



LANCASTER BOARD OF SELECTMEN

Special Meeting Minutes

Of August 27, 2018

I. CALL TO ORDER

Chairman Stanley B. Starr, Jr. called the Special Meeting of the Board of Selectmen to Order at 6:00 P.M. in the Auditorium, located in the Town Hall, 695 Main Street, Lancaster, Massachusetts. Present were Selectmen Walter F. Sendrowski, Mark A. Grasso, Jr., Town Administrator Orlando Pacheco and Executive Assistant Kathleen Rocco.

II. PUBLIC COMMENT PERIOD

6:00 P.M. - Opportunity for the public to address their concerns, make comment and offer
6:10 P.M. suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

III. APPROVAL OF MEETING MINUTES

Review and take action on Regular Meeting Minutes of August 6, 2018.

Selectman Sendrowski moved to accept the Regular Meeting Minutes of August 6, 2018. Selectman Grasso Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. abstains. [2-0-1]

IV. SCHEDULED APPEARANCES & PUBLIC HEARINGS

Victoria Marquis Petracca – re: Goodridge Brooks Estates - Chapter 40B

(The Board of Selectman asked Attorney Adam Costa of the law firm Mead Talerman & Costa to attend this portion of the Special Meeting)

Chairman Starr prefaced the conversation that this is a public comment not a public hearing regarding Goodridge Brooks Estates. He further stated the public hearing on this matter is done exclusively with the Zoning Board of Appeals, (ZBA).

Chairman Starr introduced Attorney Adam Costa of the law firm Mead Talerman & Costa, who is the adviser to the Zoning Board of Appeals. Mr. Starr explained that the Board of Selectmen has to be very careful that they are not superseding the process and not be in a situation where the Selectmen are causing more concerns rather than solving.

Ms Petracca, a member of a residents' group regarding the Chapter 40B project, stated that the residents' group are not here to debate the merits of the project and are respectful on those concerns. She explained that there are two important tools that come to light and both of which involve the Board of Selectmen. She gave a power point presentation "Planning for 40B in Lancaster" *(See the attached presentation)*

Mrs. Petracca requested that the Board of Selectmen take action on the following:

1. Rescind December 12, 2017 letter in writing to MassHousing and to attend Thursday, August 30, 2018 meeting in person to explain what happened locally; and
2. Grant Lancaster Boards, Departments and Residents a thirty (30) day review period starting in September, issue a Lancaster public comment letter to be deliberated by the Board of Selectmen and submit to MassHousing before October 31, 2018, requesting a new eligibility approval letter.

Chairman Starr explained the December 12, 2017 letter to MassHousing Authority, was a perfunctory letter that is routinely done. Mr. Starr stated that the Selectmen have neither endorsed nor agreed with the 40B project in question and never has taken a formal vote in support of.

Mrs. Petracca stated that the Board of Selectmen's December 12, 2017 letter received by MassHousing was interpreted favorable, and it was the only letter received by MassHousing and then they issued an eligibility letter. She is requesting the Selectmen rescind said letter.

Town Administrator Pacheco commented that there has been a lot said about the December 12th letter and the importance of what this letter means; noting that this letter is not the "lynch pin" in this project. He explained that the appropriate place for public comment is with the Zoning Board of Appeals (ZBA), as they are the ones that grant the approval of the project not the Selectmen.

Selectman Grasso asked Attorney Costa if he in his experience, seen an eligibility letter rescinded? Attorney Costa noted that not as a consequence of anything a Town has done or said.

With respect to requesting the Board of Selectmen rescind the December 12, 2017 letter to MassHousing; Attorney Adam Costa echoed Mr. Pacheco's statement that the new letter would go on record but will likely result in no change. He further explained that the Town could proceed, as requested by Ms. Petracca, however, the Zoning Board of Appeals process would also keep going forward at the same time.

Chairman Starr asked Attorney Costa if there is anything jurisdictionally that will allow the Board of Selectmen to stop the ZBA process and hearing?

Attorney Costa stated that nothing will allow the Board to stop the process. He stated that he had been asked a similar question about ZBA refusing to take action or immediately denying the application on the basis that the eligibility letter was invalid based upon the legitimacy of the letter received from the Selectmen's office. Mr. Costa explained that what the ZBA has before it, is valid; and the ZBA has the eligibility letter signed by MassHousing. He further explained that nothing would permit the Board of Selectmen to halt the process, and in fact would be a real risk and he would advise against it. He noted that to simply not take action or refusing to hear the application that has been submitted, could be deemed constructively granted if that 180 day deadline passes because ZBA took no action.

