



DANVERS AFFORDABLE HOUSING TRUST

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Minutes September 21, 2016

Danvers Affordable Housing Trust: Gardner Trask, John Alden, Stacey Bernson, Sally Calhoun and Tish Lentine

Staff: Susan Fletcher and Francine Butler

Minutes of June 15, 2016

A motion was made and seconded to approve the minutes of June 15, 2016. The motion passed by unanimous vote.

Multi-Family Inclusionary Zoning

Trask said that he asked for the discussion of Multi-Family Inclusionary Zoning to be put on tonight's agenda. He saw construction being done on Holten Street and asked Rich Maloney about the zoning implications for the lot. Maloney told him that the house in front was a two-family home which was being converted to a single-family home, and they were building two duplexes in the back. Trask asked if this should trigger the multi-family inclusionary zoning language. Maloney said he based this on the net new residences being developed. This project was increasing the housing stock by three units. Trask felt this is not the way the inclusionary special permit should be interpreted, but Maloney said that was how he was applying it. Trask then asked Town Counsel to review the language. Maloney indicated that there was another project on Pine Street where two properties have one home. Each property will go from two units to six units. Maloney felt this would only add four new units. The Town Manager is supporting using the net new method.

Trask felt it is time to clarify the language. He felt the trigger should be five units, but they will start the measured response on the net new number. He felt that they were losing ground. The Town is at 10.3% for affordable housing, and some units have not been added to our SHI.

Alden felt that the Pine Street development was starting at square one since they were combining three lots.

Bernson said that she felt the second paragraph under the provision stated that it referred to multi-family residential "development". She felt the word "development" is where they are determining to use the net new number.

Trask said that Maloney and Bartha did not agree with his interpretation. The impression he got from Bartha was that there is enough ambiguity that he would support Maloney's decision. Trask informed Bartha that they wanted to clarify the language so that some aspects of the inclusionary special permit would be triggered if the resulting units equaled five or more.

Fletcher said that Town Counsel has office hours tomorrow. Trask felt the Board should discuss this so that Fletcher could go to Town Counsel with their questions. Trask felt that if a house is not changed and then add four housing units behind the original unit, they should calculate based on the net new four units.

Alden said that the way the language is written it allows the loophole and understood why Maloney interpreted it as a net new calculation. It is a matter of interpretation. They need to determine the correct wording to not allow the misinterpretation.

Trask said that they would suggest to the Planning Board to sponsor a zoning amendment that would allow for this.

Fletcher said that they could explain this to Town Counsel to have him give the correct language.

Alden felt it may only require changing a few words.

Trask felt the question was whether five units were being developed or if you were in a property that had five units or more.

Alden felt it would be wiser for Town Counsel to change the wording. Alden felt they could spend hours discussing this, and it could be very simple if they asked Town Counsel.

Calhoun said that when language is interpreted by the person enforcing the language, there are rules of interpretation. This may be done with similar language throughout the bylaws. She felt the issue may not be in this one section. She felt they should explain this to Town Counsel and have him tell us the language to use.

Trask asked what their intent was for the trigger event. Fletcher felt that at the end of the day it is to have five units. Trask felt the fee structure should be on the net new number.

Calhoun felt that now a new concept was being added altogether.

Bernson said that the Special Permit read five units, which is what they have.

Alden said this language was put in with the intent of trying to allow DAHT to maintain the 10% affordable housing that the state requires. He can see why Maloney would interpret it for the net new.

Calhoun pointed to language in the bylaw that reflected the newly created units and how the language reflects net new units. She asked if it would matter if they modified the applicability language.

Trask felt that they would need to add a newly created clause to the first sentence. He did not want to tag people for units that are already there.

Trask asked if the Holten project should be considered a trigger event or not. Calhoun pointed out that Maloney said that he uses net new units in his calculation, and the fee structure is based on net new. She questioned whether it would make a difference if you could only use the fees on the net new units.

Lentine felt that Holten Street was a conversion. Bernson said that they were technically adding three units to the housing inventory.

Alden felt they needed to clarify the units being added to the housing inventory for fee structures.

Lentine felt they needed to push for more units, not money.

Alden felt that they had two units on the register and now have four more. If they have to combine the lots on Pine Street, it is a new development. He felt they gained since they took two from inventory that were already existing.

Lentine felt that developers were going to try to get around it.

Calhoun said that it made her think that they were not encouraging development of affordable housing. They were charging a fee instead. Alden agreed with Calhoun that they need to encourage the development of a unit.

Bernson said that if the penalty caused them to not create another unit, they could possibly be winning since a unit is not being developed. She felt whatever the Special Permit said would be the trigger. If it said the approval of creating five units on the parcel, that should be the trigger.

