

PLANNING BOARD MINUTES

MEETING OF February 28, 2007

A regular meeting of the Lexington Planning Board, was held in Cary Auditorium in Cary Hall, and called to order at 7:00 p.m. by Chairman Manz with members Hornig, Galaitsis, Canale, Zurlo and planning staff McCall-Taylor, Henry and Kaufman present.

***** ARTICLES FOR 2007 TOWN MEETING*****

PUBLIC HEARINGS

Article 7, 303 Woburn Street, Rezone from RO to CRS

At 7:00 p.m., Chairman Manz advised the audience that the applicant had withdrawn the rezoning petition and that the Board would be in recess until the next hearing scheduled for 7:15 p.m.

Article 6, Penalties

At 7:15 p.m. Ms. Manz opened the public hearing on Article 6, Penalties. There were 60 people in the audience. Ms. Manz explained that the non-criminal disposition in the Code of Lexington §1.6 covers violations of the Zoning Bylaw, and therefore this section 135-9(B) was seen as unnecessary.

Questions and Comments: Mr. Frank Sandy wanted to know if the penalties were the same under both sections of the Code. Mr. Bartenstein asked the Planning Board to read these two sections of the Code - general provisions and the Zoning Bylaw. Ms. Manz read both items noting there is a schedule in the general provision but not in the zoning bylaw. Ms. McCall-Taylor said the current practice of the Zoning Administrator is to use the schedule in the general provisions.

Ms Manz closed the public hearing at 7:22 p.m. On a motion duly made and seconded, it was voted to recommend the article to Town Meeting.

Article 5, Tree Management

At 7:30 p.m. Ms. Manz opened the public hearing on Article 5, Tree Management. Mr. Canale's presentation stated that the objective of the bylaw amendment is to more explicitly include the protection of trees as a part of the findings and determinations required when the Planning Board or the Zoning Board of Appeals grants a special permit or a special permit with site plan review. A tree maintenance plan would become part of the standard submission for those projects under the jurisdiction of the

Planning Board and the Zoning Board of Appeals. The individual jurisdictions are retained, but it will enhance the consistency between the requirements of the various permitting bodies in town by including as part of a landscaping plan a tree plan that more closely parallels the standards found in the tree bylaw.

Questions and Comments - Mr. Barnert wanted to know if this only applied to special permits or demolition. He also wanted to know about the setback area. Mr. Canale responded that it applies to any special permit, and the setback is determined by the Tree Warden. Mr. Hornig said the set back is 15' from the lot line as per the Tree Committee's standard. There was a question about if there were some requirement for a setback of 30 feet from the center of the road. Ms. Manz was not aware of any center of the road setback. Ms. Blier said that the tree bylaw specifies types of trees and wondered why this did not. Ms. Manz said they recognize the importance of the Tree Bylaws and they would seek the advice and guidance of the Tree Committee.

Ms Manz closed the public hearing at 7:45 p.m.

Article 4, Inclusionary Housing

At 7:45 p.m. Ms. Manz opened the public hearing on Article 4, Inclusionary Housing. Mr. Zurlo began with a presentation stating that the value of the Lexington housing market had doubled in the last decade with the average value of a home in Lexington now over \$600,000. The current home values make it virtually impossible to maintain the community's interest in having a socially and economically diverse community. The goal of providing housing opportunities that support the diverse population of Lexington can be achieved through the proposed Inclusionary Housing Bylaw. Among the benefits that would be derived from this bylaw are having town employees who are invested in the town's future, seniors having the chance to stay where they have roots, enhancing businesses' ability to retain and hire employees, and having younger families able to find homes and become a revitalizing factor in Lexington. The additional units will help the town maintain and stay above the ten percent Chapter 40B mandate. Mr. Hornig continued the presentation. The proposed bylaw applies only to developments of three or more residential units, which already require a special permit with site plan with site plan review. Asset and income limits for occupants of inclusionary units are regulated and the units have price caps to keep them affordable to eligible families. The inclusionary credits specified by the bylaw are based on size and number of units.

Mr. Zurlo continued the presentation with two options for smaller developments, with on-site and off site

provision of inclusionary units. Mr. Hornig said maintaining the affordability of the units is done through an agreement between the Town, developer and a subsidizing agent, with income and asset limitations applied at the time of sale of the unit. They must comply with federal, state and/or local regulations. The quality must be generally comparable with other units except regarding high-end appliances and fixtures. Multiple site provisions allow a developer to include inclusionary units on additional sites as long as permits are approved at the same time. The applicant benefits from more flexibility to use multiple sites and receive an expedited review. If a developer chooses to provide more than the mandatory fifteen percent affordable units, he or she can be granted a density bonus as an incentive for contributing to the community's benefit.