Mrs. Petracca clarified that the request is not to have MassHousing rescind its eligibility letter; her group is asking to have the community's public comments communicated to MassHousing.

After further discussion regarding rescinding the December 12th letter and creating a new letter with public comment; Selectman Grasso stated that with the dialogue this evening, they need to be realistic about the expectations.

Mrs. Petracca continued with her power point presentation and reviewing the Housing Production Plan which involves the Board of Selectmen.

Mrs. Petracca and the group of concerned residents are respectfully asking the Board of Selectmen to:

- 1) Explain to MassHousing on Thursday, August 30th, the Housing Production Plan status and Lancaster's desire to update within 60 days which will be spearheaded by the resident's group.
- 2) If updated, and Lancaster Housing Production Plan is activated prior to Comprehensive Permit approval, then cap Goodridge Brooke Estates' high density in favor of other pipeline projects (Bigelow expansion, LIP 40B, decommissioned property, etc.) on human scale.

After further discussion, Mrs. Petracca asked that the Selectmen take a vote.

Selectman Grasso wanted to clarify the requests from Mrs. Petracca;

- Motion to rescind the December 12 letter
- 30 day Public Comment
- Lobby for the Housing Production Plan (HHP)

Selectman Grasso posed the question to the Board: "What harm does it do?"

It was discussed that the public comment period will take place through Friday, September 28, 2018.

Selectman Grasso moved to rescind the December 12, 2017 letter to MassHousing. Chairman Starr Seconded. Walter F. Sendrowski vote Nay, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [2-1-0]

Selectman Grasso moved to open up comment period for one month, beginning August 28, 2018 through September 28, 2018. Selectman Sendrowski Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [3-0-0]

Selectman Grasso poised the question to the Board and Mr. Pacheco on what formal action does the Board of Selectmen take on the Housing Production Plan request.

Further discussion on the Housing Production Plan (HHP) and the impact it has on the 40B process. Mrs. Petracca is requesting a face to face meeting with MassHousing with ideally a member from Board of Selectmen and the Town Administrator, and presenting a case to update the HHP and 'reap the benefit' from that, noting that the Town is currently faced with a 12% increase in population from one project. She stressed that they want 40B housing, just want more control of it.

Town Administrator Pacheco stated that the Town will make the best case that they can and move on, noting that the Town cannot lose sight on what ZBA is doing.

Chairman Starr commented that Mrs. Petracca did a very thorough and good job regarding this matter.

V. BOARDS, COMMITTEES AND DEPARTMENTS REPORTS

Police Chief Burgwinkel – Update on the Lancaster Police Department's implementation of the ECW (Electronic Controlled Weapon) Program. - **Tabled**

VI. TOWN ADMINISTRATOR REPORT

Town Administrator Orlando Pacheco will update the Board on the status of current projects pending.

1) **Netflix**

Netflix would like to start shoot a new series in Lancaster called the "Untitled Chris Keyser Project" in September. Netflix legal counsel and Town Counsel have developed a location agreement for current and future use of Town facilities. Town Administrator Pacheco is asking for the Board to allow him to get this process done regarding the Contracts with Netflix.

Gazebo

Netflix, as part of utilizing the Town Green for the new show is willing to give the Town a Gazebo that would be placed on the Town Green for shooting. The Gazebo can be moved after filming of the season is completed, however, it can be placed there permanently with the Town's permission. This will require filming personnel to place footing on site. Town Administrator Pacheco requested comment from the Lancaster Historical Commission on the placement of the Gazebo

Selectman Sendrowski moved to grant Town Administrator Pacheco move forward with negotiating with Netflix. Selectman Grasso Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye [3-0-0]

VII. ADMINISTRATION, BUDGET, AND POLICY

1. Review of Board of Selectmen's Policy and Procedures' revisions. - **Tabled**
2. Review the Transportation Service Contract By and Between Montachusett Regional Transportation Authority (MART) and the Town of Lancaster. - **Tabled**

VIII. APPOINTMENTS AND RESIGNATIONS

Appointments:

