



Town of Danvers
Planning Board

Danvers Town Hall
One Sylvan Street
Danvers, MA 01923
www.danvers.govoffice.com

Planning Board Members:

Aaron Henry, Chairman
Kristine Cheetham
Margaret Zilinsky
William Prentiss
James Sears

Daniel J. Toomey Hearing Room

October 8, 2013

7:00 p.m.

MINUTES

Chair Aaron Henry called the meeting to order at 7:00 p.m. Planning Board members Aaron Henry, James Sears, Margaret Zilinsky and William Prentiss were present. Member Kristine Cheetham arrived at 7:45 p.m. Planner Kate Day was also present.

STAFF BRIEFING

Day did not have any new information to provide to the Board.

CONTINUED PUBLIC HEARING

20 Pope's Lane. Request for Special Permit and Site Plan Approval pursuant to Section 30 and Section 4 of the Zoning Bylaw submitted by BitCon Corporation for property located in the Highway Corridor Zone. The applicant requests a Special Permit for a contractor's yard under the Table 1 and Sections 6 and 30 of the Zoning Bylaw, the Site Plan Approval under Section 4 for the construction of a new 4,000 square foot building. (Assessor's Map 40, Lot 18) (*Site Plan action date: November 29, 2013/Special Permit action date: November 29, 2013*) (**To be continued without discussion at the request of the applicant to November 12, 2013**).

POTENTIAL ZONING AMENDMENTS:

Medical Marijuana Treatment Centers: discussion of draft warrant article

"Housekeeping items" – potential zoning amendments

Henry asked the Board if they had had the opportunity to look through the summary packets that Day had given them, specifically, the thinner packet that contained the housekeeping articles which included the EFLA proposal from Andrea Daley.

Prentiss stated he was curious about the number of cars going through a drive-through. He was happy with the change, but concerned with the numbers. Originally drive-throughs were set at 13 cars. Day pointed out that there were two places in the bylaw where different requirements were stated. She

wanted to be consistent with what is set forth in the parking requirements, and suggested changing it to eight cars for ordering and four cars for queuing.

Henry stated he was concerned with going to Town Meeting with a change to a lower number.

Prentiss felt the numbers they had presently were good, but he would consider the change.

Day stated that they would set forth nine cars between the order area and pick-up window in the parking requirements table.

Ziilnsky stated she was fine with this change.

Site Lighting

Day stated that she had brought a photometer along with selected photometric plans to visit after the meeting. She felt that conversation will determine what the minimum foot-candle requirement should be.

EFLA

Richard Maloney, Building Inspector, presented information that he had presented to Town Counsel. One of the items was the Table of Consanguinity, a chart used for bloodlines with degrees of separation. He stated the ZBA had been contacted by a neighbor of an EFLA who felt the blood line was too far out.

Prentiss asked if there were standards that other communities were using, and Maloney responded that he did not know of any. He stated that Town Counsel felt if it was defined in a table, it was acceptable.

Maloney pointed out that the bylaws have EFLA regulations which allow people to go to the ZBA for a Special Permit. Any deviation from the regulations requires a variance. Maloney felt the degree of separation could be used referencing this chart for the application.

Zilinsky felt that with people living longer, it would not be farfetched that a great-grandchild might be living on the site, but can see that this being a Special Permit rather than by right. She felt first cousin was a stretch. She agreed with this knowing that people could go before the ZBA to get a waiver.

Prentiss was on the committee when they were establishing EFLAs. He stated that they had only done blood relatives more for a caretaking situation. Prentiss felt this community had multiple generations and extended families. There are far more extended blood lines in Danvers.

Sears felt the intent of the legislation was set forth for parents, grandparents and children. He did not feel cousins were acceptable.

Prentiss felt this could be a problem at Town Meeting if they got into the intricacies of blood lines.

Henry pointed out that these cases of extended blood lines could be handled by Special Permit.

Henry confirmed that the Board was happy with going out to the third degree of kinship set forth on the chart.

