

# **Chapter 40B and the Comprehensive Permit**

Economic Development Subcommittee Meeting  
February 22, 2023

## **Presentation Outline**

- So What's a 40B?
- The Comprehensive Permit
- A Note on the HPP
- Franklin's Subsidized Housing Inventory
- What is Affordable?
- Franklin's Current 40Bs
- Franklin's Friendly 40B Project Review Process

## So What's a 40B?

- M.G.L. Chapter 40B, also known as the Comprehensive Permit Law
- Enacted in 1969 to help expand the number of communities and neighborhoods where households with low and moderate incomes could secure a safe, affordable home.
- Affordable housing production tool.
- 40B Projects must have at least 20 to 25% of housing units as affordable
- Permitting of a so-called 40B Project is through the Zoning Board of Appeals (ZBA), not the Planning Board.
- ZBA Comprehensive Permit Process
  - Allows for a streamlined permit process
  - The ZBA may apply more flexible standards than the local zoning requirements.

## So What's a 40B? (Continued)

- Chapter 40B requires that each City and Town have at least 10% of its total year-round housing units as affordable housing
  - 10% Statutory Minimum set forth in 760 CMR 56.03(3)(a)
- 40B is considered somewhat controversial, in that many Communities feel the 40B projects are forced on them, and there is little local control.
  - Override of a community's zoning regulations is of special concern.
- However, in 2010, 58% of voters in Massachusetts supported keeping Chapter 40B as a tool for providing affordable homes for people of all ages.

## The Comprehensive Permit (Continued)

A Comprehensive Permits can be issued for a wide range of Housing Development Types

- Single Family Homes (Subdivisions)
  - Home Ownership
- Multi-family Housing
  - Condominium Development
  - Home Ownership
  - Apartment Developments
  - Senior Housing

## A Note on the HPP (Housing Production Plan)

A community's proactive strategy for planning and developing affordable housing.

- The HPP's most important purpose is to develop goals and strategies that will result in the community reaching the 10% Statutory Minimum set forth in 760 CMR 56.03(3)(a).
- Mass DHCD keeps track of the number and status of each communities' affordable housing on its Subsidized Housing Inventory (SHI).

In 2017, the Town of Franklin surpassed the  
State-mandated target of 10% affordable housing

## **A Note on the HPP (Continued)**

The HPP contains the following major elements:

- 1. Comprehensive Housing Needs Assessment
- 2. Affordable Housing Goals
  - Basic goals intended to increase the number of SHI Eligible Housing units, and
  - Increase the number of affordable housing units available to the community's families, individuals, persons with special needs, and the elderly.
- 3. Implementation Strategies
  - Explores incentives, zoning amendments and other options to increase Franklin's affordable housing supply.

## **Franklin's Subsidized Housing Inventory**

- M.G.L. Chapter 40B requires that each City and Town have at least 10% of its total year-round housing units as affordable housing.
- The Subsidized Housing Inventory (SHI) is the List of Affordable Housing Units that Massachusetts Department of Housing & Community Development (DHCD) uses to calculate a Community's percentage of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B
- If the SHI is at 10% or better the Town is not susceptible to housing development proposals that seek to override the Town's zoning regulations through the ZBA Comprehensive Permit process.
- After the 2010 U.S. Census the Town of Franklin had only 8.89% affordable housing according to the SHI.
- Several 40B developments were in front of the ZBA during the next several years, and we are now over 10%.

## **Franklin's Subsidized Housing Inventory** (Continued)

### **Reasons that Franklin's SHI is Over 10%**

- Franklin's Municipal Affordable Housing Trust has been somewhat successful in increasing the number of SHI units.
- Franklin ZBA approved a Comprehensive Permit Application for Weston Woods (1330-1342 W. Central St.) in September 2015.
  - Resulted in 280 apartments (over 25% increase) being added to Town's SHI.
- During 2017 MassDevelopment provided financing to Glen Meadow apartment complex.
  - Resulting in 288 units being added to Franklin's SHI (over 20% additional increase, to 11.89%).
  - Please note: Glen Meadow had 26 housing units on the Town's SHI in 2010 that expired in 2016; the MassDevelopment funding restored the 26 units and added the remaining 262 units to the SHI.

