

**GLASTONBURY TOWN COUNCIL
SPECIAL MEETING MINUTES
TUESDAY, MAY 24, 2022**

The Glastonbury Town Council with Town Manager, Richard J. Johnson, in attendance, held a Special Meeting at 6:15 p.m. in the Council Chambers of Town Hall at 2155 Main Street with the option for Zoom video conferencing. The video was broadcast in real time and via a live video stream.

1. Roll Call.

Council Members

Mr. Thomas P. Gullotta, Chairman
Mr. Lawrence Niland, Vice Chairman
Ms. Deborah A. Carroll
Mr. Kurt P. Cavanaugh {arrived at 6:45 p.m.}
Mr. John Cavanna
Ms. Mary LaChance
Mr. Jacob McChesney
Mr. Whit Osgood
Ms. Jennifer Wang

a. Pledge of Allegiance. *Led by Mr. Gullotta*

2. Public Communication and Petitions pertaining to the Call. *None*

3. Special Business as contained in the Call.

a. Presentation and discussion on CGS Section 8-30g – Affordable Housing.

Mr. Johnson introduced Attorney Kari Olson of Murtha, Cullina LLP, who has been the Alternate Town Attorney for several years, to present on the affordable housing appeals act.

Attorney Olson explained that the origins of affordable housing initiatives in Connecticut date back to the 1980s. A blue-ribbon commission gave rise to Connecticut General Statutes (CGS) Section 8-30g, codified in 1990, which encourages the development of affordable housing at the local municipal level. The Connecticut Supreme Court has ruled that applications must be liberally construed in favor of those who qualify for affordable housing. The statute has been modified several times to become even stronger for the benefit of applicants.

Per Section 8-30g, an affordable housing development means either assisted housing (also called “subsidized housing”) or a set-aside development. Most affordable housing applications under Section 8-30g are set-aside developments. In a set-aside development, 30% of the proposed units must be deed or covenant restricted for at least 40 years and sold or rented at or below prices that will preserve the units as affordable housing. The occupant or buyer must have an income level less than or equal to 80% of the area median income. In addition, at least 15% of the affordable units must be sold or rented to those with an income less than or equal to 60% of the area median income. She noted that to be considered affordable, the actual housing cost cannot equal more than 30% of the occupant’s annual income. Mr. Osgood asked if utilities are included. Ms. Olson stated yes, but that could change.

Attorney Olson defined median income, which is the lesser of either the state median income or the area median income. In Connecticut, the median income is about \$125,000, while the Hartford media income

is about \$112,000, so in this case, the latter would apply. There is a serious need for more affordable housing in Connecticut. In a 2019 report, Connecticut ranked tenth in the most expensive housing wage in the country. She noted that then Governor Malloy really pushed for the affordable housing appeals act. He stressed that affordable housing is not subsidized housing, but workforce housing, which provides an option for people who work in a community to also be able to live in that community.

The Affordable Housing Land Use Appeals Act mandates that if less than 10% of a community's units are affordable housing, then they are subject to CGS Section 8-30g applications. Glastonbury's current affordable housing stock is a little under 6%, which is below the minimum 10% threshold required to qualify for an exemption from CGS Section 8-30g applications. Affordable housing has historically been disfavored by communities because of fear that it equates to low-income housing, crime, and drugs. To quell public concerns, Attorney Olson encourages towns to explain it to their communities as workforce housing.

The Affordable Housing Land Use Appeals Procedure allows a developer to propose a development without regard for local zoning regulations from commissions, apart from WPCA and IWWA/CC. When it comes to an affordable housing subdivision, the applicant does not have to ask for a zone change. She noted that this is a significant change to the regulations. The applicant is not required to comply with Glastonbury's special permit application criteria, nor are they required to apply for a special application. The notion of the appeals act is that it overrides local control over development when it comes to affordable housing.