Sears asked if they were doing this because of one situation, and Maloney responded that this has come up and they were educated by Town Counsel how to interpret and define the regulation.

Sears asked how many EFLA's had come before the ZBA this year, and Maloney stated that they have had about 6 per year since 2007.

Prentiss asked how many EFLAs had asked for larger space.

Maloney responded about half of the applications. The members of the ZBA Board understood how much it took to allow EFLAs. Even though they have the power to grant the Special Permit for any deviation, they remember the history of getting this to Town Meeting and they have a hard time granting the request for larger space.

Prentiss asked if there was a large difference in square footage from what people ask for and what is allowed, and Maloney responded they tell people not to push it over 1,000 square feet. Most people are successful on obtaining the Special Permit.

Henry stated he was initially sympathetic to Daley's request, but when she presented more information such as the permitting history, he realized people could go to the ZBA for a Special Permit in a particular situation. He is now not supportive of Daley's concern and he had a hard time going beyond the third degree of kinship.

Day asked how far down the column did the Board want to go on the chart that was presented.

The Board agreed to stop at first cousins, and they agreed to second and third degree relations.

Prentiss felt in this area you could have problems with the degree of relationships. He felt people would look at their own family dynamics.

Henry felt that they were limiting the kinship which is presently very broad to something that would now be set forth and stick.

Day said they could propose the article with this chart. The explanation of the article would spell out the relationships allowed which the lay person at Town Meeting could understand.

Henry said that right now everything is allowed by right and going to Town Meeting with more of a kinship allowed Town Meeting to tighten it up. He pointed out that you cannot make articles more restrictive, only less restrictive.

Henry asked Day to amend the warrant so the only item up for discussion is the extended family issue.

Henry asked if the Healthcare District could be rolled into the Medical Marijuana such as a Part A for Healthcare District and Part B for Medical Marijuana.

Day stated they need to correct the language in the Healthcare District where it states uses permitted by right include medical or dental offices and/or clinics. She felt it needed to be clarified that this would not encompass the possibility of a medical marijuana facility. Henry thought they would be defining the use as well as where it could happen. He said he would defer to staff.

Special Permits

Henry felt that Town Meeting has to understand that they need to have traffic studies. The present metrix is tying the Board's hands rather than helping us.

Muti-Family Affordability Provision

This change was to capture the use variances allowed by the ZBA. Day wants to run this by Town Counsel because she does not know if the bylaw can condition a variance.

Sears asked if they were going to add language regarding comparability on off-site units. He pointed out that if a development has eleven condominiums with two-bedrooms, they want a two-bedroom unit. However, in large projects where you have one, two and three-bedroom units, he would like some sort of formula as to how they come to the requirement for the units they will be given. He is also concerned with density in condominium projects with guest parking. He stated that the Holten Street project next to the gas station was scaled back because they did not feel it was going to be conducive to guest parking. Density levels have increased and he is concerned with parking on-site.

Day said this would require amending the parking table. She would look to see what other communities had done.

Allowing Funeral Homes by Special Permit in Res 1 and Res 2

Maloney said that funeral homes were always allowed in Res. 1, and when they did the bylaw change in 2007, they fell out. So they are not allowed anywhere in town, so funeral homes are presently pre-existing non-conforming at this point. Henry said this is a housekeeping item since it was in the bylaw and inadvertently fell out. Maloney said that they would determine if they would allow these in Res. 2 as well. Prentiss asked about Res. 3.

Chickens

Maloney stated the right to farm in the bylaw confuses people. Chickens are only allowed in Res. 2. Res. 3 has larger lots and people want them. They did some research, and other towns have this under the Board of Health regulations. He suggested that maybe that could change this so people would get a permit for the chickens, and then be subject to the Board of Health regulations. At Town Meeting it would be presented that the Board of Health would pick this up. Sears felt Res. 3 may be concerned. He confirmed that the Board of Health would set the regulations and set some type of limit. Maloney

said the count of fowl would be limited to the size of the lot. Day stated they looked to other communities which regulated this through the Board of Health.

