

Planning Board Minutes  
January 20, 2016 – 7:00 P.M.  
Town Council Chambers, Town Hall  
125 Main Street  
East Greenwich, R.I

Members Present: Steve Brusini, Chair; Dan Tagliatela; Brad Turchetta; Chris Russo

Members Absent: Michael Donegan; Jason Gomez; John Ayotte; David Eaton

Staff present: Lisa Bourbonnais, Planning Director; Aaron Lindo, Planning Assistant; Sarah Jette, Legal Counsel

Also present: William Daly, Affordable Housing Committee member

Mr. Brusini opened the meeting at 7:05 PM and introduced those present.

1. Discussion: The Town is considering amending Chapter 260 of the Town Code, Zoning Ordinance, Article XVII, Affordable Housing. The revision would replace Sections 260-98 through 260-101 in their entirety and would add Sections 260-102 through 260-104. The affordable housing revisions are not yet before the Town Council for consideration and are still being drafted. No action or decision is required.

Mrs. Bourbonnais gave a summary of the changes that were made since this item was last heard in October of 2015 then went over the highlighted changes [See “Affordable Housing Zoning Revision 20150112” for reference].

In reference to the changes made to 260-100, Mr. Brusini asked how impact fees work. Mrs. Bourbonnais explained that the development impact fees in East Greenwich are assessed on a per bedroom basis by unit. Every residential dwelling build is subject to the impact fee with the exception of affordable units which is waived as a subsidy.

Mr. Tagliatela presented a scenario for clarification regarding the density bonus. If there is a lot that can support 50 units and 20 percent of those units need to be affordable (10 units), when a 20 percent density bonus is applied, the total number of units is 60 units with 10 of the units being affordable.

With regards to the language “...shall be entitled to a density bonus of up to 20%...” [page 2], Mr. Russo asked if it is up to the Planning Board’s discretion to grant the density bonus amount up to the 20%. Mrs. Bourbonnais confirmed this and explained the process. In order to receive a density bonus, the applicant is sent to the Zoning Board to obtain a special use permit for relief. The applicants have to meet the legal standards set forth in the zoning code. If the standards are

not met, they cannot get the full 20% bonus. Ms. Jette commented on the language of “shall” and suggested it be changed to “may” to reflect that the applicant is not guaranteed a density bonus.

Mr. Brusini added that when there is an entitlement, one is entitled to *something*. He suggested that the language be changed from “shall be entitled to” to “may be eligible for” or something similar. Also, there should be criteria that describe what the Board is basing their discretion on such as specific factors.

Mr. Daly asked if a density bonus has been helpful in the past to bring in developers to develop land and include affordable housing. He also commented that a higher density bonus would be more beneficial to bring in a greater amount of affordable housing.

Mrs. Bourbonnais commented that the density bonus has not been utilized. The reason being that since the Town first adopted the affordable housing ordinance, the housing market crashed leading to much less development. According to the Comp. Plan, 10% of the housing stock is supposed to meet the definition of affordable and the Town is currently at 4.34%. The 10% housing stock will not be attainable with just inclusionary zoning. There are other strategies available to meet the goal. A 100% affordable housing project would be ideal.

In reference to the language in 260-100-B, Mr. Brusini asked if a special-use permit has to be required. Mrs. Bourbonnais replied that a special use permit is required so that there is a set of published legal standards applicants have to meet.

Mr. Russo followed up, asking if “may require” was correctly used to necessitate a requirement. The reasoning behind the language is that the Planning Board will be requiring applicants to **seek** a special use permit but cannot require the permit to be granted as the Zoning Board has purview over issuance.

After a discussion, it was agreed that the language should read “shall require” in place of “may require” to keep consistency. Additionally, the Planning Board will have set criteria in place for an applicant to be favorably recommended to seek a special use permit from the Zoning Board.

In section D, the subject language of rounding to a next higher whole number was discussed. It was determined that the concept of rounding to a higher whole number is not clearly defined and is not based on a precedential standard. The language should be taken out until there is a clear definition and standard to be followed.

Instead, a statutorily authorized fractional fee could be applied. To deal with the fractional number, the value of the fee for each town is calculated by the State. In 2015, the East Greenwich fee per whole unit was approx. \$77,680 (for 2/10<sup>ths</sup> of unit, the fee would be \$15,000). Mrs. Bourbonnais commented that this issue would not be resolved at the meeting and discussed other options.

