Town of Grantham
Workforce Housing Public Forum
June 1, 2010

The Workforce Housing Public Forum began at 6:05pm on Tuesday, June 1, 2010. The meeting was held in the Grantham Town Building, Lower Level at 300 Route 10 South.

Present: Selectman Harold Haddock Jr.; Selectman Constance Jones; Administrative Assistant Melissa White; NH Housing Finance Authority Director of Public Affairs; Zoning Board Members Margery Bostrom, Conrad Frey, Dick Mansfield, John Clayton, Tanya McIntire; Planning Board Member Charlie McCarthy; Resident Wayne Small; Resident Kimberly Kuebler

Discussion:

Ben Frost, NH Housing Finance Authority Public Affairs Director gave an overview of the NH Housing Authority (more information is available at www.nhhfa.org).

Mr. Frost stated that the Workforce Housing Law was enacted by the Legislature in 2008 and became effective January 1, 2010 RSA 674:58 to :61 and requires local land use regulations to allow reasonable and realistic opportunities for the development of workforce housing.

The Legislature defined workforce housing as housing that is affordable to a family of four earning 100% of the median income for the area. Thirty percent or less of the household's income can be spent on housing costs or for a renter family of three making up to 60% of the area median income. Workforce housing is housing that is affordable to a family earning 100% of the median income for the area.

Mr. Frost gave examples of workforce housing and discussed some case law. Frost explained that a developer must declare in writing as part of the application process that the project is workforce housing.

Selectman Warren Kimball arrived at 6:55pm.

Charlie McCarthy asked if the Town receives credit for what is already in place. Frost said yes and stated that if the municipality is meeting its fair share of the current reasonably foreseen future need of workforce housing in the region then the municipality is deemed to have met the obligation under the [workforce housing] statute.

Harold Haddock stated that Grantham is a bedroom community to Lebanon and Hanover and should be part of our community rather than Sullivan County. Frost agreed and stated that the statute doesn't define what "region" is.

A question was asked about families larger than four. Frost stated the statute doesn't care about individual family size, only about a general standard; that it only looks at a renter family of three or a family of four.

Tanya McIntire asked for a definition of "development" and if one house could be built as affordable housing. Frost referred to the quick reference guide that was distributed to those in attendance and attached to these minutes.

Mr. Frost stated he would work with the Zoning Board of Adjustment to update Grantham's Zoning Ordinance.

The public forum ended at 7:20pm.

Respectfully submitted,

Melissa M. White

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Administrative Assistant

Workforce Housing Quick Reference Guide

A Supplement to "Meeting the Workforce Housing Challenge"

New Hampshire's economic growth over the past two decades has outpaced its housing growth. As the economy boomed, housing developers found that the conditions for development, particularly a labor shortage and more stringent local regulatory requirements, had a significant effect on the type and number of homes that could be built. Because there was a market for large, expensive single family homes and regulations encouraged their construction, much of the demand for more affordable housing was left unmet. As that demand outstripped supply, prices were driven up making living in New Hampshire expensive for all, but especially difficult for young families.

To address this problem, in 2008 the New Hampshire Legislature passed a law that requires every community to provide "reasonable and realistic opportunities" for the development of workforce housing. Even in a weaker housing market, the variety of housing that exists in New Hampshire today does not satisfy the need for workforce housing in many areas of the state. This is a law that is based on a long-term problem that will take a sustained state-wide effort to resolve.

The law – codified at RSA 674:58 to :61 – requires local land use regulations to allow reasonable and realistic opportunities for the development of workforce housing. The collective impact of these regulations must allow for the economic viability of workforce housing projects, including conditions of approval that might be required by a local board. Workforce housing must be permitted in a majority of the residentially-zoned area in the community, as well as specifically allowing rental multi-family housing in some reasonable portion of the municipality.

Under the law, a home is considered "affordable" to a household if 30% or less of the household's income is spent on housing costs. "Workforce housing" is housing that is affordable to a family earning 100% of the median income for the area. Because of these standards, workforce housing includes a broader range of incomes than traditional notions of affordable or "low-income" housing.