Cheetham said a lot of communities limit the number of chickens per household, not based on lot size. She would not want to limit the number based on lot size.

Henry did not want to have a bylaw specific to one animal, and felt the Board of Health could regulate this. They do permitting for horses.

Indoor Recreation

Maloney stated they have one broad definition that covers everything from bowling alleys, swimming pools, dance classes, etc. and it limits the zones where they can go. This caused people to get use variances and they have seen quite a few applications. He felt the bylaw was written for large health clubs that generated a lot of traffic without thinking about the small places. He felt going up to a specific square footage by right might be a good idea.

Menu Board provision for Drive-throughs.

Maloney said there are no standards for menu boards because not defined in the bylaws. The bylaw states that anything used to attract attention is considered a sign. Standards are necessary. A lot of establishments get variances for their menu boards. Maloney said they should come up with a standard to put in the bylaw, and if they want to vary from that standard they would need a variance.

Bill Bradstreet, Precinct 1, he has seen businesses that have goods brought in by a trailer covered by a logo which seems to sit in the parking lot of the business for a very long time. Is this considered a sign or not. Maloney said that they have done enforcement for trailers that are on other people's lots.

Maloney said they would come up with a standards for the drive-throughs. Prentiss stated that there are a lot of temporary signs that are being used as menu boards, and Maloney responded that they were illegal. Sears asked how much of the windows of a building could be used for advertisements, and Maloney responded they can only cover 20% of the glass area.

Motor vehicle refueling

Maloney stated that they have issued use variances for the Stop & Shop gas station and the Costco gas station and they have had inquiries about another one. He felt alternative fuels would be coming soon. He felt the best area for these are in the Highway Corridor zone. Since the ZBA is granting use variances, Henry felt this was a good idea to bring this to Town Meeting and ask if this is this something they want to set forth as a land use. Maloney pointed out that the present refueling stations are very busy. Sears asked Maloney if he was referring to electric powered cars, and Maloney responded maybe hydrogen refueling stations. Sears asked if electric would be limited to those areas, and Maloney responded they were going to refer to it as a motor vehicle refueling station.

Cheetham thought it would be a good time to revisit the language in the Highway Corridor zone, because at the time they did not want the Highway Corridor to develop like Peabody and Saugus had. Times are changing and they may want to revisit this. Maloney stated that no one wants empty buildings in Town, and pointed to the Stop and Shop gas station site which was nothing but an eyesore.

Zilinsky stated she was on the committee that worked on the Highway Corridor zone, and the objective was to protect Route 1 when I-95 opened so that it did not become like Peabody and Saugus.

Cheetham thought there should be a public hearing and listen to the debate. Zilinsky has no problem with the refueling stations going there.

Temporary signage for business openings

Henry liked the idea of taking a short term bond for temporary signage. Maloney stated that they get a lot of requests for grand openings. A few towns do a seven day permit. Prentiss thought it was a great idea. You encourage businesses to come to Town, so you need to let them advertise.

Research and Development

Maloney stated that this is defined . Two use variances have been issued for this. He stated that these applicants have cleaned up sites. There is a fine line for light manufacturing, and research and development. He thought it would be appropriate to allow research and development at Electronics Avenue, Cherry Hill, and maybe the Highway Corridor.

Major Modification Changes

Sears requested that all Minor Modification submittals meet the requirements for Major Modification. A minor would be prohibited from requesting waivers because it is prohibited in Major Modifications.

Sears wanted submittals meet the requirements for Major Modification applications, and explained that there are submittals with a sketch, picture, or outdated plan that was marked up by hand verses the applicant that incurred the expense of an engineer and met the requirement of the zoning bylaw. He felt a lot of applicants skirt out of the requirements. Sears said he understood there is a cost of having plans drawn. This needs to be clarified, or we need to stick to the rules.

Prentiss understood Sears concerns, but he did not believe they could get rid of waivers. Day felt it was submittal requirements that Sears was requesting not eliminating waivers. She felt he thought everyone should submit the same documentation.