Options discussed were off-site exactions and reserving lots in lieu of units, the latter option being undesirable because it does not bring affordable units online in a timely manner.

Section E discusses the subsidy available for a developer when building affordable housing. The Town needs to increase subsidy provisions because they are currently lacking. Mr. Russo asked if there was list of units that are in need of rehabbing to make an affordable unit. Mrs. Bourbonnais replied that there is no list of potential properties but deed restricting existing units is arguably the only effective way to meet the 10% affordable housing goal for the Town.

Mr. Brusini suggested that the language of “the Town will assist the developer in securing funds...” be changed to “the developer may request assistance from the Town in securing funds...” The concept is the same but it does not create a standard that is mandatory for the Town to adhere to.

On the subject of visually compatible versus completely indistinguishable structures (260-100, F. 2), Mrs. Bourbonnais opined that it is safer to use visually compatible and give definitions of the ways it has to be the same as its surroundings. Style, character, quality, location and exterior building footage could be defining factors.

Mr. Russo asked how an affordable unit could be distinguished from a market rate unit. He was answered that the unit does not have to be identical, only visually compatible. Also, the interiors of the affordable units would be different.

Mrs. Bourbonnais commented that [260-100, F. 3] is a new addition from the previous version of the ordinance. The section pertains to the mix of unit sizes and number of bedrooms per unit being in the same proportion for both affordable units and market rate units. It is hoped that an offsite exaction will not be used for new construction. It would be preferable to buy a house that needs work, fix it up and deed-restrict it.

Regarding 260-100, F. 6, the configuration of the offsite affordable units does not matter but bringing the affordable units online at the same time as the as the market-rate units does matter. The rate of issuance of the Certificates of Occupancy should be the same for both affordable and market rate units regardless of location.

Mr. Brusini suggested altering the language to eliminate possible confusion from the word ‘rate.’ Every time a portion of the project is completed (on-site, off-site, in phases, not in phases), the affordable units have to be issued a Certificate of Occupancy before or at the same time as the market-rate units.

Mr. Tagliatela inquired about section F (second F) with regards to monitoring local housing data to determine how the units should be targeted. He asked how the Board would determine specific housing needs. Mrs. Bourbonnais replied with the example of Village on Vine. Using local housing data, it was suggested that the developer make handicap accessible units to fill a need.

Rhode Island housing is now saying that there is a need for units that are available for people who earn 60-80% area median income.

Mr. Brusini suggested that the Planning Board should determine specific housing needs *based on* annual housing data available which could change the need on a yearly basis.

In section 260-101, the Town is trying to incentivize using sub-standard lots to develop affordable housing on. Mr. Brusini made a correction in section D, changing “their” to “the” when referring to the Zoning Board of Review.

In section 260-103, Off-Site Exactions, Mrs. Bourbonnais commented that off-site exactions need to be an option but on-site inclusionary zoning is preferable. Inclusionary zoning works well in condos and other high density developments where there can be a true mixed income community and no one knows the difference. When 7,000 sq. ft. houses are being developed on 2-acre lots, however, no person making 75% of the area median income can maintain the house and live there comfortably. A developer who wishes to do off-site exactions will not be eligible for a density bonus.

Mr. Brusini gave the example of the nonsensical notion of putting an affordable unit in an area with 7,000 sq. ft. \$1,000,000 houses. In this case, it would be favorable to give a density bonus for off-site exactions. The developer is getting \$1,000,000 worth of new unit. If the affordable units cost \$250,000, the Planning Board could ask the developer to bring 4 \$250,000 affordable housing units online to equal the \$1,000,000 of market-rate unit.

To figure out if the Planning Board has the authority to make a developer build affordable off-site exactions in an equal dollar amount to a market-rate unit, Mr. Brusini proposed a recommendation be made to the solicitor or the Town Council to get a declaratory ruling.

Legal counsel was tasked with finding out what the procedural vehicle through which the Planning Board can proceed with this proposal.

2. Minutes: Review and approval of the minutes of the October 21, 2015 and January 6, 2016 meetings.

There were not enough Board members to approve the October 21 minutes and were continued for approval until the next meeting. Regarding the January 6 minutes, Mr. Brusini commented that he would like to add the opening time of the meeting. The time of 7:09 PM was noted and corrected in the minutes.

3. Planning Board Member Comments: For items not on the agenda and not relating to specific applications.

A motion to adjourn was made by Mr. Russo and seconded by Mr. Turchetta. Meeting adjourned at 8:17 PM.