Audience Questions and Comments Mr. Nyles Barnett said he had a problem with the Unit Restriction and Regulatory Agreement (URRA). He cited problems that he thought had occurred with the Muzzey School condominiums. He felt the program works well for rentals, but ownership would be a concern. For example, if a young family purchases an affordable home and their income rises, it is not economical to make improvements since they cannot recover what they invested into their home. The incentive for home ownership is lost.

Ms. Julie Duncan is a Realtor in Lexington since 1986. She is in favor of the bylaw, and is disappointed when young families come to her and cannot afford Lexington houses; it adversely affects the population diversity in Lexington.

Mr. Joe Stepaletta feels this bylaw places an unfair burden on a few landowners. The FAQ handout says developers will pay less for the land.

Mr. Julian Bussgang from Precinct 2 was very disturbed with this bylaw, stating that all other towns' inclusionary provisions have higher thresholds. Mr. Zurlo responded that Newton has a threshold of zero and no density bonus. Mr. Bussgang feels the term affordable housing relates to 40B and using it here is misleading. He wanted to know who would bear the expense of inclusionary housing. He believed that Concord has set aside lots to be bought by the town for the future inclusionary housing use. Mr. Bussgang also stated that the town is not allowed to tax anyone without state legislation; this is like taking something without permission. He claimed that someone wanted to buy a Muzzey unit and was forced to buy an old car as well. LexHAB needs to have a tighter control over such transactions. Mr. Hornig

responded that the term affordable does not appear in the bylaw, the Town's power to adopt zoning allows this and that enforcement is left to the regulatory agreement.

Mrs. Mardie Rolls, a resident for 35 years and a Town Meeting Member, felt this bylaw is complicated and confusing and will be a nightmare to implement. CPA has a minimum of \$230,000 for affordable housing, why not use those funds instead of putting the burden on a few landowners? Whatever financial burdens are derived from this proposed bylaw, should be shared by all the residents.

Mr. Bob Bicknell, the Chairman of the Lexington Housing Partnership, spoke in favor of the bylaw. There needs to be housing affordable to families between the ages of 20-40 to maintain the diversity and vitality of the Lexington population.

Ms. Vicki Blier understands both sides of the issue, but wants actual figures that can be obtained by independent appraisers for more concrete information as to either gains or losses that will be incurred by the owners of the properties in question. Ms. Manz replied that there were many variables in the value of land and it would be difficult to do such an analysis.

Mr. Isaac Silvera spoke of concerns he had of the long-term affects this type of planning. He called it a travesty. If a family buys affordable housing, becomes affluent, chooses to stay and then passes it on to progeny, how does this help affordable housing for the future?

Mr. Philip Terry has lived here for 50 years and wants to know how we share the cost of inclusionary housing? He makes below the poverty level and he is expected to give for the public at large as a charitable contribution without remuneration. That is unfair, unjust and discriminatory. Ms. Manz said that there are many zoning regulations that place limitations on the development of land, for instance wetlands regulations, road standards and allowed uses, and these may all affect the value. Mr. Canale added that having the bylaw does not attempt to solve the overall problem, but to have everyone who is doing development do their fair share.

Ms. Robin Cutner has been a teacher since 1982. In 1985 she bought a 2 family home in Medford due to unaffordable prices of homes in Lexington and her child attended Lexington Schools. When her mom passed away and left her money she was able to purchase a modest home here in Lexington, and is

saddened that many of the teachers here cannot afford to live here due to the lack of affordable homes.

Ms. Kay Tiffany stated that this bylaw would have a serious impact on her. The Planning Board and Town never contacted the landowners to discuss the inclusionary housing concern. This is a good cause, but it is a flawed bylaw, which violates the community spirit and is doing social engineering through land use. They will bring in younger families at the expense of the older residents. The Town already has more than the ten percent affordable units required and a bylaw is not needed. If the town is so concerned it should use the CPA monies.

Chris Eaton, a professional planner, stated that she supports the bylaw, which preserves affordable units and helps keep diversity of the population. It might also help prevent mansionization.

Mr. Ken Kreutziger is the vice chairman of the Lexington Housing Partnership and a Precinct 2 Town Meeting Member. He favors the adoption of the bylaw; it replaces the guidelines in effect since 1985. He added that over 100 communities have inclusionary provisions.

Mr. Frank Sandy, a Town Meeting Member from Precinct 6, wants the removal of the ownership provision and to allow units for rental only. He believes that it would be an administrative nightmare to implement the ownership aspect and encourages fraud and cheating. The benefit of ownership is to increase the value of your property, which does not apply in the affordable housing.

Mr. David Kaufman, a Precinct 6 Town Meeting Member, was concerned that there might be an undesirable effect, giving the example of a 3½ -acre lot where a developer might build two mansions on the two lots, rather than three smaller houses to avoid the special permit inclusionary housing bylaw requirements.

Mr. Don Detweiler from Precinct 4 has had 30 home meetings to discuss affordable housing in his faith community and they have formed a coalition and fully support this bylaw. It is elegant in its construction and provides developers with flexibility and opportunity.