Selectman Sendrowski moved to appoint the following to the Conservation Commission : (expiration terms to be determined):

- . *Donald H. Chaisson, 710 George Hill Road.*
- . *Thomas Seidenberg, 748 George Hill Road.*
- . *Shawn Corbett, 39 Brockelman Road.*

Selectman Grasso Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [3-0-0]

IX. LICENSES AND PERMITS

1. Lancaster Town Hall Auditorium Rental Application

Selectman Grasso moved to approved the Town Hall Auditorium rental application for the Friends of the Thayer Memorial Library Annual Book Sale to be held September 26, 2018 through October 2, 2018. Selectman Sendrowski Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [3-0-0]

2. One Day Liquor License Applications

Selectman Sendrowski moved to approve One Day Liquor License Beer and Wine application to Kalon Farms for a Terrain Bike Race to be held on September 1, 2018 from 8am-6pm. Selectman Grasso Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [3-0-0]

Selectman Sendrowski moved to approve the One Day Liquor License application for an All Alcohol - Non Profit Fund Raising to Growing Places. The event to be held on October 10, 2018 from 6pm-8pm at the Lancaster Community Center. Selectman Grasso Seconded. Walter F. Sendrowski vote Aye, Mark A. Grasso, Jr. vote Aye and Stanley B. Starr, Jr. vote Aye. [3-0-0]

X. NEW BUSINESS * - NONE

**This item is included to acknowledge that there may be matters not reasonably anticipated by the Chair*

XI. COMMUNICATIONS

- Town Offices will be closed on Labor Day -Monday, September 3, 2018.
- State Primary Elections will be held on Tuesday, September 4, 2018 from 7am-8pm in the Auditorium of the Town Hall.
- Next Board of Selectmen's meeting will be held on Monday, September 17, 2018 at 6:00pm in the Nashaway Meeting Room.

XII. ADJOURNMENT

Seeing no further business, on Motion by Selectman Grasso, seconded by Selectman Sendrowski, it was unanimously voted the Board of Selectmen adjourn at 8:07 P.M.

Respectfully submitted

Kathleen Rocco
Executive Assistant


Walter F. Sendrowski, Clerk
Approved and accepted: 10/1/18

Planning for 40B in Lancaster

A Presentation to Lancaster Board of Selectmen
Town Hall Auditorium - August 27, 2018

Timeline

(11/29/17	Developer presentation - weekday morning to town officials – w/o BOS)
<u>12/4/17</u>	<u>Chairman of Lancaster BOS receives notification from Mass Housing</u> 40B Application: 45+ acres, 200 Units - 120 apartments & 80 townhouses
12/12/17	Chairman of BOS reply to Mass Housing – 6 business days later
3/28/18	Mass Housing Eligibility Approval letter to builder, Copy to Chairman of BOS and Chairman of ZBA
4/26/18	180-day hearing for ZBA Comprehensive Permit opens
7/4/18	Concerned citizens learn of 12/12/17 reply to Mass Housing & of 30 day comment period
7/26/18	ZBA re-starts 180-day clock as permit application deemed complete

Local Public Comment Period

From 2001-2003, the Department of Housing and Community Development (DHCD) made 16 regulatory changes to Chapter 40B, including:

- Requiring a 30-day comment period for communities from the time a 40B application is filed. The subsidizing agency must consider the community's comments when issuing a site letter.

*Source: 40B Fact Sheet, Town of Acton, MA Prepared by Citizens' Housing and Planning Association,
Updated October 2011*

760 CMR 56.04 – 40B Project Eligibility

(3) Review and Comment Process. Upon receipt of the application, the Subsidizing Agency shall provide written notice to the Chief Executive Officer of the municipality where the Project is located, initiating a 30-day review period of the Project. During the course of the review period the Subsidizing Agency shall conduct a site visit, which Local Boards may attend, and it shall accept written comments from Local Boards and other interested parties.

