

BOROUGH OF FAIR HAVEN PLANNING BOARD

Regular Meeting Minutes

March 19, 2019

1. The meeting was called to order at 7:30 by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act statement and pledge to the flag.

2. ROLL CALL

Present: Mr. Borneo, Mr. Rice, Mr. Rolff, Mr. Bordelon, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Absent: Mr. Folker, Mr. Criscola

Also Present: Mr. Kovats, Board Attorney, Mr. Gardella, Board Engineer, Mr. Heyer, Borough Planner, Mr. Edwards, Borough Counsel on Affordable Housing, Mrs. Casagrande, Borough Administrator, Mr. Lucarelli, Fair Haven Mayor

3. PUBLIC HEARING ON AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN

Mr. Lehder introduced Mayor Lucarelli who in turn thanked the Planning Board members for volunteering. He gave a brief summary of the process which began work on COAH in 2015. He introduced Fred Heyer and Michael Edwards and then introduced Theresa Casagrande who gave a history of the process. She indicated that the Borough had filed a declaratory complaint.

Mr. Kovats referred to the notices and noted satisfaction that the Board had jurisdiction. He explained to the Board that the Borough's first housing plan was in 1997 and was modified in 2006. The plan is no longer required to go through COAH; it can be handled by the courts. The Borough decided to go ahead with the plan, which needs to address their obligation. It is the role of the Planning Board to adopt amendments to the Master Plan. This hearing involves amending the Housing Element to address affordable housing.

Mr. Edwards stated that the Borough is looking for voluntary compliance. Every municipality has a quota. He discussed that various legal rounds and stated that the regulations were invalidated. Following the 2015 Mt. Laurel ruling the Borough can file a declaratory judgement action or wait to be sued. The numbers in the plan are an extrapolation of the finding of 135 units from COAH and the 236 current obligation for a total of 371 unit new construction obligation. The Borough has one unit. It is being suggested that the 370 unmet needs be addressed by overlay zones.

Mr. Heyer noted the Borough is required to adopt a housing plan, particularly for affordable. The Borough does not have units that would meet the component of rehab obligation. The 2nd component is new construction and the 371 figure is based on vacant land. Rules allow a vacant land adjustment; a deduction for the environmentally constrained portion. The Fair Haven obligation is one. The Borough needs to make a good faith effort to comply. There are three elements to the plan.

1- The Borough is looking at the DPW site. There is an opportunity for about one acre – 10 single family detached homes of which 2 would be income restricted.

2- Accessory apartments – up to 10 units for a 10 year period. This would allow for “mother-daughter” units.

3- Overlays – not necessarily vacant land. This allows property owners to take advantage. One overlay in the business district where mixed use makes sense and some precedents already exist in the ordinance. In the western business zone there would be a need to create incentive without compromising what you want – up to three stories (38’) with the first floor for retail and the third story set back. Building coverage would be 30%. A design analysis would be done. It would allow up to 20 units per acre. In sites over 1 acre, there would be 15 higher units. A second overlay would be the Methodist Church site. This is a 5 acre site which could allow for senior housing, low density.

There is a mandatory set aside ordinance which calls for 20% affordable units for any application over 5 units. There would be an Affordable Housing Trust Fund ordinance. Mr. Heyer stated he believes the town is making the right gestures.

Mr. Lehder asked why we have the 371 figure if one is all we need. Mr. Edwards said there is a trade-off of unmet needs. We need to show reasonable efforts. There will eventually be a compliance hearing. If a large site became available the Borough has the opportunity to address how it would be used. Mr. Kovats asked if a lot in the business overlay was available and a developer came in would there be a special reason to grant a variance. Mr. Heyer stated that the underlying zoning remains. Mr. Lehder noted that the plan allows the Borough to determine density.

Mr. Borneo clarified that one unit wouldn’t be approved with an overlay.

Mr. Rice asked if we had any.

Mr. Newell asked if people can sell and build in the overlay and the response was that 20,000 sq. ft. would be needed.

Mr. Rice asked about a second story and was told that an affordable unit is not triggered until you get to 5 units.

Mr. Lehder asked how an affordable unit was described and was told the unit would have to be deed restricted and affirmatively marketed.