Trask felt it was still open to interpretation. Bernson felt that DAHT is interpreting the language based on what they do, and Maloney is interpreting the language based on code issues.

Fletcher said that she will ask Town Counsel.

Trask asked if the units on the property were five or more, then what is considered newly created units. He felt they needed to apply newly created units to both rental and sale in Section 3C of the language in zoning. The question is what is newly created? It is new construction or the modification to an existing building.

Calhoun felt this was the number at the end of the day minus what they started with. She felt to just do the math. Alden said that the building was two units that became one unit. Calhoun felt that if it was a math calculation it took away the interpretation problem.

Fletcher reminded the Board that any change in wording of the bylaw would need to have the support of the Planning Board.

Trask said that the trigger event was when the total number of units on the property were five or more. To add a newly created unit to the rental would be the same as a sale. Newly created units would be the end result less the beginning number.

A motion was made and seconded to have Town Counsel help them with the language of the bylaw and make recommendations as to how to clarify the language.

40R Zoning

Fletcher said that there was a meeting with the Planning Board and the Board of Selectmen regarding 40R. Through a grant the Town does have a consultant to look at the zoning at Holten/High Street and the properties in the Industrial I zone. If a development is a 40R, there is a requirement of 20% affordability. In return it allows for higher density. Upon creating this district, the state also gives the municipality money, and as each affordable unit comes on line, the municipality gets more. Under a 40R some communities qualify for 40S money, which is funding for the schools every year. In the Industrial 1 area, there are buildings that are three and four stories. These buildings may change in the future. There may be commercial on the first floor with residential above.

Trask said that it was going to be measured in steps. The first overlay area considered would be the Holten/High Street area, the other side of Locust Street where the Ideal Baby Shoe Factory was and the Lee properties. It would be both sides of Hobart Street and the area from Dave's Mobil down High Street. At the other end of High Street near Route 128 is another zone. Changing the zoning for more than one zone at the same time is difficult. Zoning will be written to allow for more density in the current zone. He said that if a developer wants density, they need to provide 20% affordable units. This is the trade-off for higher density. Trask felt they would not qualify for the school stipend because this was more for the less affluent communities.

Trask said that the plan was for an overlay district. The Planning Board's intent is to consider what the zone would be with a 40R and present this to Town Meeting.

Fletcher said that the 40R would also be an overlay to provide another option. The Planning Board wants to know more about 40R but, at this time, the Board is not endorsing the concept... This is why a consultant was hired; they want to know more.

Trask said that the presenter was from the Department of Housing and Community Development (DHCD). The development of a 40R would not protect the Town from a 40B. They would get money for the development of the zone. He presumes this Board would want more information. He wondered about creating a 40R District in Tapleyville.

Bernson asked if they could modify the zoning to allow housing to be developed without a 40R.

Fletcher said that this can be done without creating a 40R District. Some projects that have not yet been developed could be due to the height restrictions.

Bernson confirmed that the zoning could be modified to what they wanted.

Trask felt they should send someone as a representative to the 40R meetings.

Community Preservation Act

Fletcher said there was the question whether someone from the Trust could be on the Community Preservation Committee (CPC). She said that someone could be on the CPC but that it was not one of the mandated categories on the Committee.

Fletcher said that she went to a conference and found that most Community Preservation Committees want to see a proposal from the Trust instead of just automatically transferring funds to them. The most common way this is done is by application.

Trask questioned why the seat held by the housing authority could not be changed to be someone from the Trust. Fletcher responded that this due to the way the statute was written. Trask felt the housing authority's mission was different from the Trust's mission.

Alden said that 10% of the money has to go to housing. Fletcher said that usually a CPC wants to see a plan of how the money is going to be used.

Bernson asked if the CPA passed, would it have to go to Town Meeting. This was confirmed. Trask said that there is an oversight board. The Town Meeting decides how that year's funds are apportioned.

Bernson said that this could be something as general as for the creation of affordable units.

Bernson said that if they asked for that percentage, the Trust could approve the money to go to a project without going to Town Meeting.

Fletcher said that most communities have a once-a-year submittal to the Community Preservation Committee, which is not much different than a Town. Trask asked if the money went back to the bank if there were no project. Fletcher said that 10% had to be allocated for housing, open space and historic. The money is reserved for housing.

Alden said that they need to have accountability of how they are going to use the money.

Trask said that the newspaper article said that they could see funds close to \$800,000 per year. There are yes and no committees being formed. He asked how engaged the Board wanted to be.

Fletcher said that they can join the pro or anti committees as individuals. They could not join as the Trust. There has to be separation.