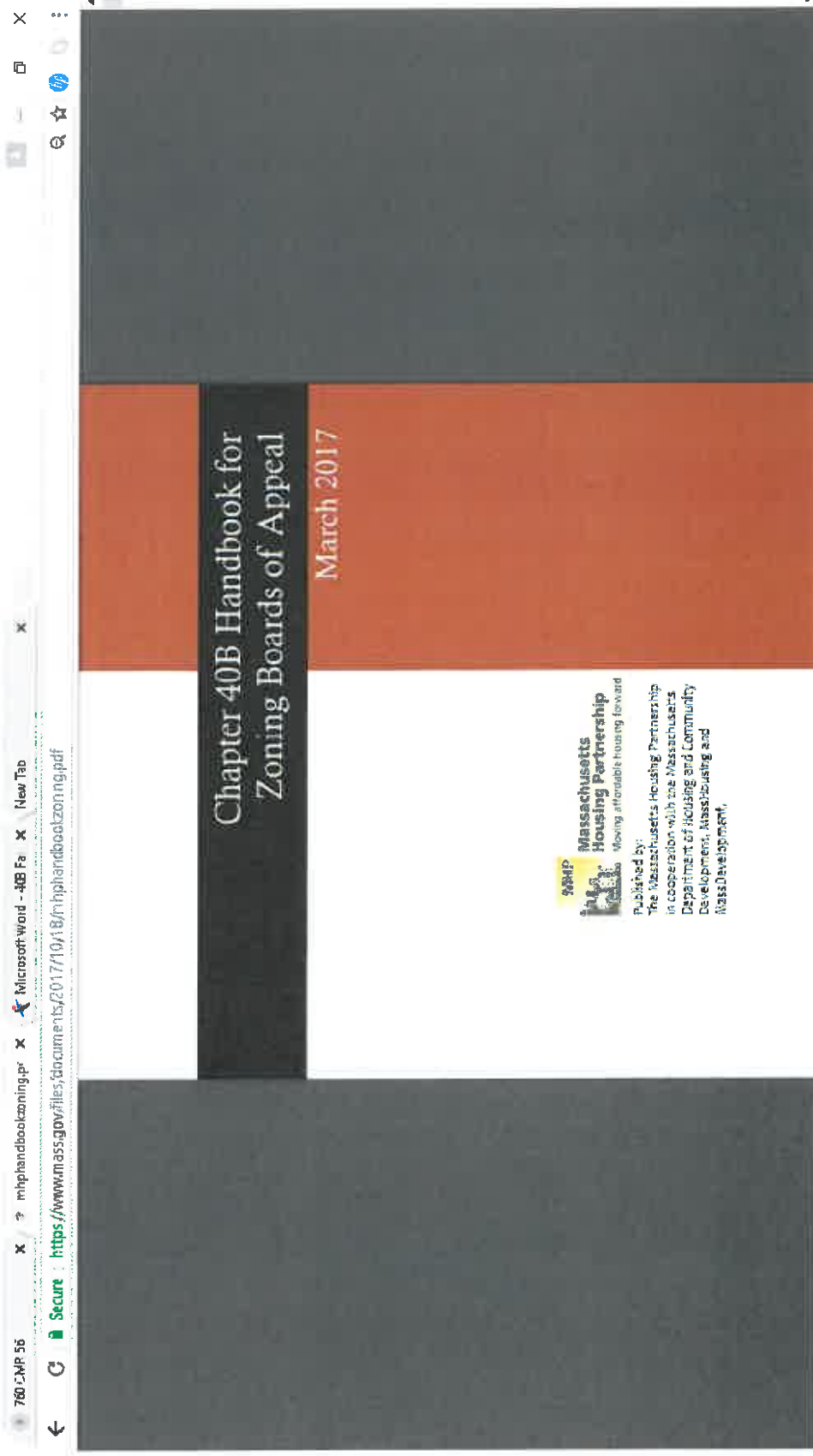
The Subsidizing Agency shall consider any such comments prior to issuing a determination of Project Eligibility. No determination of Project Eligibility shall be issued for a Project before the end of the 30-day review period.

Who is the Chief Executive Officer?

760 CMR 56.02

Chief Executive Officer – means the mayor in a city and the Board of Selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter

Implementation of Regulation 760 CMR 56.04



Implementation of Regulation 760 CMR 56.04

Chapter 40B Handbook for Zoning Boards of Appeal, March 2017

Published by:

Massachusetts Housing Partnership – Moving Affordable Housing Forward

In Cooperation with

- The Massachusetts Department of Housing and Community Development
- MassHousing
- MassDevelopment

Implementation of Regulation 760 CMR 56.04

Chapter 40B Handbook for Zoning Boards of Appeal, pages 12 & 13:

Local Comment Period

After receiving a PE application, the Subsidizing Agency notifies the Chief Elected Official and schedules a site visit. The notification letter starts the clock for a 30-day comment period for the city or town. At this point, the Chief Elected Official should post the notice and PE application on the community's website and seek comments from municipal boards and departments. Making the documents available on the city or town website will ensure that interested residents can have access to the information so they can comment if they wish.

