

Affordable Housing Trust Fund Board
Approved Meeting Minutes
January 7, 2020

A meeting of the Salem Affordable Housing Trust Fund Board was held on Tuesday, January 7, 2020 in the Great Room at the Community Life Center, 401 Bridge Street, Salem, Massachusetts at 6:00 p.m.

Members present: Mayor Kim Driscoll, Councillor Sargent, Councillor Dibble, Cynthia Nina-Soto, Rebecca Curran, Ben Anderson, Mickey Northcutt, John Boris.

Mickey Northcutt called the meeting to order at 6:05 p.m.

APPROVAL OF THE MINUTES

Rebecca Curran makes a motion to approve the December 3, 2019 Affordable Housing Trust Fund Board meeting minutes, seconded by John Boris and the motion carries unanimously.

UNFINISHED BUSINESS

A. Review of the draft Inclusionary Zoning Ordinance

Amanda Chiancola explains that changes to the draft ordinance were made in response to the discussion at the December 3rd Affordable Housing Trust Fund Board meeting. Ms. Chiancola gives an overview of the changes since the board has last seen the ordinance, the biggest change is adding in a Special Permit for Adaptive Reuse projects in the B5 that would allow for tiered affordability up to 80% Area Median Income (AMI). Ms. Chiancola provides an overview of that section as such:

- The project must be in the B5 zoning district.
- The incentives of Section 5.4.4 are not permitted if the Special Permit is granted.
- The building must be determined to be historically significant by the Historical Commission.
- The applicant must provide a façade easement to the City of Salem Historical Commission.
- The applicant must demonstrate that the project would not be financially feasible with 60% AMI units, and receive a recommendation from the AHTF Board. Submittal requirements would include a complete proforma for the development peer reviewed by a third-party accountant chosen by the AHTF (modeling this after 40B).

Another substantial change that Ms. Chiancola highlights is requiring ownership units to be at 60% AMI rather than 80% AMI and including a provision that allows the developer to increase the percentage to 80% AMI if they are unable to sell the unit within 90 days, but it would require approval from the AHTF Board.

Mickey Northcutt asks what financial feasibility means in the following section:

“The applicant shall provide financial pro-forma to the Affordable Housing Trust Fund Board that demonstrates the affordable unit provisions in Section 5.4.3(1) would prevent the adaptive reuse project from being financially feasible. The pro-forma shall conform to recognized real estate and affordable housing industry standards. The pro-forma will be peer reviewed by a third-party accountant chosen by the Affordable Housing Trust Fund Board and paid for by the applicant.”

Ms. Chiancola says the language is modeled after the 40B provisions that come into play when a Zoning Board of Appeals requires conditions on a 40B project that would render the development infeasible, if that occurs then the applicant may submit a financial feasibility model to try and demonstrate that the project would not be “financially feasible”. Mr. Northcutt provides the example of a ZBA requiring structured parking. Ms. Chiancola says DHCD and or the Massachusetts Housing Partnership (MHPP) has a model for this type of assessment. Cynthia Nina-Soto recommends tightening up the language on proforma, if there are industry standards then those should be included. Ben Anderson also questions what “financial feasibility” and recommends that the “recognized real estate and affordable housing standards” be referenced in the documents so it is clear to the applicant and the board what standards they should be using.

Mayor Driscoll suggests that we may not want to have too many specifications because those things change. Mr. Anderson says if you not what the standards are it makes it less ambiguous. Mr. Northcutt suggests that it references the specific standards and including a caveat, along the lines of *or other guidelines that are recognized by real estate and affordable housing industry standards that are determined to be acceptable by the Affordable Housing Trust Fund Board.*

A few board members also ask what it means to find “an eligible buyer” and when do the 90 days begin. Ms. Chiancola says the 90 days was taken from 40B, the start date is when marketing begins. She notes that marketing must comply with the Affirmative Fair Housing Marketing Plan that must be approved by the Department of Housing and Community Development and the City per state law, an eligible buyer means an income qualified household. That definition will be added. The board recommends increasing the timeframe to 180 days. Ms. Chiancola will make that edit.

