

TOWN COUNCIL/TOWN PLAN AND ZONING COMMISSION  
BUILDING-ZONE REGULATIONS WORKING GROUP  
MINUTES OF MARCH 14, 2022 SPECIAL MEETING

*The meeting commenced at 5:32 PM through Zoom Video Conferencing.*

**Present:** Subcommittee Members: Councilman Kurt Cavanaugh, Commissioners Raymond Hassett and Laura Cahill  
Staff: Rebecca Augur, AICP, Director of Planning & Land Use Services and Jonathan E. Mullen, AICP, Planner  
Others: Attorney Mark Branse

**Excused:** Thomas P. Gullotta

**1. Draft changes to Section 3 - General Regulations**

Ms. Augur called the meeting to order and said that the group would be addressing Section 3 – General Regulations and Inclusionary Zoning. She made a presentation, going over the proposed changes to Section 3. She stated that this was an iterative process in which some things cannot be addressed until policy decisions are made. Ms. Augur added that the revisions removed illegal provisions and typos. She listed the changes made to Section 3, which include the following:

- Permitted uses - clarify reference to non-conformities
- Area, lots, yards - clarify that non-conformity permitted in vertical expansions of structures within an existing setback
- Height, density, bulk - try to better define antennae and insert language that appears to have been dropped between issues of the regulations book
- Lots, yards, open space - correct typo
- Usable open space - better define and then use consistently throughout regulations – currently defined, but then “open space” is what is regulated
- Substandard lots - typos
- Lot limitations - depending on policy decisions regarding potential for multi-family in some zones – proposing much broader language for now
- Street - already defined as public
- Floor area - building code addresses living area requirements and zoning floor area minimums are illegal
- Dwellings in other than principal - depending on direction of accessory apartment regulations, may change
- Dwellings in nonresidential – multi-family already allowed in zones outside of what is defined, not aware of need for caretaker’s quarters provisions
- Restoration of unsafe buildings – typo
- Visibility - typo
- Approval of subdivision – not appropriate in zoning regulations, should be moved to subdivision regulations

Attorney Branse said that non-commercial antennas should be added to the section. There was a discussion among the group regarding the treatment of vertical expansion compared to horizontal expansion. Attorney Branse noted that the definition of Usable Open Space had been broadened. He then asked if there was a minimum open space regulation. Ms. Augur replied that staff would address that issue in Section 4 of the regulations. Ms. Augur then stated that changes to the

section regarding Lot Limitations would be dependent on further discussion with TPZ and Town Council. She added that the provision regarding Floor Area was removed because it is illegal to require minimum floor area.

## **2. Draft Inclusionary Zoning Regulations**

Ms. Augur proposed that the group have a broad discussion regarding inclusionary zoning. She reported that the TPZ is scheduled to hold a public hearing regarding the Draft Affordable Housing Plan (AHP) on April 5, 2022. Before the group drafts any specific regulations, the Town Council and TPZ should discuss and make policy decisions regarding affordable housing and that the draft Affordable Housing Plan should drive those discussions. Ms. Augur then said that based on discussions at the last meeting of this group, staff has drafted a preliminary framework for Inclusionary Zoning regulations that incorporate more of the recommendations of the draft AHP. She stated that the AHP recommends rental opportunities over ownership and enabling housing choice across the community. Currently the regulations only allow multi-family in the Town Center, PAD and ARZ. She pointed out that PADs require a lot of land and the ARZ has strict controls and is only permitted in limited areas. The AHP also recommends creating an easier permitting process than the current two-step zone change process for PADs. Ms. Augur reported that the inclusionary zoning regulations drafted by Attorney Branse and Commissioner Cahill work within the framework of the existing regulations. The regulations that staff have drafted present an alternative approach to Inclusionary Zoning and try to incorporate more recommendations of the AHP.

Commissioner Cahill said that she had reviewed the staff-drafted regulations and thanked staff for their efforts. Commissioner Cahill expressed concern about the regulations, stating that the regulations drafted by Attorney Branse and herself offered a simple solution to inclusionary zoning in comparison to staff-drafted regulations which she felt were too complex. Commissioner Cahill added that she felt that there were several substantive defects in the staff-drafted regulations and that they contained policies that she did not feel the Town should pursue. Commissioner Cahill stated that one of the substantive deficiencies in the staff-drafted regulations was the fee in lieu of affordable housing, which she considered a “non-starter.” She believes that developers would simply buy their way out of developing affordable units. She then posed a hypothetical situation in which a developer pays a fee in lieu of constructing affordable units and then simply spreads costs out among the other units, leaving the town with no affordable units in the development. Commissioner Cahill also questioned the legality of a fee in lieu of construction and asked Attorney Branse to comment on the staff-drafted regulations.