Henry stated a Major Modification is a public hearing, and waivers should be kept to a minimum. He agrees with Prentiss not to eliminate the waivers completely because there are times when they are appropriate. It is up to us as the Planning Board to not give out waivers like candy. This would mean that it is not a problem with the bylaw, it is a problem with the way the Board is handling applicants.

Prentiss stated that it was the small businesses coming in looking for sympathy.

Sears asked where would you draw the line.

Henry felt this was an administrative change rather than a bylaw change and Zilinsky agreed. She does not want to see waivers go away. She felt there are always special circumstances. She would be against requiring minor modifications to have to have the same requirements as a major modification.

Day stated that the Major Modification needed to meet the requirements for a de novo Site Plan requirement.

Sears felt something was missing language from the bylaw.

Zilinsky felt if the applicant did not have what they needed to make an appropriate decision, they are sent away. Sears replied that that has not what has been done. He felt staff has allowed an applicant to come forward with a picture. He pointed to the landscaping requirement, and asked how they could determine the reduction of landscaping if they did not have a plan. How would you show an impervious surface without a plan.

Zilinsky felt they could state this in their decision, and Sears replied that applicants are being allowed to do this by staff. He felt it was not defined.

Prentiss agreed, and felt increasing the definition asking for requirements up front. He does not want to see waivers not be allowed.

Zilinsky said they had discussed this, and they need to look at submittal requirements for what is required for a minor modification. She felt the minor modification did not need to meet all the requirements of a major modification.

Henry clarified that Sears was thinking by saying Minor/Administrative review. Cheetham said they have made some decisions that are based on Planning Board rules and regulations rather than bylaws. She felt they needed to look at applications, bylaws, and rules and regulations. She stated that they have agreed as a Board to allow approvals to go back to Planning Board staff to close up certain reviews without coming back before the Board. She agreed with Sears that consistency with how they treat applicants, small or large, had been very important and clarity would help all of us.

Day asked Sears if he would like to draft what he thought would be superior language to what is set forth in the bylaws. Cheetham asked Day if this had been addressed in the rules and regulations. Day said they have a checklist for site plan approvals, and this list accompanies major modification approvals. Day thought she had captured Sears' request. She suggested to the Board to set forth what they will be looking at with a minor application. Sears said that his requirement is the same as 8a. He would like to go over the checklist and go less restrictive. Day will provide the checklist requirements.

Henry wanted to add language in section 4.8.e stating that when an applicant applied for a special permit and site plan approval at the same time, the special permit action deadline controlled.

Medical Marijuana

Day told the Board that they had the actual draft article in front of them. She informed them that she went “bare bones” on the article to focus it down to the two I-2 areas which were the Danvers Industrial Park and the Cherry Hill Industrial Park. She followed the model that was used for the adult overlay by referencing lots. She put it in as a by-right use in these two overlay districts. The Board did not have a problem with it.

Gardner Trask, Selectman stated he was okay with this, and agreed the overlay district was the way to go.

Trask agreed with the discussion stating where it is not specifically allowed, it is prohibited. He wanted to confirm that the Healthcare District will not be included. Henry confirmed, and explained by calling out the two areas, it could not be anywhere else.

Cheetham stated in the dimensional requirements for I-2, would there be a need for these facilities to be fenced. If allowed by right, this is not in the dimensional requirements. Henry said the state has specific signage requirements, and they are probably going to require a security system. If the applicant could not make the state happy, they cannot come to Danvers. He said they put fences around drainage areas. Henry said that this is why he wanted the Selectmen or the Board of Health involved for permitting requirements. The state is concerned about security in these facilities, and he wants the Selectmen and the Chief of Police to be privy to that information. That is not a land use issue.

Trask stated that the Planning Board is doing that they can. Security issues and Board of Health issues will be discussed. The Selectmen will take care of the permitting issues.