Implementation of Regulation 760 CMR 56.04

Chapter 40B Handbook for Zoning Boards of Appeal, pages 12 & 13: Local Comment Period continued

Although it may not be possible to coordinate the comments process, the Chief Elected Official should try to act as a clearinghouse for comments on the PE application. The comment period provides an opportunity for elected officials to lead a constructive conversation about Chapter 40B and organize a coherent response for the community. [...]

[Encourages cities and towns to focus on the 7 decision criteria used in decision making...]

The Planning Board should be asked to weigh in on the project's relationship to the city or town master plan if the plan is current and actively being implemented.

Medfield Case Study – Dale Street 40B Proposal

- Also 200 Units – like GBE
- Also included 4 & 5 storey apartment buildings – like GBE
- Town notified boards, departments, & residents upon MassHousing letter, explained 30 day review and comment submittal period
- Developer presentation to BOS – evening in Auditorium - with standing room only
- Town opened 30 day comment period
- Medfield submitted a long public comment letter with specific concerns
- MassHousing denied eligibility
- Medfield went on to create Housing Production Plan
- Re-developing former state hospital with historic properties into mixed-use with 40B

Medfield Case Study – Dale Street 40B Proposal

“We have stayed in Safe Harbor status due to our Housing Production Plan for the past 2 years with a pro-active, friendly 40B strategy.”

Sarah Raposa, Planning Director, Town of Medfield – August 2018

Timeline

11/29/17	Developer presentation w/o BOS – weekday morning to town officials
12/4/17	Chairman of Lancaster BOS receives notification from Mass Housing 40B Application: 45+ acres, 200 Units - 120 apartments & 80 townhouses
<u>12/12/17</u>	<u>Chairman of BOS reply to Mass Housing – 6 business days later</u>
3/28/18	Mass Housing Eligibility Approval letter to Crescent Builders, Copy to Chairman of BOS and Chairman of ZBA
4/26/18	ZBA 180-day hearing for Comprehensive Permit opens
7/4/18	Concerned citizens learn of 12/12/17 reply to Mass Housing & of 30 day comment period
7/26/18	ZBA re-starts 180-day clock as permit application deemed complete

Michael Busby
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

Dear Mr. Busby,

The Town of Lancaster is in receipt of your letter dated November 29, 2017 requesting comments from the Town on the proposed Goodridge Brook Estates Chapter 40B development. The applicant, Crescent Builders, Inc. of West Roylston, MA recently gave a presentation to the Town on this development. The presentation was well attended by a wide cross-section of Town departments and boards, including Planning, Building, Police, Fire, DPW, Sewer, Finance, Assessors, Conservation Commission, Planning Board, Board of Appeals, Board of Health, Commission on Disability, and Historical Commission. There were mainly questions on housing density, traffic impacts, water service, roadway maintenance and wetlands impacts. These same departments and boards have been invited to the site walk scheduled for December 13, 2017.

The Town of Lancaster understands that there is an unmet need for affordable housing in our area, and have attempted to develop a Certified Housing Production Plan that could assist in reaching these goals. The plan was created in 2014 but was never certified as several 40B and other housing initiatives in the plan never came to fruition. Since that time, two smaller 40B rental projects (26 units total) have been constructed, but these were not nearly enough to reach our 10% housing goal. Presently, we sit at 5.5%. However, the new Goodridge Brook Estates development will bring a total of 140 new affordable housing units to the Town, bringing us to 11% and surpassing the mandated quota.

We look forward to assisting MassHousing with providing any information you need from the Town, and to working with Crescent Builders to permit this project so that it is economically and ecologically sound for the community.

Please let me know if you have any questions.