Ms. Augur appreciated the fact that the regulations drafted by Attorney Branse and Commissioner Cahill are very clean and fit into the framework of the existing regulations. However, she would like to have the policy discussions at the time the TPZ and Town Council are reviewing the AHP, which does recommend that if there is to be a fee in lieu of construction, that it be very steep because we want to prioritize the provision of affordable housing units. Ms. Augur stated that these policy discussions need to happen and she appreciated that Commissioner Cahill was trying to address the issue. However, Ms. Augur continued, she did not believe that discussions regarding specific language and regulation provisions were appropriate at the level of this Working Group until the TPZ and Town Council have policy discussions. Commissioner Cahill stated that she was trying to engage in a policy discussion and she understood that no decision were going to be made at this meeting; however, the group had

to start somewhere. She said that the group could keep both drafts of the regulations. She added that she would like to go over, point by point, the serious policy deficiencies she felt were part of the staff-drafted regulations. Ms. Augur stated that it would be much easier to tackle the issue of inclusionary zoning if we know what decision-making bodies (TPZ and Town Council) want. She added that it was not a productive use of time to focus on the specific language and details of Inclusionary Zoning Regulations when the group had not yet been instructed to do so.

Attorney Branse asked why staff had drafted language. Ms. Augur responded that the staff-drafted language was meant to show an alternative approach to inclusionary zoning that incorporates recommendations of the AHP. Ms. Augur acknowledged that the AHP had not yet been adopted and the staff draft language was not intended to be final. Rather it was intended to show there is a need to further discuss Inclusionary Zoning. Commissioner Cahill that she wanted to have a policy level discussion with the group. Specifically she wanted to discuss the problems she foresaw if the Town were to approach Inclusionary Zoning as suggested by the staff-drafted language as opposed to the language drafted by herself and Attorney Branse.

Commissioner Hassett asked if the staff-drafted language was a template to show the group different options rather than specific language. Ms. Augur responded that Commissioner Hassett was correct in that the staff-drafted regulations show the group that inclusionary zoning regulations could work within the framework of the existing regulations or take an alternative approach. Commissioner Hassett said that he would like hear the alternative regulations as opposed to one definitive plan. Commissioner Cahill offered that she was not suggesting there would only be one definitive plan but that she had reviewed the staff-drafted regulations, had deep concerns, and would like to address them.

The group decided that Attorney Branse would present his and Commissioner Cahill's draft regulations and then Ms. Augur would present the staff regulations. Attorney Branse said that he added definitions for affordable housing and inclusionary zoning. He also used the 80% median income threshold because it is easier for developer and it is used in Section 8-30o for incentive housing. Attorney Branse added that wherever the current regulations allowed for multi-family housing through either special permit or PAD there has to be 20% affordable housing, which is consistent with incentive housing statutes. He reported that there is a similar provision for subdivisions in which subdivisions of 10 lots or more requires 20 % of the units to be affordable. Attorney Branse agreed with Ms. Augur that his and Commissioner Cahill's draft regulations use structure of existing regulations and does not propose a policy change regarding where multi-family housing is or is not permitted.

Attorney Branse said that it was his intent to draft regulations the Town could adopt quickly that would fit into the current structure of the regulations and current policy. He stated quick adoption could avoid getting caught up in the debate over affordable housing policy that could stretch on for years. He noted that there are several multi-family developments coming before the TPZ and the Town Attorney has stated that the Town cannot require affordable housing in these developments because there are no regulations in place. Attorney Branse reported his draft regulations address this issue with no policy change at all. Attorney Branse acknowledged that policy changes regarding expansion of where the Town permits multi-family housing require exploration and the staff-drafted regulations represent a next step in the process. Ms. Augur reiterated that she appreciated that Attorney Branse and Commissioner Cahill's regulations

would be a quick way to require affordable housing. However, developers could submit applications for multi-family developments before the regulations become effective. Attorney Branse acknowledged that the Town takes that risk any time it revises the regulations. He added that he developed his regulations to be quick and simple so that TPZ and Town Council could act on them quickly. He feared that the town could lose the opportunity to require affordable housing units if it spent too much time trying to change or expand policy. Councilman Cavanaugh asked how many applications for multi-family housing were pending. Ms. Augur responded that there was an 8-30g application to which the zoning regulations would not apply; a 10-unit development on Main Street; and the project at Main Street and Hebron Avenue.

Ms. Augur presented the new Section 6.12 of the staff-drafted regulations. She said that the draft language uses existing dwelling unit definitions. She added that the staff-drafted regulations incorporate Attorney Branse's definition of an Affordable Dwelling Unit and the requirements that subdivisions with 10 or more lots contain 20% affordable units. Ms. Augur said that the staff-drafted regulations expand where multi-family is permitted. She noted that currently the regulations only permit multi-family in the Town Center Zone, PAD and ARZ. Simply adding an affordable requirement to multi-family developments in those zones would result in reduced opportunities for affordable housing because there are not many areas left in Glastonbury that have enough land to meet the large minimum acreage requirements for a PAD and would focus affordable housing on the Town Center. The staff-drafted regulations allow for multi-family housing in areas serviced by sewer and water.

Attorney Branse expressed concern that the staff-drafted regulations as written allow multi-family by right. Ms. Augur reported that the omission of the term special permit was an oversight and it would be added. Ms. Augur explained that the staff-drafted regulations did not specify density because staff would like to do more research. Ms. Augur stated that the new regulation would have development standards featuring several housing forms. She added that there are updated parking requirements including requirements for EV charging stations. Attorney Branse is in favor of the EV charging station requirement and suggested that it be made part of the general parking regulations. Ms. Augur stated that in the staff-drafted regulations the Architectural & Site Design Review Committee reviews all new multi-family developments.