Mayor Driscoll notes that the City Solicitor will also need to review the ordinance. Ms. Chiancola says that the City Solicitor has reviewed an earlier version of the ordinance, she has not seen these latest revisions yet, i.e. with the adaptive reuse special permit for tiered affordability.

Councillor Sargent says that there are state laws in place for these kinds of things, he notes that the state could change their guidelines and recommends that we use state language where we can.

Councillor Dibble says he has concerns get it to the chair of the ZBA and the zoning enforcement officer. Also, what other cities and towns have similar ordinances? What other cities and towns that have something similar. What other cities and towns have included senior housing? He would like a list.

Mayor Driscoll comments that this ordinance applies to private development

Councillor Dibble asks if other cities and towns have a creative section for senior housing

Tom Daniel asks Councillor Dibble if his question is getting at age restricted housing? Mr. Daniel says you can age restrict to 55 plus you can still have the affordable units, but they will not count to the SHI, which he says is a secondary issue. If someone wants to build an age restricted housing project at 55 or 62 this would still apply

Councillor Dibble asks if there is another ordinance out there like this, asking if we cut and pasted from another community.

Ms. Chiancola replies that this ordinance is truly unique. We looked at several communities and pull best practices from others, so it is sort of a Frankenstein ordinance rather than a cut and paste but the percentages are tailored to Salem based on the financial model

Councillor Sargent discusses the rezoning at south campus. Mayor Driscoll recommends we separate out that type of project. The Inclusionary Zoning Ordinance is for a typical run of the mill project. We are at the end line here. We need a senior housing strategy. The developments this ordinance will impact are private developments creating affordable housing it is what we are currently doing but refining to do it better and creating an ordinance out of it in a thoughtful way we want it to have a benefit to the community.

Councillor Sargent- we have already required 10% affordable we are going through all this this only gives a maximum housing.

Ms. Nina-Soto replies, but this does it at 60% AMI.

Councillor Sargent replies that we need affordable units. If we only ask for 10%, we'll go down in total affordable units, we can get a 40B.

Ms. Nina-Soto says that is assuming all the affordable housing is only being creating private developers. So you are asking a private developer to forgo their income to help the city for something that is the city's responsibility. But that assumes the city is not contributing and we need to have balance.

Mr. Northcutt comments that we can build units with a high percentage of affordability on public land- and requiring a higher threshold of affordable units for the land that means they would pay less for the land, but it would create more units.

Councillor Sargent reiterates that our numbers have stayed at 12.5% (on the subsidized housing inventory) so we are not getting better. He gets that developers need to make money but when we are giving things by right such as a 25% density bonus we should get more in return.

Ms. Nina-Soto asks Councillor Sargent if he would prefer more units rather than a deeper discount.

Mayor Driscoll notes that part of this process was looking at data and what does it cost to build in Salem. The cost of construction and land maximize affordability but not so much that people do not want to build here. Look at Flyntann and other North River developments that are on former contaminated land. Those developments even are better for than vacant contaminated land. She notes that of the 12.5% of units on the subsidized housing inventory some has were created through the Planning Board and some were through the North Shore Community Development Coalition (NSCDC) but that vast majority is subsidized housing from the SHA. The bulk is subsidized housing. We want to encourage more of that and leveraging public land is one more way of creating affordable housing if you put too high of a percentage on it then the numbers will not work we do not want to do that either. We want to have that healthy balance. This board has put a lot of thought into the percentages, and we decided we want to help the most people at 60% we need to educate how we got here. We have been at this for a year working through the data and trying to find a ratio that makes sense. Thought we were focusing on the new parts added to the ordinance, i.e. the Special Permit section of adaptive reuse- not things that have already discussed through.

Councillor Sargent says he understands our numbers mostly come from Section 8 and says there are some units we need to keep negotiating such as Loring Towers.

Mr. Anderson responds that part of the point is we need the units, this is helping us develop housing market rate as well.

Councillor Sargent says that we are not sure how much housing we need, how much market rate housing, low income and affordable units are necessary?

Mr. Anderson responds that we have studies that show how much we need and these studies state that we will be severely short if we do not build. It is clear that we need market rate and affordable housing here.

Councillor Sargent suggests that the minimum affordability we should be requesting is 12.5%, to maintain our current subsidized housing inventory level.