Sincerely,



Stanley B. Starr, Chairman

Reasons to Rescind BOS 12/12/17 Reply to MassHousing

- MassHousing's 40B notification to Town not announced publicly, i.e. via Town Clerk & municipal website
- Availability of proposal for consultation not announced publicly
- 30 day comment period not announced publicly
- Written comments not solicited from departments, boards, & residents
- Planning Board, in particular, not consulted for written comments
- No written comments received from any department, board, or resident until April 2018
 - after eligibility approval granted (1 exception prior to comment period on 11/20/17)
- BOS feedback letter does not appear on BOS Agenda, not in Meeting Minutes
- Not deliberated in open BOS meeting
- Other Selectmen not consulted
- Conclusion is not at all reflective of community sentiment

Timeline

- 12/4/17: Mass Housing notification of 40B proposal to Chairman of BOS received in Lancaster
- 12/12/17: Chairman of BOS reply to Mass Housing – 6 business days later
- 3/28/18: Mass Housing eligibility approval letter to Crescent Builders, copy to Chairman of BOS and Chairman of ZBA
- 4/26/18: ZBA 180-day hearing for Comprehensive Permit opens
- 7/4/18: Concerned citizens learn of 12/12/17 reply to Mass Housing & of 30 day comment period
- 7/26/18: ZBA re-starts 180-day clock as permit application deemed complete

Chapter 40B Housing Production Plan

A Housing Production Plan (HPP) is a community's proactive strategy for planning and developing affordable housing by creating a strategy to enable it to meet its affordable housing needs in a manner consistent with the Chapter 40B statute and regulation.

This document is valid for 5 years, then requires an update – and is intended to get towns to their 10% requirement and beyond, if desired.

Update Housing Production Plan

Chapter 40B Handbook for Zoning Boards of Appeal, page 15:

Safe Harbor Status – protection from unwanted 40B applications

Refers to conditions under which a ZBA's decision to deny a comprehensive permit will qualify as consistent with local needs and not be overturned by the HAC, provided the conditions were met prior to the date that the comprehensive permit was filed with the ZBA.

Safe harbors include having met 10% requirement, temporary relief due to filing HPP, evidence of creating 2% of total inventory as affordable annually until reaching 10%, etc...

Lancaster Housing Production Plan

Monday, November 4, 2013

Lancaster Planning Board

Sam Lawton,

Montachusett Regional Planning Commission
(MRPC)

and

Noreen Piazza, Lancaster Planning Director



Current SHI Inventory

2,544 Year Round Housing Units (2010 Census)

Of which 140 Affordable Units (deed restricted) – 5.5 %

Require 254 units in total, so Lancaster needs 114 more to reach 10%

Goodridge = can count ALL apartments (even tho only 25% SHI) and 25% houses
So 136 plus 16 = add 152 units to inventory. Puts Town at 292 total units, or 11.5 %

Not clear what happens if 40B Jones Crossing comes on line

Plus, 14 Units (or more) identified that may qualify for inclusion – 6.1 % (or more)
Need to verify with DDS

Bottom line: Goodridge Brook is super sized and exceeds Lancaster SHI requirement

Current Status of Housing Production Plan

- Lancaster was unable to enter Safe Harbor status via a Housing Production Plan.
- This left Lancaster vulnerable to a Goodridge Brook Estate mega-development
- However, there is a complete 2015 HPP done that can be updated in ~ 60 days
- This would protect and guide Lancaster's affordable development in the future.
- But is it too late? GBE puts us past 10%.

THIS is the BIG question for DCHD and Mass Housing .

We need the BOS to help with this negotiation – possibly with other state officials.

Request for BOS Action

Therefore, we respectfully request for decision tonight:

1. Explain to MassHousing on Thursday in person current HPP status and Lancaster's desire to update within 60 days – spearheaded by residents group.
2. If updated, and Lancaster HPP is activated prior to Comprehensive Permit approval, then cap Goodridge Brook Estates' high density (reduction to be determined) in favor of other pipeline projects (Bigelow expansion, LIP 40B, decommissioned property, etc.) on human scale.

Note: 40B Technical Assistance Program – up to \$15K available toward a project consultant

We can not negotiate this alone – need the BOS leading/heavily involved in this with DHCD.

Request for BOS Action

Therefore, we respectfully request for decision tonight:

1. Rescind 12/12/17 letter in writing to MassHousing & to attend Thursday 8/30 meeting in person to explain what happened locally.
2. Grant Lancaster Boards, Departments & Residents a 30 day review period (September), issue a Lancaster public comment letter (deliberated by 3 member BOS in open meeting) & submit to Mass Housing before 10/31, requesting a new Eligibility Approval letter.