Mr. Sobel asked for a definition of low and moderate income. It would be 80% of the median income of a particular region, adjusted by size of household, 58% for one person.

Mr. Lehder stated assemblage of property would have to meet requirements regarding setbacks, density, etc, per ordinances.

Mr. Kovats stated that the overlay preserves the character of the neighborhood.

Mrs. Koch stated that no more than 50% of the units can be moderate, the rest have to be low income. The rental is revised annually per HUD section 8 limit.

Mr. Borderlon asked if the designation lasted for the life of the building and was told that it would be at least 30 years, 10 years for accessory apartments.

Comments from the Public

Chris Hempstead, 53, Willow St, asked what would happen if the town took no action? The town could lose the ability to zone. They could have a builders remedy suit where the developer gets to choose. He asked if the town doesn't want it how do we mitigate? Mr. Heyer noted the height limit and setback to reduce mass. Mr. Hempstead stated this would change the nature of the town. He added that there is too much density in the R-5 zone, which is already the most densely populated part of the town.

Steve McManus, 42 Brookside Ave, asked if we have reached the point of no return? Are we selling land to avoid higher taxes. Mr. Lucarelli said the sale of property would provide capital and offset affordable housing. Mr. McManus asked what would happen if the Methodist Church was not sold and was told there was no guarantee of completion.

Richard Fuller, 36 Elmwood, questioned how many low income people are we talking about. He mentioned the potential for involving the younger generation, people such as firemen, teachers. Mr. Lehder said these would be rentals, housing stock not necessarily low income. Mr. Fuller stated that force is not all negative. There could be a more diverse, improved community. Mr. Fuller asked if the access road to the Methodist Church was changed and was told this would be determined as part of a site plan, if developed.

Rachel Stellar, 345 Fair Haven Rd, expressed concern about the downtown overlay and asked if the additional permitted height create an incentive for builders of affordable housing to go high. Mr. Gardella explained the current zoning regulations regarding mixed use and stated conditions need to be met. Mr. Lehder said that if we cap the height at 35' that makes it more difficult to get first floor retail. This is not about affordable housing, it is about the direction of the town. In response to a question about more overlays, Mr. Heyer said it was not feasible to put an overlay in an established neighborhood. COAH has never required an overlay in a residential area. She asked if the owners of the Sunoco site had plans for a condo. Mr. Edwards stated that the matter was in litigation and he couldn't comment.

Ruth McNeill, 190 3rd St. asked for an explanation about the DPW site and access. Mr. Heyer explained that is generally in areas with older, larger homes. We are not talking about 10 units. She asked if overlays concentrate all low and moderate housing in one part of town. Mr. Heyer said not really, because most units are market rate.

Diane Mevorach, 83 Navesink, asked if the Board was making a decision this night and stated it seems as if things are being done too quickly. She asked about housing for seniors and was told it was only 25%. She remarked that this would put a big strain on the schools. She asked how tenants were picked and was told there were no residency requirements and a lottery system was used. She asked if a group home would be counted as one and was told the count would be the number of people in the home. She asked about the size of accessory units and was told they would be one bedroom. She asked about the difference between renting and selling.

There is a minimal rental requirement. A 3 bedroom for 5 people could be about \$300K. Would DPW be rent or sell? Mayor Lucarelli said there is a possibility of 2 lots going to Habitat for Humanity. The rest would be sold to a developer which would allow the town to see the whole plan rather than one at a time.

Meghan Chrisner Keefe, Beechwood Place – asked what would happen if the Borough's motion was denied. Mr. Edwards said that was rare but the Boro would be open to developer's remedy. When did Fair haven become aware of the need for the plan? Mr. Edwards clarified the numbers. Mayor Lucarelli said that as cases came to the forefront it was time. Is there a threat to vacant land? No. Any thought to parking? Mr. Heyer said the parking would be consistent with residential requirements. The building footprints are smaller to accommodate parking. Will the Borough Hall be in the business overlay since not going to Sunoco? Are we prepared for infrastructure? With a pending school referendum, how to anticipate impact on schools? Mr. Heyer stated there are limits on what can be done. Mr. Kovats said the schools are required to do a long range facilities plan. Will developers be required to ask for a variance? In the overlay they will have to meet underlying zoning. Time line for instituting plan? Ordinances must be developed, a Fair Share hearing is held, compliance hearings, it will take years.