## **Franklin's Subsidized Housing Inventory** (Continued)

- According to the DHCD web page, as of December 21, 2020, 11.96% of the Town of Franklin's total year-round housing units are on the Chapter 40B Subsidized Housing Inventory.
- Therefore, the Town of Franklin is in compliance with Chapter 40B, and is not immediately under pressure to increase the number of affordable units on its SHI.
- The total year-round housing inventory is based on the 2010 Census. So the Actual total number of year-round housing units housing units is more.
- Therefore, Franklin is not at 11.96%, but substantially less.

Note from DHCD SHI Webpage:

The SHI has not yet been updated to reflect 2020 Census figures. The 2020 Census Data that has been released does not include data on vacant "seasonal, occasional, or recreational use" units used by DHCD to determine Census "year-round housing units" for the SHI. The SHI will therefore continue to reflect the 2010 Census Year-Round Housing unit figures until such data is released.

## Franklin's Subsidized Housing Inventory (Continued)

### Do We Need More SHI Residential Units

| Franklin's SHI Status   | Housing Units | 10%   | SHI Units Nov. 2019 | % SHI Units | SHI Units > or < 10% |
|---|---------------|-------|---------------------|-------------|----------------------|
| MA DHCD SHI - Nov. 2019   | 11,350        | 1,135 | 1,356               | 11.95%      | 221                  |
| New Housing Starts: 2010 -2020 <sup>(a)</sup>                       | 1,295         |       |                     |             |                      |
| Estimated Number of Housing Units during 2020 Census <sup>(b)</sup> | 12,645        | 1,265 | 1,356               | 10.72%      | 92                   |
| New Housing Starts: 2020 -2030 <sup>(c)</sup>                       | 1,295         |       |                     |             |                      |
| Estimated Number of Housing Units during 2030 Census <sup>(d)</sup> | 13,940        | 1,394 | 1,356               | 9.73%       | -38                  |

(a) Approximately 1,295 housing units added in 10-11 years, representing an 11.4% increase.

(b) Estimated number of housing units based on 2010 Census data, and Building Permits issued from 2010 to 2020.

(c) If the number of housing units increase during 2020 through 2030 the same as during 2010 - 2020, the Town will have roughly 13,940 housing units during the 2030 Census.

(d) Over the next 10 years the Town will need at least 39 additional SHI Units to stay over 10% in 2030.

## Franklin's Subsidized Housing Inventory (Continued)

### Permitted SHI Projected, Not Constructed

| SHI Housing Development | Total Units | SHI Units |
|-------------------------|-------------|-----------|
| Franklin Ridge          | 60          | 60        |
| Madalene Village        | 32          | 8         |
| Chestnut Senior Village | 27          | 4         |
| Totals                  | 119         | 72        |

Three multifamily housing developments have been permitted that would add 72 housing units to Franklin's SHI.

## What is “Affordable Housing”?

- The U.S. Department of Housing & Urban Development (HUD) determines that housing is affordable when a household will spend between 30 - 33% of its annual income (gross) on housing costs
- Housing costs are defined as mortgage, taxes, & insurance
- Assess Median Gross Family Income

## What is “Affordable Housing”? (Continued) Who Qualifies For Franklin’s SHI Affordable Housing Units?

### Household Income

Boston Area Median Income: \$140,200

Households with income under 80% of Median Income qualify.

|            |          |          |           |           |           |           |
|------------|----------|----------|-----------|-----------|-----------|-----------|
| 80% Limits | \$78,300 | \$89,500 | \$100,700 | \$111,850 | \$120,800 | \$129,750 |
|            | 1 Person | 2 Person | 3 Person  | 4 Person  | 5 Person  | 6 Person  |

- A Person Qualifies for an Affordable Housing Unit if:
  - They meet the current income guidelines based on household size
  - They are a 1<sup>st</sup> time home buyer (defined as not having owned a home in the past three years)
  - They can obtain a mortgage assuming 3% down payment
  - Meet the asset limit of \$75,000

## What is “Affordable Housing”? (Continued)

### A Housing Unit is Affordable if:

- A household will not spend more than 30 – 33% of income on housing costs
  - housing costs are defined as mortgage, taxes, & insurance
- A household earning 70% of the area median income can obtain a mortgage.
- Has a deed rider restricting value in perpetuity.

