

TOWN OF WINCHENDON



Zoning Board

(978)-297-5419

Regular Meeting
December 2, 2020

Via Zoom - Meeting ID: 966 4656 4370 Passcode: 8930663

Present: Members: Chairwoman Cynthia Carvill, Richard 'Erik' Stancombe, Ray Benoit, Bryan Vaine
Other: Alison Manugian – Zoning Agent, Tracy Murphy – Director of Planning and Development, Judi Barrett & Alexis Lanzillotta of Barrett Planning Group

Materials: Agenda for Comprehensive Permit Workshop

7:07PM: Chairwoman Cynthia Carvill called the meeting to order; motion made by R. Stancombe, seconded by B. Vaine and all present voted aye via roll call vote.

There is only one topic on the agenda - Comprehensive permit training and presentation – Judy Barrett

These pieces are not within the ZBA jurisdiction, but are handled by the applicant and sponsor

Communities need to contribute 10% of their year round units to the region's affordable housing stock

- 40B Affordable includes year round units only
- Denominator (total # housing units) adjusts only with census tally (likely determined in Fall of 2021)
- Numerator (# Affordable housing units) changes as Affordable units are added
- Must be available on a fair and open basis to income eligible families – you can have a limited pool - age restricted etc based on permission from sponsoring authority

Income is dependent on area's regional median and household size –

- Qualifying income limit is 80% of median income
- Winchendon uses 'Fitchburg/Leominster HUD Metro Area' –
- Currently approx \$48k for singles and \$68k for a family of four

Housing must be offered under a state approved Affirmative Fair Housing Marketing Plan

- Communities can request that local preference be applied (70% maximum)
- While marketing into NH isn't required, NH residents can apply

ZBA purview:

By statute Chapter 40B applies unless

- More than 10% of year round housing units are affordable and on SHI or
- More than 1.5% of general land in town is affordable housing or
- A development is in progress that disturbs 10+ac or 0.3% of land in town

Safe harbor provisions allowing temporary avoidance of 40B are present in regulations not statute

- if you have a DHCD approved Housing Production Plan and provide an increase of 2% in a given year DHCD can authorize the ZBA to turn down 40B developments for a year or two
- DHCD sets a maximum project size based on existing housing and developments – to prevent huge developments from overwhelming a smaller community

- If a developer applied for another project and got rejected ‘recently’ – ie no spite 40B applications

Developer must:

- be a public agency, non-profit or limited dividend organization (profit limited)
- have site control and
- have confirmed eligibility from a subsidizing agency

ZBA is the local review for ALL LOCAL permissions and processes. To deny a project the ZBA would need to find (in a compelling way) that the local concern outweighs the regional need

All State and Federal regulations remain in effect and under their typical jurisdiction

- Process begins with conceptual site and architectural submission including building unit information etc, utility plans and a list of requested waivers (from a local rule/bylaw) they need/want.
- Permitting timelines should be followed very closely
 - Open the hearing within 30d of the application receipt – regardless of the completeness. Notify the applicant at the hearing that the application is incomplete. The ZBA has the right to turn down an application as incomplete if they don’t remedy this situation
 - If we think the project can be turned down for a statutory or regulatory reason there are 15d to notice the applicant after opening the hearing
 - Once hearing opens there are 180d to close the hearing (unless there is a statutory/regulatory issue) If nearly there a developer can grant a modest extension.
 - Once hearing is closed a decision is needed in 40d

Rob Bushey joined at 7:53pm and Alexis Lanzillotta left at 7:56pm

Important to start with big issues/requests – applicant has a duty to make sure board **understands project**

- Early on the ZBA should hold brief discussion of anticipated waivers for the pending application – parking, units per parcel size – the applicant needs to specify detailed waiver requests and need – ie ‘regulations mandate two parking spaces and we are providing one as these are single bedroom units’
- all questions regarding physical development should be brought up - goal is to determine what is the quality of this project for community and residents - topics to consider include health, safety, environmental, design (not density), open space, planning
- Review the needs to have assistance – traffic, engineer etc – schedule and book in advance and identify up front – get estimates and hold up front with Ch 53G after the hearing is opened and identifies the likely needs. Can request peer review but not preparation of a study. Can request a construction management plan up front and can add conditions
- Schedule a site visit with plans in hand at the beginning – accompanied by applicant

Items outside of ZBA perview:

- Impact on schools or municipal services (mitigation of impact on nearby infrastructure etc based on financial viability may be conditioned – ie add sidewalks to very nearby school)
- Don’t accept any fiscal impact studies
- Tenant selection
- Income limits
- Market study

Meetings (with staff or a non-quorum of board members) may be held with the applicant

- minutes etc be kept and shared with the ZBA
- Town Counsel should opine as to their preferences

Tracy Murphy outlined the preliminary design process to date and in general. Meetings so far have helped guide the process and development with the goal of avoiding waivers and major permissions. The proposed project to date is limited to the existing buildings and a connection between these structures. Site work is minimal and wetlands are not anticipated to be a factor. Town sewer and water will service the project.

Prior to closing the public hearing the ZBA should:

- review a draft decision with waivers and conditions to the final determination should not include any items that are a surprise or have not been discussed.
- Discuss each area of the list above with regard to:
 - What information does the Board have?
 - Is that information sufficient for decision? If not, what other information is needed.
 - What conditions should be considered? Conditions can not make the project infeasible
 - What specific waivers are granted?
- If there is any indication that the ZBA will deny the project, discussions need to take place about the likelihood of appeal and success thereof – If a condition with permission is disputed an appeal can be made of that condition in isolation. If a denial is handed down the entire decision and all conditions may be overturned.
- Ensure that Town Counsel has reviewed the draft decision (at Town's cost not applicant's)

Judi Barrett confirmed that the Mullen rule applies and other hearing rules are in effect. Adding two alternates to the ZBA would be very helpful before this process begins.

Applicant next steps following ZBA Decision:

- Applicant appeal is to the Housing Appeals Committee, any other aggrieved party is via courts
- final approval from the subsidizing agency then apply for other permits. The Building department will review or refer the plans to the board/agent to determine consistency with the decision.
- ZBA decision is good for 3 years unless an extension is requested (which generally can't be denied)
- ZBA must be informed if there is a transfer of any type
- If applicant requests a change to the comprehensive permit a decision of substantial/insubstantial must be made within 20d. If a change is minor, administrative approval by ZBA outside of public hearing is allowed. If change is substantial a new hearing is opened to discuss only this change – timelines are same as on original process steps.

If there is a concern that the needed construction inspections will overwhelm the municipal inspector the ZBA can condition (following discussions) agreement of the applicant to fund some portion. While this may be needed the department is now more robust than when the last 40B was active.

It's unclear what the timeline will be on this process and project, the applicant is awaiting the letter of eligibility. The group with MVOC is very proactive and the project at this point is in good shape.

Cindy Carville requested that we meet with her prior to the ZBA hearing to ensure that she's up to speed and the logistics are outlined.

R. Bushey motioned to end the meeting. R. Stancombe seconded the motion and all voted aye via roll call - The meeting was adjourned at 8:58 PM.

Respectfully submitted:



Alison Manugian - Planning and Conservation Agent