Sylvia Culver, Trustee of the Methodist Church, asked for clarification of that overlay. Mr. Heyer stated it would not have an adverse effect on the property owner. The owner has an option.

Ruth Blaser, River Road, asked if room rentals qualify. No, only in group homes and assisted living. Minimum footage of apartments? Yes. Tiny houses? Allowed if deed restricted. If deed restricted, how much control does the landlord have? Credit check. Ms. Blaser noted there is much less diversity in the Borough now.

Chris Hempstead asked if there was an opportunity for the Borough to use the unused property of other Boroughs. No. Do builders have advantage over custom home builders? It goes to the highest bidder. He requested a continuation of the hearing because people haven't had a chance to review it.

Mr. Edwards noted it goes to the Council and there will be 5 or 6 opportunities in the process.

Lee Richer, 25 Doughty Lane, asked what kind of structure could be allowed if a builder buys 5 acres. There are regulations to control the size.

Ms. Chrisner Keefe asked if there is an opportunity to amend the plan if it is adopted. Mr. Heyer said there was, and they will probably have to.

Mayor Lucarelli said it was important for Council to endorse the plan at the next meeting because there is too much chance of litigation. He said people would have the opportunity to address the Council at their meeting.

Ms. Mevorach asked how much it would cost the town to delay. She added that there is too much going on in town. Things are happening quickly and quietly. Mayor Lucarelli said it was

imperative to get immunity. There will be an opportunity for input when ordinances are being written.

Mr. Lehder said the need is to decide if the components of the plan are ready to go to Council. 1- accessory apartments not a new concept, part of the Master Plan, 2- affordable housing trust fund, 3 – mandatory set-aside ordinance, 4- DPW site – single issue, 5- Methodist Church overlay – 55 housing has been part of the discussion for a long time, and 6 – overlay – makes sense to protect the historic district.

Ms. Chrisner Keefe said this was the first opportunity to speak and we are boxed in a corner. Why wasn't the town given more opportunity. Mr. Edwards stated that executive sessions were important because they were dealing with litigation. She asked about comparable towns. Mr. Edwards said he has never seen a town put an overlay over a residential area.

There was no further public comment.

Mayor Lucarelli said we must move forward. We need to trust the professionals we hire. There are public policy issues beyond this.

Mr. Bordelon stated he had a problem voting today because he didn't have enough time. He likes the portion with the DPW but has problems with the overlays. Are the overlays determined by the litigation? Mr. Lehder described the B1 overlay and noted it excluded areas that were residential on both sides of the street. Mr. Bordelon said he agreed with that but didn't feel comfortable.

Mr. Sobel stated we need to pass the plan and limit the town's exposure. The public will have many opportunities to comment and there will be many amendments.

Mr. Newell asked if there was any magic number with the overlays. There is to some degree but Fair Haven is years behind in this – at the low end of reasonable spectrum.

Mr. Borneo said this has been a long process. He thinks it makes sense. He has trouble with the idea of an overlay other than on the business district.

Mr. Ingle stated he is ok with the plan.

Mr. Rolff stated that if we don't adopt the plan we lose more control over what we have to say.

Mrs. Koch thought this was the fairest plan the town could come up with.

Mr. Rice stated he was ok with it.

Mr. Lehder stated he was comfortable that this is the best we can do given where we are.

MOTION by Rice, second by Koch to approve the resolution adopting the Amended Housing Element and Fair Share Plan

In Favor: Borneo, Ingle, Koch, Newell, Rice, Sobel, Rolff, Lehder

Opposed: None

Abstained: Bordelon

MOTION Rice, second, Koch, to approve the February 19 minutes as amended.

In Favor: Borneo, Ingle, Koch, Newell, Rice, Sobel, Rolff, Lehder

Opposed: None

There were no public comments.

Motion to adjourn made, seconded and approved unanimously by voice vote.

Meeting adjourned at 10:20 PM.

Respectfully submitted,
Judy Fuller,
Board Secretary