Cheetham asked if they are considering licensing with the Board of Health and Selectmen, procedurally does it state that they need to secure those licenses before they apply for site plan. Trask said they usually say that it has to confirm to all the bodies/boards before them. Trask said they do detail the sequence of approvals and licensing.

Day said that Town Counsel suggested the applicant come before the Planning Board first and the Selectmen wrap things up.

Henry said at the end of Phase 2 the applicants need to tell the state where they are in the process.

Prentiss asked if this would be like wireless towers, and Henry thought it might. Henry said there are inconsistencies in the state as to how this is going to be managed.

Day stated that Cleaves was coming up for a second site visit, and hopefully there will be draft language for the next meeting. If they don't have something by the time this is noticed and sent to the Board of Selectmen, we may need to do some catch-up on this.

A discussion ensued as to the timeline for presenting to the Board of Selectmen.

OTHER MATTERS

Daniel Martignetti – Riverview Condominiums, 56-58 River Street. Continued discussion: provision of an affordable housing unit pursuant to Section 30.2.16 of the Zoning Bylaw.

Henry reviewed the matter stating that the Riverview project was the first project to trigger the affordable housing inclusionary provision. The Developer had permission to provide that unit off-site, and the applicant has put a deposit on a unit. This was presented to staff and the Board had some concerns with the unit identified, specifically, the number of bedrooms. The Board felt that comparability was not there. Town Counsel was asked if the Board could make this decision, and he stated that we had the discretion to interpret this section of the bylaw. Henry stated that he would like to see a three-bedroom unit.

Prentiss agreed with Henry that he would like to see a three-bedroom unit. The confirmation from Town Counsel made this decision much easier for him.

Cheetham still believed that the two-bedroom unit for ownership qualifies as an affordable unit. She felt that the intent of the off-site location was that you cannot produce a comparable unit when luxury units are being built. She doesn't agree with the majority of the Board on this matter.

Zilinsky felt a comparable unit is a comparable unit. Comparable is not luxury, she felt it was in size. If the development was a three-bedroom development, she felt the off-site should be a three-bedroom unit.

Sears agreed with the majority.

Henry supported clarifying the bylaw.

Attorney Dan Casey asked if they could see what Town Counsel had said. He stated this bylaw is vague and left the developer not knowing what they were expected to do. The expectation of the bylaw is not clear.

Henry wanted to point out that the e-mail from the Housing Authority did not speak for the Planning Board, and Casey said it was an interpretation from an expert.

Casey stated if the Town wanted to specify that the affordable unit had to have a certain number of bedrooms relative to the project, they could have easily specified this in the bylaw.

Casey said they still felt that that unit was comparable in the context of an affordable housing unit. It is not identical to the Riverview unit, but it can't be. This property is in a great family neighborhood, close to town, a duplex townhouse with a large private yard and a deck. It has one bedroom and one bathroom less than what is being built on the project. The repairs and lack of condo budget are things that can be worked out. They are willing to make repairs to the unit. He felt this was a suitable unit.

Henry told Casey that the Board had told him that they did not feel this was a comparable unit. They understood that there is ambiguity to the language in the bylaw which they will correct.

Casey asked the Board to give them specific guidance.

Henry responded that they are looking for a comparable number of bedrooms, reserves and deficiencies. He said maybe the Trust would have had a different response if they had gone to them with their plan explaining what you were going to do such as repair the deficiencies and increase the reserves. He stated that dialogue and communication could help clarify the matter.

Casey reminded Henry that the jurisdiction of the Certificate of Action lies with the Planning Board. It requires them to come before the Planning Board to present a plan to them. Henry stated they want a three-bedroom unit.

Zilinsky suggested the applicant talk to the DAHT. They are the ones that will write the Planning Board a letter whether the unit is acceptable.

Casey felt the Board was confusing the issue even more.

Sears stated that the solution could be that they do not provide for an off-site location. The language states comparability is a unit within the new complex. He suggested to Casey if they had difficulty providing this type of off-site unit, then they should provide a unit on-site. He stated that \$750,000 to \$800,000 units were being built on the water, and they were fighting about a comparable unit in the amount of \$250,000. Sears stated they will get rid of the off-site.