If an applicant proposing workforce housing before a local board believes that the municipality's regulations do not provide reasonable and realistic opportunities to develop workforce housing, that person can legally challenge either the town's denial of a development application or the restrictions placed upon the approval of the application. A municipality may defend itself in two fundamentally different ways. If it has chosen not to respond to the requirements of the law, it may demonstrate that its housing stock contains its "fair share" of current and foreseeable regional need of workforce housing. For those communities that have responded proactively to the law, they can show that reasonable and realistic opportunities for development exist elsewhere in the community; or that a project's denial or challenged conditions of approval were necessary to ensure public health, safety, and welfare.

It is important for local boards to understand the costs that each regulation imposes, and a developer's pro forma analysis may be used to help determine those regulatory costs, including those associated with minimum lot sizes, setbacks, frontage requirements, and road construction standards.

To help municipalities understand the law and address its requirements, New Hampshire Housing has prepared a Guidebook that provides recommendations for analyzing the municipality's land use ordinances and regulations and outlines approaches to evaluating issues of economic viability. The Guidebook also provides some recommended regulatory solutions. This Quick Reference Guide summarizes key recommendations found in the Guidebook; refer to the Guidebook for more detail on these steps.

Step 1: Assessment of Recent Development

The overall challenge for municipal compliance with the workforce housing statute is to determine if the local land use ordinances and regulations, viewed collectively, provide a reasonable and realistic opportunity for the development of workforce housing.

A recommended first step in this process is to undertake an assessment of existing housing stock. The goal of this exercise is to determine whether new homes are being sold or rented at an affordable price. Demonstration of that could serve as an indication that the community's current land use ordinances and regulations are providing reasonable and realistic opportunities for the development of workforce housing. The following questions should be answered:

- Is new housing being built that meets workforce housing statute pricing guidelines? And
- Are there rental units that meet the law's cost guidelines?

The local assessor's office should have a list of all property sales that have occurred. If the assessing data are up to date (use equalized data), community assessments should generally reflect local market conditions. From these data, determine the following:

a. Over the last year, identify the sales prices of primary preexisting homes, new homes, including condominiums. Using the NHHFA Workforce Housing Purchase and Rent Limit recommendations, determine what targeted home purchase price is applicable to the community. Separate analyses of these data should be conducted for existing homes and newly constructed homes, as data corresponding to new home sales will provide an indication as to the effectiveness of current land use ordinances and regulations in providing opportunities to develop workforce housing. Existing home sales will demonstrate the overall affordability of owner occupied housing in the community and will be useful as part of a fair share analysis, if you choose to undertake one; new home sales will reflect the development opportunities provided by the local regulations.

b. Collect data on the number of rental units in the community and estimate their rental cost. This may require conducting a rental survey. NHHFA annually collects rental data for the entire state, and posts this along with data for larger communities on its website. If your community is not listed, consult with NHHFA to determine if information is available. These data may not be available for small communities, or the sample size may be too small to be statistically reliable. The NHHFA rental data will be reported in gross rents (which includes utility costs), which is the current value used to determine rental affordability under the workforce housing statute. As with owner-occupied housing, determine what percentage of the rental housing meets workforce housing target costs.

Step 2: Analyze the Data

The information collected might help the community determine if it is meeting its "fair share" of the current and future regional need for workforce housing if that "fair share" has been determined. But more importantly, it should help determine if there is adequate availability and opportunity to construct housing that can meet the targeted price and rental figures. If developments are being approved with homes that meet statutory affordability terms, then the municipality's land use regulations may be in compliance with the statute.

"Fair share" may best be regarded as a principle, instead of as a quota. Providing opportunity for workforce housing development is the key to meeting the requirements of the workforce housing statute. If a community claims the existing housing stock is adequate to meet its regional fair share, it must be prepared to defend its decision if it is challenged. The regional need and the municipality's "fair share" of that need would have to be determined.

Step 3: Audit Local Land Use Regulations

Based on the housing assessment, a picture of a community's housing stock should begin to emerge. If a determination is made that the community does not provide an opportunity for the development of workforce housing, then the municipality should undertake an audit of its land use regulations to determine how they should be amended.