## Franklin’s Current 40Bs

### Beaver Court

- Beaver Court (2)
- JR’s Lane (1)
- Mark’s Way (1)

### Dover Farms

- Canter Lane (4)
- Derby Lane (4)
- Palomino Dr. (10)



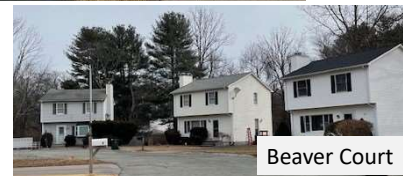
Dover Farms

### Benjamin’s Landing

- Benjamins Landing Lane (15)

### Franklin Heights

- 24 Shayne Rd (Garden Style) (4)
- Leanne Way (4)
- Trooper Paul Barry Way (1)



Beaver Court

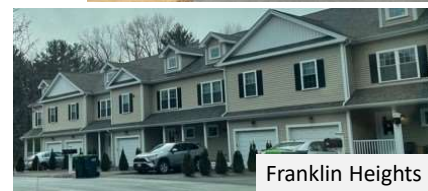
### Brandywine Village

- Charles Drive (1)
- Brandywine Rd. (15)

### The Woodlands

- Stonehedge Rd. (4)

**Home Ownership**  
Single Family  
&  
Condominium



Franklin Heights



## Franklin's Current 40Bs (Continued)

### Franklin Commons

8 Gatehouse Lane (Waitlist)

96 Apartments

- Units earning up to 50% of Area Median Income (3)
- Units earning up to 60% of Area Median Income (60)

### Residences at Union Place

10 Independence Way (3 Units Available)

300 Apartments

- 75 Units available to households earning Up to 80% Area Median Income



### Glen Meadow

43 Glen Meadow Road (Waitlist)

287 Apartments

- Units available to households earning up to 60% Area Median Income (29)
- Workforce housing available to households earning up to 70% Area Median Income (43)

### The Westerly

50 Woodview Way (Waitlist)

- 70 Units available to households earning up to 80% Area Median Income

## Franklin's Current 40Bs (Continued)

### 40B Senior Housing

#### Eaton Place

Veterans Memorial Drive (50)

#### Franklin Ridge

Veterans Memorial Drive (60)

**Approved, Not Built**



### Approved 40Bs, Not Built

#### Oliver Crossing

(Formerly Franklin Heights Parcel B)  
Lincoln Street (19)

#### Madelene Village

0 Cottage Street & 21 Peck Street (8)

#### St. John's Episcopal

237 Pleasant Street (64)  
64 Apartments, all affordable



## **Franklin's Friendly 40B Project Review Process**

### **Friendly Chapter 40B Projects - Local Initiative Program (LIP)**

- Franklin is above the 10% affordable housing threshold.
- It is therefore not under pressure accept 40B Projects.
- However it can permit "Friendly 40B" projects to build mixed-income housing under the 40B Local Initiative Program.
- A "Friendly 40B" project is a project that has local support because of:
  - Contribution the project can make to the community's need for more diverse housing options, and
  - Contributions the developer agrees to make to meet local needs (infrastructure, public safety, land protection).
- Unlike traditional 40B projects, this allows municipalities to remain in control of most aspects of project design and construction.

## **Franklin's Friendly 40B Project Review Process** (Continued)

- During 2022 there were several proposed "Friendly 40B" projects coming forward.
- Town Staff did not believe development of all of the proposed Friendly 40B Projects would be acceptable to the Town, but could not favor one over the other.
- Town Administrator tasked DPCD with developing a preliminary process to determine if a project meets the needs of the Town and follows the LIP process.
- A Friendly 40B Project Preliminary Review Checklist was developed.
- Developers complete the checklist and submit with other materials.
- Town's Point of Contact receives the completed form, and the Town begins a 30 day review of the proposed development.

## **Franklin's Friendly 40B Project Review Process** (Continued)

### **30 Day Review**

- Presentation by the applicant to the Technical Staff Review Committee.
  - Staff input intended to identify issues of concern.
- Nonbinding review by the Planning Board.
- Nonbinding review by the Conservation Commission.

### **After 30 Day Review**

- Mass DHCD Letter
  - Letter acknowledging the number of units that will be accepted on the Town's SHI.
- Town Council Presentation
  - Applicant should present an overview of the proposed project and outline benefits, and gather feedback from the Council.
- Applicant will submit a full application to ZBA for review and decision.

Note: Participation in the Friendly 40B Review Process is not a requirement.

## **Questions**