scanlan to rectify some figures in the study, as some of the Assessor's data applied to a different number of units. Ms. Stuart and Ms. Halpin both assured Mr. Hadley that the Town still had the percentage that it needed. Ms. Stuart then mentioned the example of Weymouth, MA, who, in 2003, was the only town to be upheld on a land area safe harbor of 1.5. The formula for figuring this out was the reason that all the other cases were not upheld. She explained how the court ruled in one case that DHCD needed to give guidance to communities as to how to calculate their percentage; they needed to give rules for what counts toward land area percentage and is permitted, with the key being to make sure that calculations were done correctly and there is the data to support the calculations. Most of the towns were close to the 1.5%, but Weymouth was successful in their appeal; HAC recalculated the figures, and upheld the developments.

Ms. Halpin then discussed the idea that affordable housing in West Boylston included an offense and a defense approach, with the defense being protecting the Town against hostile developers with such things as the 1.5% land area requirement and monitoring of the

developments as they proceed, and the offense being, with the example of 87 Maple Street, helping people such as seniors and children to obtain housing. She explained that part of working with the Open Space Committee was so that people can identify parcels of their property that they are not going to develop and the OSC can outline for them how they can be in permanent restriction status. They are working with George Bernardin on this. (Ms. Halpin then praised the ZBA for their attention to this matter).

Ms. Stuart continued, that unbuildable lots can be excluded from the figures, but wetlands will not allow the Town to remove property from the total land area. She said that much comes down to zoning ordinances and what land is unbuildable. In response to a question from Ms. Halpin, Mr. Hadley replied that the Building Inspector and Conservation Commission decide if property is unbuildable. Ms. Stuart added that zoning ordinances do that, also. She said that the EPA has developmental restrictions on parcels, and this also does not count towards removal from the total land area.

Mr. Rajeshkumar noted that 1.5% is the goal for total land area, and asked who makes the calculations? Ms. Stuart replied that DHCD does that. In response to another question by Mr. Rajeshkumar, Ms. Stuart replied that the town should be responsible for the calculations, and that it is the town's burden to prove the 1.5%. However, the towns often cannot obtain certain information for privacy reasons. She discussed the example of group homes and the difficulty in knowing the number of units. She continued that towns have different sources of information and there are variables, and that the formula is outlined in 760 CMR. The MA GIS system has figures that the State will accept.

Mr. Frieden asked about group homes? Ms. Stuart replied that, if they are not on the SHI, they must prove that there is a deed restriction or some long term agreement, and that there are affordable units and how many there are.

Mr. Witkus then asked why the Local Preference did not cover a period of time, for example ten years, rather than just applying to the situation in question? Ms. Stuart replied that it takes place at the time of the lottery, and the legislature would have to change it, but asserted that people do not want to try to change it because it applies to 40B. In response to a question from Ms. Kraemer, Ms. Stuart said that it was up to the Town to promote it. Ms. Halpin asked when it would begin? Ms. Scheipers replied that they will find out on February 2 when they meet with Mr. Harrison; Ms. Stuart thought maybe June. Mr. Barrell added that people take applications but suggested that they not be at Town Hall but at a neutral location, as people may not want to be seen taking the applications. Ms. Stuart suggested putting the application on the Town website to download, then the applicant can fill it out on paper. In response to a question from Ms. Halpin, Ms. Stuart replied that a marketing agency is responsible for doing that, probably MHP.

Then the members discussed the waiting list and who would have preference. Mr. Barrell said that it would depend on the situation of the applicant; for example, a homeless veteran would be given more “points” for need. Ms. Stuart commented that there are still people on the waiting list, which is updated every year or two and is an open list. (Mr. Hadley compared that to senior housing). Ms. Kraemer added that the opportunity for Local Preference people remains. Ms. Stuart added that there is not an automatic number, though.

With no further comments by either board, Mr. Rajeshkumar made a motion to adjourn the meeting at 7:03 p.m. Mr. Olson seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____