The following steps should be considered when performing an audit of local land use regulations:

a. Initiate a dialogue with the local development community to help identify the local land use ordinances and regulations that frustrate or impede developers' ability to build workforce housing. An open meeting to obtain feedback can be very effective. Builders, land surveyors/engineers and land use attorneys may provide useful information as the municipality addresses this question.

b. Review local land use regulations to ensure that basic requirements of the law are met.

   i. Are there opportunities for the construction of multi-family housing and specifically for the construction of buildings containing five or more dwelling units?

   ii. Does more than 50 percent of areas in which residential uses are permitted provide for reasonable and realistic opportunities for the development of workforce housing?

c. Review development standards for hidden "cost drivers." Specific land use ordinances and regulations including those design standards contained with a municipal subdivision and site plan review regulations may need to be amended in order to provide the opportunity for the development of economically viable workforce housing. Specific strategies for providing such opportunities may include:

i. Remove or loosen building permit limitations and phasing requirements. Such restrictions can substantially add to the cost of a development.

ii. Allow homes to be built on back lots with limited road frontage requirements.

iii. Reduce minimum frontage requirements. With road cost ranging from $200–600 per foot, this can result in significant savings.

iv. Increase density and allow lot sizes to be dictated by soil suitability for on-site subsurface sewage disposal.

v. Reduce road width requirements. In most residential developments, 20 to 22 feet of pavement width is adequate for low volume residential street access.

vi. Review current construction standards pertaining to storm water drainage and utilities. Where appropriate, using open drainage can significantly reduce cost compared to curb and closed drainage conditions.

vii. Reduce minimum yard and setback requirements, including wetland setbacks.

viii. Permit the construction of a variety of housing types, including duplex, triplex, townhouse, and garden style buildings.

ix. Waive or reduce impact fees and growth management limits for qualifying projects.

Step 4: Zoning Tools for Compliance

Implementing some of these regulatory strategies will assist communities in reducing unnecessary development costs, and in the process help to provide reasonable and realistic opportunities for workforce housing development.

Beyond simply reducing development costs, a community may want to use other regulatory tools to induce the development of more affordable housing, such as inclusionary zoning and accessory dwelling units. To review some of these options, consult *Housing Solutions* handbook, available on the NHHFA website. The Guidebook also contains many of these ideas and others.

To help local land use boards in their workforce housing efforts, a community may want to create a local housing commission (see RSA 674:44-h).

Step 5: Ongoing Local Regulatory Review

Even as communities work toward meeting the requirements of the workforce housing statute, they must also recognize a commitment to do so in the future. Local planning boards should review local housing market data on a regular basis to understand trends in housing costs. They should also evaluate all future proposals to amend land use regulations for the impact that such amendments might have on existing opportunities for workforce housing development.

Step 6: Keeping Housing Affordable

If a community has amended its land use ordinances and regulations to provide for workforce housing opportunities, it should also consider appropriate measures to ensure that workforce housing that gets developed stays affordable to those whom it is intended to benefit. Although long-term affordability is not required, it may be appropriate in some circumstances. It may be particularly important where a municipality has provided regulatory relief to ensure the economic viability of the development or has provided some other incentive to foster the creation of workforce housing.

As a condition of a workforce housing approval, a local land use board can require that the sales prices or rents of affordable units be controlled through deed restrictions to ensure long-term affordability.

Step 7: Review Planning Board Procedures

The workforce housing statute sets out a series of specific actions which must be followed, by both an applicant and a local land use board when considering any workforce housing application.

To address the procedural requirements of the law, planning boards should amend their site plan and subdivision regulations to create specific sections that outline the application requirements for workforce housing. The following provisions are recommended:

a. Amend application forms to include workforce housing as a box to check off when applications are submitted, and in addition provide an area on the application to describe the project.

b. Require a written outline of the proposed project, noting how many of the units will be workforce housing, along with other relevant details.

c. Require a land appraisal reporting a current market value as if limited to the legally permissible highest and best use prior to any regulatory allowances, a development cash flow prospectus of sufficient

detail demonstrating economic viability or lack thereof in support of waivers sought under the application.

