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Town of Ayer
Zoning Board of Appeals
Ayer Town Hall
1 Main Street
Ayer, MA 01432



Wednesday, August 31, 2022

Remote Participation Open Session Meeting Minutes

Present: Samuel A. Goodwin, Chair; Michael Gibbins, Vice-Chair; Ron Defilippo, Clerk; Jess Gugino; John Ellis

Also Present: Carly Antonellis, Assistant Town Manager; Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin called the meeting to order at 6:01pm. He stated that due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Carly Antonellis, Assistant Town Manager at atm@ayer.ma.us or 978-772-8220 ext. 100 prior to the meeting.

Approval of the Agenda: Motion was made by M. Gibbons to approve the agenda as written. Seconded by R. Defilippo.

Roll Call Vote: M. Gibbins, aye; R. Defilippo, aye; J. Gugino, aye; John Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

The meeting opened with a presentation from the Affordable Housing Trust and Affordable Housing Committee.

Affordable Housing Committee member Janet Providakes presented on the need for Affordable Housing. The presentation opened with an explanation of the two types of Affordable Housing. "A"ffordable housing is subsidized, and permanent, it can be controlled with deed restrictions, "a"ffordable housing is private, less permanent, and driven by the market.

A town, per Massachusetts law, must have at least 10% affordable housing, Ayer currently has about 8%. With the town under 10%, we are open to unfriendly 40B construction. Affordable housing also looks at Area Median Income (AMI), this looks at what people earn in the area. Ayer is considered part of the Boston Metro Area, and therefore the AMI is \$98,000 for a single household, using this calculation 38% of people who work in town qualify for affordable housing.

Ayer has been addressing the need for affordable housing. The Master Plan allowed for the creation of the Ayer Housing Committee, and the Ayer Housing Trust. The Office of Economic and Community Development (OECD) have been able to apply for grants and distribute funds for rehab projects. The town has been able to update By-Laws to include form-based code, inclusionary zoning, and accessory apartments. The creation of the Housing Production Plan, the Community Preservation Committee's five-year plan, open and recreational space, and the education of board members all have a focus on affordable housing.

The presentation moved onto why affordable housing is needed in Ayer. The high cost of housing has made it difficult for current residents to continue to live in town, and many people who work in town cannot live here. Many Town employees do not make enough to live in town, the goal is to allow for Workforce Housing. The trend of building single family homes has caused an increase in housing costs, and therefore pricing employees and current residents out.

S. Goodwin asked if the market dictates the building of single vs. multi-family homes.

J. Providakes explained that by supporting non-profit developers like NOAH, change can be made to affordable housing.

S. Goodwin noted that the Fitchburg Rd property would limit the number of single-family homes and asked if there was another property like that in town.

Ken Diskin of the Affordable Housing Committee, noted the group has tried to make changes to create more affordable housing, and that this is the first project they felt would fill the need. It is disappointing that no one else has come forward. The benefit to a 40B is that it overcomes zoning issues that other projects must deal with.

As it stands in the town for new multi-family projects for every five the sixth must be affordable. There are currently three residential developments approved by the planning board that are under construction, of the homes being built the majority are single family homes, with a few two-family homes. Most developers are not interested or cannot legally build multi-family homes.

J. Providakes noted that Ayer does have some existing 40B projects, including the Willow, Autumn Ridge, and the Fletcher/Nutting building. There are also the properties owned by the Ayer Housing Authority. All these properties count towards the 10% goal of the Subsidized Housing Inventory (SHI).

In supporting NOAH, the town will gain 106 units of affordable housing which will bring the town closer to the 10% mark. The OECD will be able to apply for more grants, and the town will have leverage against unfriendly 40B applicants.

S. Goodwin asked how the Subsidized Housing Inventory is calculated.

Alicia Hersey of the OECD explained that a count of units of housing available in a town based on the 2010 census is taken, and the goal is 10% of that total. Ayer is losing some affordable housing because some units had deed restrictions that lasted fifteen years. One of the goals of affordable housing is to protect the workforce, by providing them a place to live in the town that they work in.

Alicia went on to explain the benefit of collaborating with a non-profit developer. Past 40B projects in town have been led by for-profit developers, meaning only 20% of the housing build is affordable. A non-profit can make 100% affordable housing.

J. Gugino asked how meeting the 10% SHI helps the town with unfriendly 40B projects.

A. Hersey explained that if the town has reached the 10% goal, then the Zoning Board of Appeals can refuse to look at a 40B application, the town would be considered a Safe Harbor.

K. Diskin also noted it can entice more friendly 40Bs to submit proposals.

M. Gibbons asked how far above the 10% will the town be after this project.

A. Hersey believes the town will be seven units short of 10% but other projects in town may get us to the 10% based on the 2020 census. This project is forever affordable housing meaning it will always be affordable, and it is structured for multiple income levels.

M. Gibbons asked how often the SHI is recalculated.

A. Hersey believed it is every two years.

M. Gibbons noted that affordable housing is something that will have to be considered even after Safe Harbor status is achieved given the development in town.

A. Hersey pointed out that the town could consider expanding the Inclusionary Housing Bylaw.

J. Providakes hoped that this project will entice more friendly 40B projects, as more affordable housing will be need in the future. She also noted that 5% of the town makes less than \$10,000 a year, and 39% make less than \$70,000 a year.

R. Defilippo asked if that was based off gross income.

A. Hersey clarified that is Gross Household Income.

R. Defilippo raised concerns about all the units being rentals, and not owner occupied. He is concerned that they will not be taken care of properly.