Casey responded that is fine, however they have a project before them that allowed the off-site unit.

Trask stated that the DAHT is sympathetic to the issue that is here. After Town Counsel review, they have considered that the comparability provided on-site should be provided off-site as well. Trask said they suggested some middle ground because of the vagueness. The Trust would prefer a three-bedroom, one and one-half bedroom unit. He stated that the Venice unit did have attractive points and would be suitable if they were not looking at it in the context of this development. The context is this project. He explained they would accept the Venice unit if there were a reasonable escrow account for capital issues. In addition, they looked at three-bedroom units on the market and took the average list price of \$297,000 and subtracted the cost of Venice. For this unit to work, they would be happy to take Venice, \$6,000 in escrow, plus \$120,000. Trask stated the other alternative was to find another unit. He confirmed that the Trust will be looking for a three-bedroom, one and one-half bath, with repaired deficiencies along with a contribution to the reserve account.

Francine Cecieta, the broker for the development, addressed the Board. She said when the bylaws were passed, there was an effort to be flexible since there is not that much land in Danvers. She stated that there are very concrete guidelines that come from Habitat for Humanity and that definition does not exist in this context. Cecieta stated that Cheatham was on track when she said you can't compare an affordable unit with a luxury condominium. She stated there were here today because of the waterfront status and the economy turning. The first developer did not make it because the units would have sold for significantly less. Martignetti did not get any exceptions that would cause bartering at every Planning Board meeting. The ARIA development got seven more units because they had to pertain to this. Martignetti did not go for 13 units, he only went for eleven. He was not given any bonuses. The

only bonus is that with the passing of time, the economy is receptive to selling properties. This is the problem right now because there is a listing inventory shortage for condos, multi-families and single families. Ceceita went over the income requirements for an affordable housing. She pointed to the 40B project on Andover Street that are selling in the range of \$370,000 that are three-bedroom, do not have a yard, are not near the downtown, and not near any school. Those condo fees are \$260.00 per month. The reason for the unit being off-site, is the condo fee for a higher priced condominium would not make it affordable to a family.

Henry stated that the unit needed to be affordable to the consumer, not affordable to the developer.

Henry stated that he did not want to rehash the mechanics of affordable housing. He stated that the rule applied to them. Casey stated that higher-end units do not fit into the definition of affordable because the taxes, condo fees and utilities are so excessive that they would not be able to be considered affordable units.

Henry responded that the inclusionary concept is that the market rate unit subsidize that difference. Henry stated that it did not matter to him that they cannot find a \$250,000 unit, because he would have been losing this amount if they had been doing it on site. All of the expenses would have been shifted into the cost of development on site.

Henry asked Cecieta how many DHCD units she had been the marketing agent for and she responded none.

Henry pointed out that nothing can be done with the DHCD regulations.

A discussion ensued regarding the DHCD regulations and costs of the unit.

Henry pointed out that the unit needs to get on the SHI.

Casey stated that there was a misconception that the units needed to be financially comparable. Henry responded that they had never said this.

Henry told Casey that they were not spending more money on the off-site unit than the on-site unit or you would not have sought the off-site.

Martignetti addressed the Board. He told them that he had met with the Affordable Housing Committee about a month ago to discuss the Venice Street property. The feedback from the minutes of the meeting reflected that after he left that meeting the Trust said that they didn't want to be made examples of by a developer and that he could afford to take a hit. He felt like this was not the right way to be treated. He has agreed to do a lot of things on this project. He stated that Maloney could probably attest to the fact that in the three and one-half years he has owned the land, many things had changed. In order to get this developed, he has gone through a law suit, gone through many meetings, and been before many boards. He is feeling animosity, and they have a right to speak their piece.

Martignetti stated that they agreed to a two-bedroom, one-bath unit which is what they interpreted.