Attorney Olson advises towns to treat applications the same as they do now. Once attaining comments from Town Staff and expert feedback, then they can decide whether there are concerns that rise to the level of a significant public safety concern against the affordable housing development. Years ago, Glastonbury won a case to deny a proposed affordable housing development because it was in an area that the Town had designated as open space territory. Attorney Olson is not sure that the courts would vote in the Town's favor today because of the way that the law has evolved. Glastonbury has no affordable housing plan and public opinion against affordable housing developments would have to be overwhelming. Denying or imposing conditions on a Section 8-30g application would shift the burden on to the Town to prove to the courts that the proposed affordable housing development will pose a significant health or safety issue.

If the Town does not satisfy the burden of proof, the Court is obligated to revise, modify, remand, or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. The Town must be aware of the risk of conditioning or denying an application because if they lose, they may not get an opportunity to address bigger concerns that the applicant might have been willing to address.

At this point in the meeting, Mr. Cavanaugh arrived.

Attorney Olson noted that the Affordable Housing Land Use Appeals Act could disrupt the orderly development of a municipality. Additionally, developers have been known to use the affordable housing act as a sword. She recommends that towns put together an affordable housing plan, which Glastonbury has already done. She also advises creating zoning regulations that make it more attractive for a developer to provide affordable housing units while also giving in to some zoning standards. For example, this could include giving density bonuses to developers as a tradeoff, to still be able to maintain the buffer zone. This will help the Town retain a certain level of control over the development of town. Per Section 8-30j of the statute, municipalities must adopt and amend an affordable housing plan every five years. In 2018, then Governor Malloy proposed a bill that would penalize municipalities

that did not have affordable housing. While it did not pass, it is a sign that some type of sanctions could be coming. Additionally, Public Act 21-29 modified the zoning and enabling statute.

Mr. Osgood asked if a project had an issue, could the Town require the developer to pay for a Town study of a certain issue. Attorney Olson stated that the Town could request that only if their regulations have that in place. Ms. Augur informed her that Glastonbury does not have such regulations in place now. Mr. Niland stated that the math on Section 8-30g is terrible and does not help to accomplish the goal set out. He asked if there will be modifications to the section. Ms. Olson stated that COVID-19 has exacerbated the situation of lack of affordable housing statewide. The State legislature did not modify Section 8-30g to give extra credence to towns. She is not aware of any forthcoming modifications in the legislature at this time.

Ms. Wang finds the point system for a moratorium to be complex, and Section 8-30g applications place the Town on the defense. She asked how the Town could move towards a moratorium. Ms. Olson stated that it is by application. Even though Glastonbury does not meet the 10% threshold for exemption from 8-30g applications, if they demonstrate that they have increased affordable housing stock by 2%, then the Town might be able to acquire a four-year moratorium. However, any housing that was already affordable prior to 1990 does not count. Attorney Olson offered to work with Town Staff to acquire more information on what that would look like for Glastonbury. The process is complex, as not every unit is a one-for-one.

Mr. Cavanaugh is concerned that if towns have very limited defense, why do developers still have to come through the planning and zoning process. Ms. Olson clarified that developers still need to acquire building permits, which requires making an application. She reiterated that towns should continue to conduct their application reviews the same way they normally would, after which, they can speak with the developer on ways to improve the development. If the developer rejects their comments, then the Town may query whether there is a significant public health and safety reason that amounts to denial of the application.

Mr. Cavanaugh pointed out that last week, the TPZ conducted an informal on a Section 8-30g application and a question arose regarding expert testimony. He asked if the courts would accept Town Staff comments as expert testimony. Ms. Olson stated that if the individuals are qualified, such as the Town Engineer, then yes, they could be considered experts. Mr. Gullotta assumes that the Town would seek to strengthen their argument by bringing in independent experts as well, to confirm the Town's opinion. Ms. Olson stated that is correct.

With no further questions or comments, Ms. Olson concluded the presentation.

4. Adjournment.

The Special Meeting was adjourned at 7:06 P.M. to commence the Regular Meeting.

Respectfully submitted,

Lilly Torosyan

Lilly Torosyan

Recording Clerk

Thomas Gullotta

Chairman