S. Goodwin noted that there will be a property manager to care for the property.

J. Gugino commented on the need for rentals to maintain the workforce.

K. Diskin explained a standard 40B is only required to have 20% affordable, whereas a friendly can have a 100%. Friendly 40Bs will work with the town's bylaws, there is a give and take.

J. Ellis asked if the other 40Bs went through the Zoning Board of Appeals.

Yes, they did.

C. Antonellis clarified the difference of an inclusionary development and a 40B. An inclusionary development would require that for every ten unit two would have to be affordable. The town already has a Zoning Bylaw, so developments do not have to take the normal 40B route. The town has not had a traditional 40B project brought before the Zoning Board in over fifteen years.

NOAH will be going before the Community Preservation Committee for a public hearing on September 7, 2022.

Continued Public Hearing-Application for a Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022)

S. Goodwin asked for an update on proposals for a peer review of the project.

C. Antonellis said that only one proposal was received from Green International. The proposal was sent to the board as well as NOAH for review.

NOAH will pay for the peer review by giving the town funds, and Green International will send the invoices to the town. The invoices will be paid with the funds given by NOAH.

NOAH did have some concerns about the cost of the proposal which is about \$30,000. C. Antonellis and other members of staff did review the proposal several times to see if there were sections that could be removed to lower the cost. Green International also produced a few possibilities to lower the cost of the proposal.

S. Goodwin stated he is not comfortable removing items from the proposal to save costs. The Board is looking for experts to weigh in on this project, and this proposal satisfies that need.

M. Gibbins agrees with S. Goodwin, given the total cost of the project, the cost of this proposal is a tenth of a percent.

Stephanie Kiefer, from NOAH, stated that the proposal they expected to see would be in the \$18,000 - \$20,000 range. Green created a comprehensive proposal based on the requests of the town. She felt the Wetlands Review might not need to be as extensive since most of the project is not near the wetlands, and only the sewer line will affect the wetlands.

J. Gugino would like the Wetlands Review to stay as is, so that the impact of the sewer line can be assessed. The Conservation Commission will also be extremely interested in this review.

S. Kiefer noted that town boards can be the name experts and therefore an outside company would not have to do a peer review for that section. NOAH would also like a tiered approach for funding, so that the peer review can move forward.

S. Goodwin asked why NOAH thought the cost of the peer review would be less than as presented. S. Kiefer had based the estimate on past projects.

S. Goodwin reiterated that the peer review is needed for other perspectives.

Paul Haverty, representing the ZBA, suggested the tiered approach for funding. NOAH will give funds to the town, once the funds are depleted, more funds will be made available. NOAH will give \$20,000 to start, and once the funds have been depleted to \$5,000, NOAH will contribute more.

It was also reiterated that it is good to get an outside perspective from an independent party. By depending on various boards and town officials, staff can be put in uncomfortable positions. He also noted that there is no need to have duplicate reviews if another board in town is going to request a review for the same section.

C. Antonellis noted that Green International offered to remove the wetlands review, and the Conservation Commission could ask for the review. The cost of the proposal would then be recalculated.

Dan Van Schalkwyk, of the DPW, also agrees that having the Conservation Commission request the peer review of the wetlands makes the most sense. Given the staffing shortage at the DPW they do not have the resources to do an internal review, it makes more sense to have Green conduct the review.

C. Antonellis stated that the Wetlands review was the only section everyone was comfortable with removing.

J. Gugino asked when the applicant would come before the Conservation Commission and would it be early enough in the process that the Commission to have some say in the stream crossing for the sewer line.

S. Kiefer does not know when NOAH would go before the Conservation Commission, but until things are finalized all plans are preliminary and can be changed.

M. Gibbins asked if J. Gugino, also a member of the Conservation Commission, if the Commission is comfortable asking for the Wetlands review.

J. Gugino felt that Commission would be able to request the review.

C. Antonellis will have Green International remove the Wetlands review and recalculate the cost of the proposal.

M. Gibbins requested to hear R. Defilippo's opinion on the issues discussed since he has worked on a 40B project in the past.

R. Defilippo agrees that duplication of reviews is not necessary, and that the cost of the peer review proposal is reasonable.

M. Gibbons made a motion to have C. Antonellis remove the wetlands review from the proposal with the understanding that it will be shifted to the Conservation Commission and have the proposal rewritten with an updated cost. Seconded by J. Ellis.

Roll Call Vote: M. Gibbins, aye; R. Defilippo, aye; J. Gugino, aye; John Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

C. Antonellis and D. Van Schalkwyk will speak with Green International and get a new bottom line, so that the project can move forward.

S. Goodwin asked which studies were still expected.

C. Antonellis answered that all expected studies have been submitted at this time.

S. Kiefer suggested that the next meeting be focused on the what the board felt were the most critical issues in the peer review.

C. Antonellis will have a clearer idea of the focus of the next meeting after speaking with Green International.

S. Goodwin made a motion to continue the Public Hearing-Application for a Comprehensive Permit (MGL 408, Sections_20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road until Wednesday September 21, 2022, at 6:00 PM via Zoom., seconded by M. Gibbins.

Roll Call Vote: M. Gibbins, aye; R. Defilippo, aye; J. Gugino, aye; John Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

S. Goodwin made a motion to adjourn. Seconded by J. Ellis.

Roll Call Vote: M. Gibbins, aye; R. Defilippo, aye; J. Gugino, aye; John Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Meeting Adjourned at 7:41pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: 10/19/22

Signature of ZBA Clerk, Indicating Approval: 