Mr. Norman Cohen, a member of the Board of Selectmen, wanted to respond to three comments. First there is a precedent set with affordable housing in Potter Pond and Locke Village; second, he had been a

liaison to both the Housing Partnership and LexHAB and feels that the transfer of units in Muzzey was well administered (despite rumors to the contrary); third, Belmont starts their inclusionary thresholds at six units, Lincoln at five units. Mr. Cohen suggested that perhaps the Planning Board could rethink the threshold, which would be an easy change.

Mr. Russell Morash has lived here for 60 years and lives near the Luongo subdivision. He felt that this bylaw places an unfair burden on a handful of owners. It forecloses the development of small properties. This is a bad bylaw and there are better ways to achieve the desired results.

Mr. Gabler of Precinct 1 stated that it will cost the homeowner and this is an inappropriate and unfair bylaw. There are 111 people who own over three acres with an average age of 64. This bylaw targets older residents who will bear the burden.

Ms. Mary Haskell stated that she owns 2.99 acres and is a widowed senior citizen. Ms. Haskell said to obtain every last dollar is not her primary objective and that the inclusionary housing bylaw might help contribute to affordable housing. She stated that figuring out development potential is very expensive and you won't know the value until it's sold. She said to look at what happened to the stock market this week, it shows you can't determine future values. She then read a letter sent to her from Michelle Waters Econo, who had rented in Lexington for fifteen years and finally had to purchase in a home in Randolph because she couldn't afford to buy here. She was very sad she had to leave.

Mr. Daniel Paskowski, Chairman of the Board of Trustees from Emerson Gardens in Precinct 1, expressed concerns regarding the multiple site provision. He feared that developers will take advantage of this provision and seek out lower priced units like Emerson Gardens. He felt that these units are then a permanent part of the affordable stock, and the value of the surrounding units will suffer over time.

Ms. Lilly Silvera used to be a broker and is a resident for 25 years and objects to the bylaw because it targets a segment of residents, it lacks fairness and is very complex. All the residents should be taxed equally. But she conceded that Americans are tax phobic. She stated that when she lived in the Netherlands her income was taxed at 91%.

Ms. Kelly Dye is a new resident since January and is a LexHAB resident. She is a teacher here now for 8

years and has a 4 year old and fully supports this bylaw.

Mr. Tom Harden of the Housing Partnership and a former Planning Board Member favors this bylaw. He was involved in earlier work on the bylaw. He told of a seven-unit subdivision that was built several years ago and provided no affordable housing because there were no provisions that could be enforced in the bylaws. He said that the link between affordable housing and the regional economy is very important. The lack of affordable housing drives metropolitan sprawl. Policies must be implemented at a local level. This bylaw only affects large property owners who choose to develop their property. Whenever a subdivision is approved, it results in a jump in the value of the property.

Mr. Howard Simpson is an 84-year-old retired college professor, and is upset that he is going to be taxed when he sells his property because its value is going to decrease significantly. He feels it is unfair to impose on him this burden that should be shared by all.

Ms. Florence Baturin is in favor of the bylaw and suggests that the current situation is not effective. Development of 179 units has produced 7 affordable units. This would increase with the new proposed bylaw to 14 affordable units.

Mr. Peter Kelly asked what difference existed between the 100 other communities that have inclusionary bylaws, and wanted to know if one house exists and he builds two more does this bylaw apply to him? He said the complexity of this to implement is so difficult. He feels the burden should not be on the backs of a few.

Ms. Sue Staecker from Precinct 8 wanted to know how much would it cost her? She said her research showed that in the case of the net two scenario she would basically lose one building lot at the cost of \$500,000. If she were to purchase a 2-bedroom unit off-site there would be a loss of \$100,000. Affordable housing would cost her minimum of \$100,000, and while this is a good goal the burden should not be on her. There are other options. For example, CPA revenue could be allocated to share the burden equally among all the residents.

Mr. Lionel Frey is a resident since 1963 and wants to know why is this fair? He feels all residents should share this cost equally and not only a select small group. He suggested put a requirement on people who

produce new housing units to require a proportional donation.

Mr. Peter Staecker wanted to address (FAQ #2) about fairness. He wanted to know “Why there is nothing to address the teardowns since they impact the availability of affordable housing?”

Mr. John Bartenstein from Precinct 1 stated that affordable housing stock is being diminished by teardowns and perhaps a penalty should be imposed for destroying smaller houses that are more affordable and replacing them with mansions.

The hearing was closed at 10:50 p.m.

Article 5, Tree Management

Mr. Hornig would like to amend section 12-B2(b) by inserting after “steep slope” the phrase “by preserving mature trees.” On a motion duly made and seconded, it was voted unanimously to recommend the article to the Town Meeting with the amendment.

On a motion duly made and seconded, it was voted to adjourn the meeting at 10:55 p.m.

Gregory Zurlo, Clerk