



TOWN OF MEDFIELD
DEPARTMENT OF LAND USE AND PLANNING
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MARIA DE LA FUENTE, DIRECTOR OF LAND USE
CARA WISE, ADMINISTRATIVE ASSISTANT

MEMORANDUM

TO: Kristine Trierweiler, Town Administrator

FROM: Maria De La Fuente, Director of Land Use and Planning

DATE: October 7th, 2024

SUBJECT: Memo for the October 7th meeting with MassHousing

Participants:

From MassHousing: Jessica Malcolm – Manager at the Planning & Programs Department; Kat Miller – Planning and Programs Specialist

From the Town of Medfield: Maria De La Fuente – Director of Land Use and Planning

Attendees (as indicated by Zoom handles): Nigel Spencer, Isaac Wells, Terry Corbett, Michael Weiner, Susan Weiner, Alexandra Pfoff, Rozlynn Desilets, Kristine Hung, Kathy MacDonald, Chris McCue Potts, Joanne Egarty

Purpose of Meeting:

The purpose of the meeting was for abutters to understand how MassHousing conducts its Project Eligibility analysis in preparation for issuing a Project Eligibility Letter (PEL).

Overview of MassHousing's Project Eligibility Review Process:

Jessica Malcolm explained that when an application is filed with MassHousing, the agency is required to conduct a review under the state's 40B regulations. This review includes conducting site visits and allowing a 30-day comment period for feedback from the Town and other interested parties.

The review is based on seven key findings, including project appropriateness, design suitability, financial feasibility, and site control.

Key Findings for Decision-Making:

Ms. Malcolm outlined the critical factors MassHousing considers:

1. Whether the project is generally appropriate for residential development.
2. Appropriateness of the conceptual design, assessed during site visits.
3. Financial feasibility, ensuring the project meets affordability regulations.
4. Compliance with the requirement for 25% of units to be affordable at 80% of Area Median Income (AMI).
5. Review of profit limits through a third-party appraisal process.
6. Site control verification.

40B Regulations and Municipal Feedback:

Ms. Malcolm clarified that 40B regulations extend beyond the Project Eligibility process and that municipalities have the opportunity to provide feedback during the PEL review process.

Ms. Malcolm added that municipalities often have housing production plans and can invoke the "Planning Defense" when demonstrating independent progress toward housing goals (e.g., instituting a 40R district or through inclusionary zoning bylaws).

Safe Harbor and Delays:

Ms. Malcolm explained that municipalities can delay projects if they meet certain "Safe Harbor" criteria, such as having 10% of housing units as affordable or dedicating 1.5% of general land area to affordable housing. The other exception is to have a certified Housing Production Plan and meeting housing production targets.

Michael Weiner asked if this exception could apply to Medfield.

Ms. De La Fuente clarified this is not applicable to Medfield at the time. While Medfield has a certified Housing Production Plan, the Town has not produced enough affordable housing units in recent years to be in Safe Harbor.

Application Denial and Appeals Process:

Ms. Malcolm described that if a 40B application is denied or approved with conditions that make the project uneconomic, the developer can appeal to the Housing Appeals Committee.

Final Approvals and Housing Permits:

Ms. Malcolm detailed that after a PEL is issued by MassHousing, the next step involves applying for a Comprehensive Permit through the local Zoning Board of Appeals (ZBA). Once the ZBA issues its approval, developers must return to MassHousing for final approval before applying for building permits.

Q&A:

1. Mr. Weiner asked whether MassHousing tends to deny applications and on what grounds.

Ms. Malcolm responded that most unqualified projects do not reach the application process, as MassHousing holds preliminary meetings with applicants. However, projects have been denied based on Planning Defenses, particularly when a town reaches Safe Harbor.

2. Mr. Weiner inquired about how acquisition costs are checked by MassHousing and how developability of the land is determined.

Ms. Malcolm confirmed that third-party appraisers verify these costs, using a by-right appraisal process based on what could be built under regular zoning, excluding the comprehensive permit scenario. Appraisal reports can be requested through a Freedom of Information Act (FOIA) request.

3. Mr. Weiner asked if MassHousing has ever denied applications based on profit exceeding the 20% cap.

Ms. Malcolm explained that any excess profit, after third-party appraisals and marketing checks, is typically allocated to the municipality if the developer exceeds the 20% profit cap.

4. Rozlynn Desilets asked how 40B impacts permitting, and if developers can bypass local permits.

Ms. Malcolm responded that 40B allows developers to waive local permits and build on properties zoned for different uses, such as commercial or industrial. Developers can also request dimensional waivers, like increasing density beyond one-acre zoning.

Ms. De La Fuente clarified that local Zoning Boards typically look at issues of public health, safety, and welfare when looking at 40Bs. The ZBA is also mindful of imposing any conditions unrelated to the three listed above that may render the development uneconomic.

5. Susan Weiner asked about wetlands and environmental permitting.

Ms. De La Fuente clarified that the State's Wetlands Protection Act applies, rather than local conservation regulations, which are usually more stringent.

6. Ms. Desilets asked if MassHousing ever requests developers to scale back projects.

Ms. Malcolm said that in about 1 out of every 5 applications, MassHousing asks for project revisions due to factors like construction or site issues. When a redesign is submitted, the Town is granted an additional 15 days to provide updated comments.

7. Alex Pfaff inquired about the site visit meeting minutes.

Ms. De La Fuente stated that she had prepared her own minutes and shared them with Susan Weiner. These minutes can be requested via email and will be posted on the Town's website under the Zoning Board of Appeals page, under the "86 Plain St 40B" tab.

8. Terry Corbett (TC) asked about safety issues reviewed during the process.

Ms. Malcolm clarified that public safety is outside MassHousing's scope.

Ms. De La Fuente added that the Zoning Board addresses safety issues such as access, sight distances, traffic flow, and fire safety by consulting Department Heads and a peer review engineer.

The engineer's recommendations are heavily weighted in final project designs.

Final Updates:

An extension to the October 15 deadline for Town comments has been granted by MassHousing.
The new deadline is October 30, 2024.

If you have any questions, don't hesitate to contact me at mdelafuente@medfield.net or by phone at (508) 906-3027.

Maria De La Fuente