Mayor Driscoll says that most other communities offer flexibility components in their ordinances, such as payment in lieu of units and building offsite units. We are not allowing that. We need units.

Councillor Dibble –other communities, e.g. Peabody required 20% of units that didn't work so they lowered it to 15%

Mr. Anderson says then you will need to give another bonus.

Councillor Sargent says for every units of affordable you get one but not following the letter of the law.

Mr. Anderson but we are at 60% AMI the numbers wouldn't work greater than 10%.

Mayor Driscoll asks where the Affordable Housing Trust Fund Board is on this? She thought the goal was trying to get a final draft for filing.

Mr. Northcutt recommends a vote subject to legal review.

Councillor Dibble reiterates he wants the Zoning Enforcement Officer and the Chair of the Zoning Board of Appeals to review the ordinance and provide comments.

It is agreed upon by the board that the ordinance will be provided to the City Solicitor, Zoning Enforcement Officer and the Chair of the Zoning Board of Appeals. If there are substantial comments, then the ordinance will be back before the AHTF Board to work on but if the comments are not substantial the ordinance should be moved forward to City Council. Either way staff will submit any comments received to the board.

Councillor Sargent recommends including local preference.

Mr. Northcutt says the hope is the City Council will act favorably on this quickly. The Irony is that while this sits, we are getting 10% of units at 80% AMI. This is the most progressive ordinance he has seen not pushing it forward means we are losing deeper levels of affordability.

John Boris makes a motion to send the ordinance to the City Solicitor, Zoning Enforcement Officer and the Chair of the Zoning Board of Appeals, if there are not substantial comments then file the ordinance with the City Council, seconded by Mickey Northcutt and the motion carries unanimously.

B. Accessory Dwelling Unit (ADU) Discussion

Mayor Driscoll discusses refiling the ADU ordinance as a package with incentives to promote affordability, including a loan program and tax incentives. By packaging it we have a mechanism to create restricted affordable housing. Loan program could be seeded through Community Preservation Act funds and/or we can request funding (small grants) from banking institutions.

Tax Incentive Discussion:

Ms. Chiancola says the staff memo outlines a few communities that offer tax incentives for affordable accessory dwelling units. If this board is favorable of such a tax incentive, she will draft the special act. The board discusses three key elements to the exemption.

Eligibility for tax exemption: Is this for all affordable apartments or limited to accessory dwelling units? Mr. Anderson recommends it only be for ADUs. Mayor Driscoll agrees, noting concerns that other apartments may offer below market rents because they are below market conditions.

Affordability Restriction: Should it be recorded with a deed restriction or applied for annually through the City Assessor? Mr. Anderson recommends an annual certification with the Assessor. Councillor Morsillo asks why not a deed restriction. Mr. Anderson relies that a deed restriction is not an attractive option for homeowners, he does not think people would actually use the program if a deed restriction is required. Ms. Nina-Soto concurs noting she understands the complexities of a deed restriction first hand, it is not something that a homeowner should have to go through for the incentive.

Level of Affordability: 30%, 50% or 60% AMI. Mr. Anderson says he recommends 60% AMI.

Ben Anderson makes a motion to move forward with the special act for affordable accessory dwelling units restricted annually through the assessor's office with an affordability level at 60% AMI, seconded by Mickey Northcutt and the motion carries.

Ms. Chiancola describes the loan program that Lincoln offers. Residents get up to a \$25,000 loan to build an ADU, in return for the funds the homeowner would have to deed restrict their ADU for 15 years. Barnstable has a similar ADU loan program that is funded through CPA. Ms. Chiancola notes that she submitted an eligibility letter and will submit the full application on behalf of the board if it is supportive of this program. Discussion among the Board ensues, the board is supportive of moving forward with a loan program and applying for CPA funds. Further discussion regarding the CPA application and terms of the loan will be discussed at a future meeting.

John Boris makes a motion to move forward with an affordable accessory dwelling unit loan program seconded by Ben Anderson and the motion carries.

ADJOURNMENT

Motion to adjourn by Cynthia Nina-Soto, seconded by Ben Anderson—passes unanimously.

Meeting adjourned at 7:45 p.m.

Approved by the Affordable Housing Trust Fund Board on 03/03/2020

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.