At the time of development, the Town of Danvers had stated they would provide electricity to the site free of charge and they just received an estimated bill in the amount of \$58,000. Danvers electric said that six months ago this would have been free, but with the three and one-half year process, now there is this bill. To get water to the site is now costing them \$18,500. He is now dealing with the gas company who had told him that gas was available to his site, but now it stops 400 feet down the road and the size of the main is not big enough. They have to bear the expense of the new main and he had no idea the amount of this cost. He told the Board that he has hit stumbling blocks along the way. He told the Board that the project had been self-funded. He is doing financing with a bank that hinges on the approval of this Board for 5 occupancy permits before he will be lent any money. The bank wanted an agreement with the Board. If this financing does not happen, the project will stop. This is where he is right now. He was hoping that the Board would cooperate to help to resolve this issue.

Henry said that this Board does not think that this unit is an affordable unit.

Martignetti stated that the vagueness of this law did not give him an easy out. He asked the Board to define what he needed to provide because, right now he was up against a wall.

Henry stated that there are capital repairs to the unit, and Martignetti responded that they would be repaired. He said that he was going to present a house that was going to be acceptable.

Henry stated that they had received guidance from the Trust, and they are requiring a specific number of bathrooms and bedrooms.

Zilinsky stated that if the developer offered a type of solution to the Trust, maybe they would accept it. She suggested that they meet with the Trust and talk about a solution because they are an adviser to them.

Martignetti stated when he met with the Trust, Trask was not present. Trask arrived after he left. Martignetti stated that he had a problem putting a lot of money in escrow. That was not what was set forth in the Certificate of Action.

Henry stated that both sides are not sure what deal was made.

Casey stated that the development is getting in a precarious situation for the developer to move forward. He stated that the Board suggested that to take some of the pressure off, the Certificate of Action Condition 2 could be changed to read, "prior to the sixth Certificate of Occupancy".

Henry stated that they had agreed to this. A discussion ensued as to how this would be handled procedurally.

Henry stated that they want to work with the Developer. He pointed out that the developer knew about this affordable housing problem, before he knew about the water problem and the gas main problem.

Henry stated that now they felt their back was up against the wall, which was due to the fact that this is when they chose to deal with it.

Martignetti stated that they were here because it was a requirement of the bank. His gas main problems are much larger than this affordable housing unit. He has to provide energy to the people living in the units and he is not even close to doing that.

He is, however, close to getting money from the bank, and he did not realize the bank would have this provision in the financing. He does not want to stop the project. He felt that the citizens of Danvers like what they are doing.

Henry stated they want to work with the Developer. He suggested having further conversations and come back before them with something concrete.

Martignetti stated that presenting the unit, with additional funds, along with the payment-in-lieu fee is not a real solution to the problem. He stated if he had known about the problems with the affordable housing unit when he was going for permitting, he never would have gone through with it. If he had to give up one of his eleven units, it could have been all his profit. This formula worked out for him. When he did the numbers he saw the potential that he could do a little better. There have been unforeseen costs and these units are costing him well over \$600,000 to build. With all these costs that are rising, his numbers are going up as well. Martignetti stated that he will not know until the end of the project what the numbers look like, so he doesn't know how he could project.

Maloney suggested a compromise of adding a third bedroom on this unit. Trask stated that they have a contractor on the Trust to determine the actual cost of a third bedroom. He said they were amendable to a third bedroom option. He stated that he felt that a third bedroom with a significant escrow to take care of any issues that could arise with the capital issues, would receive a favorable recommendation from him and others on the Board. Trask stated their problem with the Venice unit was the lack of the third bedroom and lack of reserves to address any capital expenses.

Henry felt that the DHCD would want the funds to go right into the reserve account. He told the developer that that they are willing to listen.

Martignetti pointed out that after the last meeting, the Board was going to talk to Town Counsel to get some sort of insight.

Casey stated that they heard from a member of the Trust and the Building Inspector. If this becomes a three-bedroom unit, would the Board like this.