Ms. Augur then presented the new Section 6.13 regarding inclusionary zoning; the language is preliminary and the specific requirements need to be agreed upon. The section applies to the Town Center, ARZ, PAD and any area that permits multi-family developments with 5 units or more. She added that there is a fee in lieu of constructing affordable units however, the fee would be very high. Ms. Augur stated that the regulations call for a housing trust fund and density bonuses for increased numbers of affordable units. The Affordable Housing Steering Committee discussed at length the town's previous unsuccessful affordability plan. The consensus of that group was to create an affordability plan that would be successful over the long term. Councilman Cavanaugh asked if the proposed language was from the state or another town. Ms. Augur stated that some of the language was taken from the state definitions for affordability. Some language was adapted from other communities including Darien, Ridgefield, Westport, Tolland and Simsbury. Councilman Cavanaugh asked for what purposes would the housing trust fund money be used. Ms. Augur said that the AHP recommends establishing a housing trust fund and that the funds could be used for design, construction, land acquisition or programming.

Commissioner Hassett recommended that staff create a chart showing the alternatives side by side similar to the one presented for the Accessory Dwelling Unit discussion. Ms. Augur stated the primary difference between the staff-drafted regulations and those drafted by Attorney Branse and Commissioner Cahill is that the staff-drafted regulations expand the areas in which multi-family development is permitted, allow increased density where there is water and sewer and require a percentage of affordable units on any development with five or more units. Commissioner Hassett expressed concern that a developer would find a way to work around the staff-drafted inclusionary zoning regulations. Attorney Branse and Commissioner Cahill shared his concern.

Commissioner Cahill expressed concern that the staff-drafted regulations restrict multi-family to areas served by sewer and water. She favors the idea put forth in the AHP that would allow multi-family in areas where the soils could accommodate septic and well. She expressed concern about concentrating multi-family affordable housing in the town center area. Ms. Augur said that, as written, the regulations drafted by Attorney Branse and Commissioner Cahill do just that. Commissioner Cahill stated that the regulations she and Attorney Branse drafted were a “quick fix” and that she was amenable to some of the suggestions in the staff-drafted regulations.

Attorney Branse said that he drafted the regulations with Commissioner Cahill because the Town Attorney said that the Town could not mandate affordable housing without regulations. He reiterated that the regulations he and Commissioner Cahill drafted “plugged that hole” and did not propose any policy expansion. He acknowledged that affordable housing policy changes and expansions should happen. He agreed with Commissioner Cahill that limiting affordable housing to areas served by sewer and water would concentrate all of it in the town center. Ms. Augur said that if the group was looking to “plug a hole” then the regulations drafted by Commissioner Cahill and Attorney Branse would be the first step in the process, and the staff-drafted regulations would be the second step in the process discussed as part of the AHP. Attorney Branse and Commissioner Cahill agreed. Attorney Branse then recommended that staff look at other towns that have Housing Trust Funds. He said that in his experience they do not work because either they do not generate enough money to purchase land or that the residents oppose their own towns’ affordable housing development. His fear is that the money would be used to repair existing affordable housing rather than developing affordable units.

There was a discussion about the location of 8-30g development. Commissioner Cahill asked what percentage of Glastonbury has water and sewer. Ms. Augur said that staff would find out. Ms. Augur recommended that any Inclusionary Zoning regulations adopted by the town have language requiring the developer to track and maintain affordability in their projects. Attorney Branse stated that requiring developers to maintain and track affordable units would not work, as they have no incentive to do so. Instead, Attorney Branse said that the Housing Authority has to be the body that enforces affordability. Ms. Augur stated that there should be some language in the regulations about how a developer will maintain affordability. Attorney Branse and Commissioner Cahill agreed that there should be language in the regulations.


Commissioner Cahill asked if at the next meeting the group should continue to develop the policy changes and expansions proposed by staff or the quick fix proposed by her and Attorney Branse. Councilman Cavanaugh expressed concern about language in the AHP that recommends an easier permitting process for affordable housing than the current PAD process. He is not

concerned about making the process easier for developers regardless of what they are developing. Ms. Augur requested that Attorney Branse provide language regarding affordability plans. She added she assumed the group would be looking to “plug the hole” while having broader policy discussions regarding affordable housing.

Commissioner Hassett stated he is not in favor of just a quick fix regarding affordable housing. He continued that he would like to explore what policy changes need happen and how they would affect the overall plan. He wants to make sure the plan is adaptable and acceptable to the whole town. He questioned the appropriateness of doing a quick fix to prevent some potential development in certain areas in lieu of looking at the entire plan. Ms. Augur reiterated that the TPZ public hearing for the affordable housing plan would be on April 5 and there will be broader public discussion of these issues.

Meeting adjourned at 6:36 pm.

Respectfully submitted,



Jonathan E. Mullen, AICP  
Planner