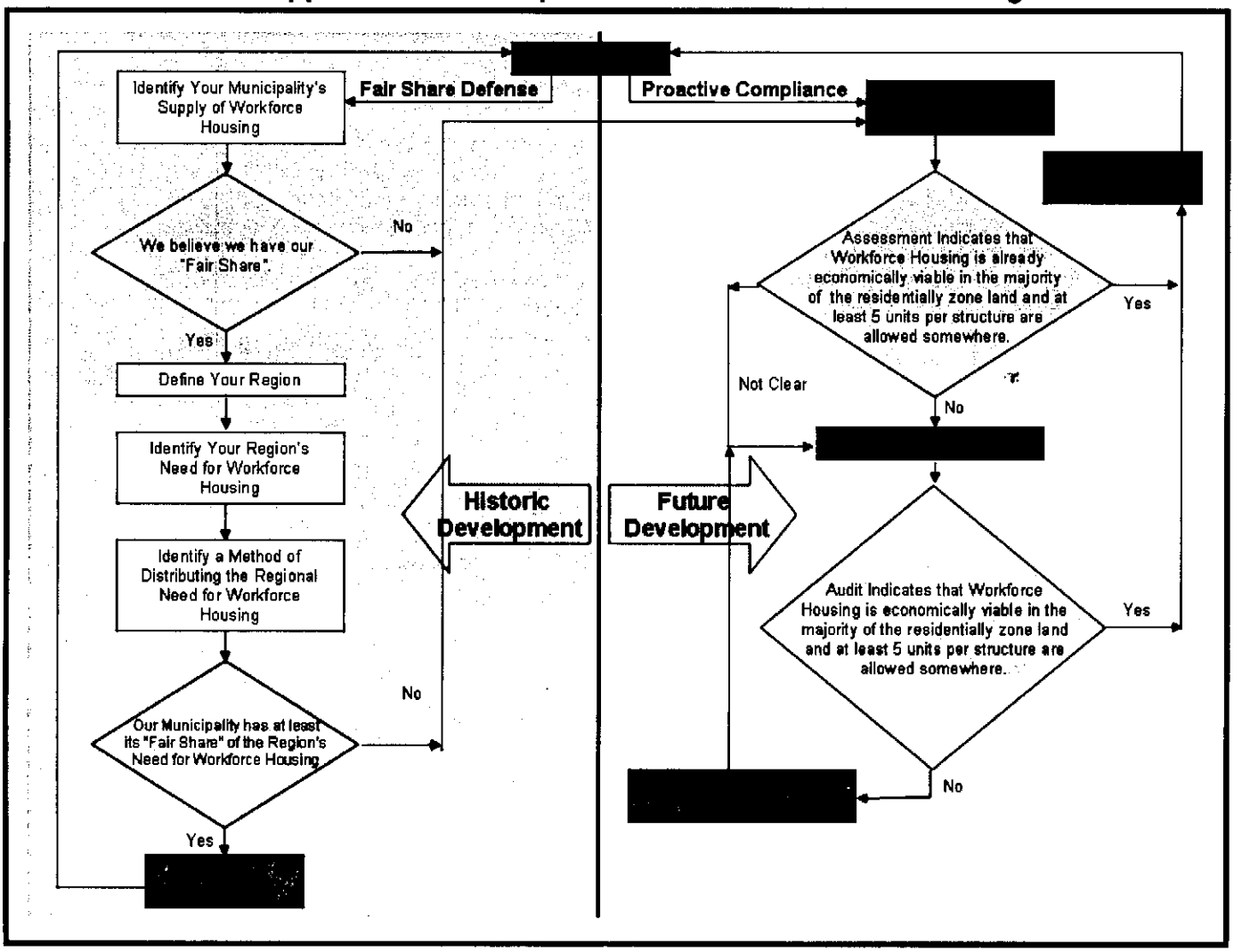
d. State that the board will provide the applicant, in writing, a list of all conditions of approval and/or restrictions. With the issuance of this notice of decision, the application is deemed "conditionally approved."

e. Upon making a conditional approval, the land use board must allow the applicant at least 30 days to evaluate the economic impacts of the conditions placed on the project.

f. If the applicant contests any of the conditions because of their impact on the economic viability of the proposal, at an additional hearing the board can review the evidence provided by the applicant and affirm, alter or rescind any conditions of approval and issue its final decision. If an applicant has not submitted written evidence within the specified time period, the board can issue its final decision.

Court appeals may be made if a workforce housing application is denied or is approved with conditions that have a substantial adverse effect on the economic viability of the proposal. If the applicant proves the existence of such an impact, the court may award the "builder's remedy", allowing the development to proceed without further review by local boards.

For more information:

See the full text of the Guidebook online at www.nhhfa.org or call New Hampshire Housing at (603) 472-8623.

Alternative Approaches to Compliance with the Workforce Housing Statute