Henry felt that if the bedroom was added, it was what was being requested from the Trust.

A discussion ensued regarding this being accepted.

Henry felt this would meet the minimum requirements.

Henry said the applicant should speak with the DHCD and tell them that they have a unit that they need to get on the SHI to start the process.

Casey asked if they should continue the discussion until the next meeting.

Cheetham stated should would like to hear from other members of the Planning Board.

Sears asked if they were going to get the third-bedroom done within the next month. Casey responded that the condition was for an approval of the plan which will be reviewed and either approved or rejected. The plan would be revised to say that they are proposing the unit on Venice Street with an addition of a third-bedroom. Casey stated that the trigger for the first Certificate of Occupancy is to submit the plan to satisfy the off-site unit requirement.

Zilinsky stated the third-bedroom would make her more amenable to accepting what she felt was comparable. The Trust has input, and she felt it was comparable and met the needs that they were looking for.

Prentiss stated that the only thing with him was the number of bedrooms. The applicant coming forth with a plan, and having the assurance that they were going to make the improvements necessary to the condo would make him more comfortable about this plan. He liked the area. The question with regard to the state is something that the applicant is going to have to deal with. It is out of our purview.

Casey pointed out that they need the Planning Board's approval of the plan.

Henry pointed out that they can talk to the DHCD.

Casey stated that they did not want to go the state with a unit that they did not know the Planning Board would even approve. The Certificate of Action states that they had to submit a concept to the Planning Board as to how they were going to satisfy the unit requirement. They will modify the plan to add a new bedroom.

Day asked if adding the unit was feasible from a setback zoning standpoint. Maloney felt this addition would meet the setback, since that zone only required an eight-foot setback.

Prentiss corrected his statement that he would approve this if nothing precluded the developer from making the changes they were talking about. If they could make these changes, he would accept this.

Casey thought it allowed an extremely attractive unit for a small family. He asked the chair where they go with this.

Henry responded that they needed to do a little more homework on the idea of a third bedroom, and for the most part they are receptive to the idea.

Day stated that they needed a modified plan that they are willing to commit to a third unit. Henry suggested talking to DHCD because they want more units in the inventory.

Casey stated they will call them. That is a separate process from the submission of their plan.

A discussion ensued regarding approval from the DHCD.

Zilinsky asked Henry what would happen if they approved this unit and they went before the DHCD and they said no.

Casey stated that they would then be in trouble. They would go back to square one, and they would take the heat on this. That is their risk.

MOTION: Zilinsky motioned to continue discussion in two weeks. Prentiss seconded the motion. The motion passed by unanimous vote.

Trask addressed Henry stating that the next DAHT meeting was on the 28th. Based on what was discussed at this meeting, Trask suggested that the applicant come to the Trust to discuss this plan, and if this is approved they will offer a letter of support.

Day asked if they could move their meeting up. Day stated she would poll the Trust to move their meeting.

A discussion ensued whether this would be a discussion since the bylaw requires their approval. Sears was trying to formalize the request.

Day felt that the Planning Board was committed to reviewing a plan with the applicant. An amended plan needed to be presented to the Trust and Planning Board to be sure this was achievable.

Sears stated he wanted language added to the bylaw stating if there is an off-site unit, what are the rules. He stated that they needed to provide something on Town letterhead to present to the developer's bank with approval by our Board. He felt this should be tightened up in the regulations going forward.

Henry stated he was okay with allowing this to be done administratively.

Casey stated that he was not looking to change the decision.

Day felt should there be a vote to approve the plan as submitted, the minutes capture that action. If they wanted to write a Certificate of Action to formalize that action, that could be done.

MINUTES:

MOTION: Sears moved to accept the minutes of September 24, 2013 as amended. Prentiss seconded the motion. The motion passed by unanimous vote.

ADJOURNMENT:

MOTION: Zilinsky moved to adjourn. Prentiss seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at 9:55 p.m.

Respectfully submitted: Francine T. Butler

The Planning Board approved these minutes on November 12, 2013.