Trask said that they are presently paying into the CPA with real estate transactions. The latest number for a return to a community is 18%.

Fletcher said that the investigatory committee never really stressed the state's contribution since that may or may not disappear. Fletcher felt that the more communities join the legislature the greater the chance that it will continue to exist.

Trask said the usual people who are anti-tax are out there and they have their arguments.

Bernson explained how CPA money was used in Peabody.

Approval of Additional Units to our SHI

Fletcher said that only some of the developments approved by the Planning Board and ZBA with affordable units are on the SHI. The other developers did go through the selection process but did not submit the final documentation to DHCD. The only one that did it followed through on the last step was Conifer Commons.

Trask asked if she had a list of what affordable units were outstanding.

Fletcher said that Cherry Street had 2 units. Venice Street had 2 units. Coolidge Street had 1 unit. Holten Street had 1 unit. 356 Andover Street had 18 affordable units.

Fletcher stated that Elizabeth Rust was recommended as a person that that does this work on a regular basis. She spoke with the Town of Reading who has partnered with three other communities to share the cost of hiring a housing specialist. She spoke with Jean Delios in Reading and asked for a recommendation to see what it might cost to have a consultant complete the paperwork. She received a proposal which was \$75 per hour. This equates to \$1,100 to \$1,800 to investigate if a project qualifies. Then the submittal is done.

Trask said the unit at Coolidge may not count due to their requirement for a local preference for the resident. This worked against them.

Fletcher explained that the Coolidge resident worked in Danvers. They did not live here. They are not sure if that unit will count. She would suggest to the Planning Board that in the future that they be very clear that the developer is responsible for submitting the application to DHCD in order to ensure that the affordable units created are included in our SHI.

Alden confirmed what the consultant would do for the Trust.

Bernson said that it is worth every penny to hire the consultant. She said it is a complicated process. She said that the Planning Board could require that the developer be responsible to pay for the consultant.

Bernson said that the consultant would be able to tell you the best way to apply. She felt it was better to have a third party do this.

A motion was made and seconded to contract with Elizabeth Rust to complete the SHI applications for the affordable units that have been created but are not included on the Town's SHI. The contract fee is not to exceed \$2,000. The motion passed by unanimous vote.

Bernson said that if the Coolidge property was sold in the future, it may be able to be added to the SHI.

Partnering with Danvers Community Council: Update

Fletcher said that during the summer they had made a payment of \$1,994 for rental assistance and another for \$1,119. They are staying within the \$1,000 range. Some months are higher, and some months are lower.

HOME Program Update

Fletcher said that she had not received anything from NSCAP. She keeps this item on the agenda as a placeholder.

Bernson asked about DeFranza.

Fletcher said that they are still pursuing 20 Locust Street. They are having an appraisal done of the property. She explained that DeFranza would have to go back to the Zoning Board of Appeals. He is fine with the design as approved because he can develop what he has in mind. The 18 units would all be affordable.

Bernson said that HOME funds could be used for this project. Fletcher said that the amount of the HOME funds is around \$38,000. Bernson felt this would be a good project to use HOME funds.

Financial Report

In Gate's absence Fletcher presented the financial report.

A motion was made and seconded to accept the financials. The motion passed by unanimous vote.

New Business

Lentine asked Fletcher if the Laurine Road town property had been surveyed yet. Fletcher said that that would have to be authorized by the Town Manager/Board of Selectmen if they decided to declare the property surplus. She would provide more information about this at the next meeting. The Town Manager needs to initiate a discussion with the Selectmen.

Trask said that the Selectmen have asked for a status update from the Trust. He asked the Board if they wanted to go before the Selectmen with a presentation.

Trask asked if the Board wanted to pay some money for the land at Laurine Road.

Alden said that they need to have a number in mind. The property was taken for tax purposes years ago, so no money has been generated in taxes for years. He asked if they could figure out the amount of money that would have been generated over the years. The Trust could say that they want to offset the amount of taxes that have been lost.

Trask said they could come up with a proposal at their next meeting.

Lentine asked where the money would go if the property were sold, and Trask responded it would go into the general fund.

Trask said their proposal would be to offset the loss of not selling the property on the open market.

A discussion ensued as to what could be built according to the zoning.

Trask said that they could go to the Selectmen with the update that they asked for and could inquire about this lot. This would show that they are proactively thinking about what they can do in Town.

Next Meeting Date

The next meeting would be held on Wednesday, October 19th.

A motion was made, seconded and unanimously voted to adjourn the meeting.

The meeting adjourned at 9:00 p.m.

Tish Lentine
Clerk