

Questions Over Viability of New Castle Affordable Housing Legislation

By Martin Wilbur

New Castle officials' consideration of a 10 percent affordable housing requirement in two downtown commercial zones generated both support and skepticism during the opening of a public hearing last week.

The Town Board has proposed including the requirement for projects that include residential units in the Retail Business (B-R) and Retail Business & Parking (B-RP) zones in Chappaqua and Millwood. One affordable unit would need to be provided for any project with more than five apartments, the same requirement that's currently in place for residential zones.

Board members and residents who favored the legislation said at the Feb. 15

hearing that it would force developers who want to build units in those zones to contribute toward the goal of increasing the town's affordable housing stock. There had been multiple references during last year's Form Based Code discussion and again this year about how two developments, including the mixed-use project at 91 Bedford Rd. in Chappaqua, had no requirement to include any affordable units.

"To me, it's whether the town wants to send a message that this is something we value or whether we want to send a message that this is something we don't value," said Supervisor Lisa Katz, "and I certainly value ensuring that this is in our zoning code so if someone does want to put up a multifamily

continued on page 2

Questions Over Viability of New Castle Affordable Housing Legislation

continued from page 1

building that is more than five units that we would require that at least one of those units, and 10 percent if it's more than 10, meets those affordability requirements."

However, those opposed to the measure said it would be largely ineffective unless other zoning changes are enacted in tandem with the affordable requirement. Currently, the B-R and B-RP zones, which are part of the 72-acre study area that was included in the Form Based Code, require ground-floor retail and a maximum of three stories, which detractors argue would fail to incentivize any downtown development.

During last year's Form Based Code debate, there was a strong desire among community members to limit building height.

Councilman Jeremy Saland said the requirement could even serve as an impediment if the 10 percent obligation is adopted.

"I don't believe from a practical standpoint based on what we are facing in the community in terms of the lack of the ability to have underground parking, the issue over height, that the 10 percent will ever be realized and it may be a hinderance to the development that we want to see," he said.

Last month, town Director of Planning Sabrina Charney Hull told the Town Board that it is unlikely the 10 percent requirement would spur much development without addressing the other restrictions. Otherwise, it would not be financially feasible for smaller local property owners in New Castle to redevelop with the additional requirement.

Katz said the motivation for the legislation is not necessarily to spur development but to make a commitment to affordable housing.

Councilwoman Victoria Tipp added that there are places where allowing a fourth story would be appropriate to help a developer with a plan but that has to be part

of a broader discussion.

During the hearing, resident and former councilwoman Lori Morton, a supporter of the ill-fated proposed Form Based Code, said she applauded the board for trying to add greater housing diversity in the hamlet, but if the affordable housing requirement is in isolation without other changes, it would create little positive change.

She asked the board to table the legislation until there is a broader comprehensive zoning plan for the hamlet and to resist the "symbolic gesture" of enacting the law.

"I don't see how you can ask the community to support these detrimental zoning changes without doing anything about the zoning changes planned to mitigate the handicap," Morton said.

But resident Ed Frank said it would be a mistake to disregard the legislation. The town with its 10 percent ordinance is doing better than many other municipalities and adding the requirement to the two zones would enhance it further, he said.

"The affordable housing would be diminished if this legislation isn't considered," Frank said. "There's no reason not to."

Last Tuesday, the Planning Board during its meeting also entertained discussion on the concept of the requirement. Last May, it sent a letter to the Town Board generally supporting the idea. Planning Board members said they want to speak to the elected officials at the joint meeting scheduled for Mar. 1.

"I don't think it does any harm but I don't think it does much good either," said Planning Board member Eldad Gothelf. "I would love some data as to what the thinking is and what this will actually produce."

Another Planning Board member, Richard Brownell, said it could be part of a set of "baby steps" to help the hamlet.

The Town Board adjourned the public hearing until its Mar. 8 meeting.

Communities Grapple With How to Provide More Affordable Housing

Accessory Dwelling, Transit Oriented Plans Removed From State Budget

By Martin Wilbur

Gov. Kathy Hochul removed two controversial pieces of housing-related legislation from her proposed Executive Budget last week, both of which drew harsh criticisms from most municipal officials throughout Westchester and the state.

The accessory dwelling unit (ADU) law, originally proposed by state Sen. Peter Harkham (D-Lewisboro) and Hochul's own Transit Oriented Development (TOD) proposal, both of which had been inserted into the Fiscal Year 2023 budget, were set aside last Thursday evening by the governor.

In a statement, Hochul said after receiving significant pushback from communities across New York, she would opt to take a different route to make housing in the state more affordable.

"I have heard real concerns about the proposed approach on accessory dwelling units and transit-oriented development, and I understand that my colleagues in the State Senate believe a different set of tools is needed, even if they agree with the goal of supporting the growth of this kind of housing," Hochul said. "So, I am submitting a 30-day amendment to my budget legislation

that removes requirements on localities in order to facilitate a conversation about how we build consensus around solutions."

Towns throughout Westchester and elsewhere in recent weeks had begun approving resolutions rebuking the plan, which would have allowed each residential parcel to have an accessory dwelling unit with sharply reduced restrictions. Local officials argued it amounted to loss of local control that would irreparably harm their communities and the environment.

For some, the TOD proposal was an even greater concern, which would have allowed up to 25 units per acre within a half-mile radius of a train station.

After her announcement, Harkham issued a one-paragraph statement concerning the governor's decision.

"I understand Governor Hochul's decision to remove the ADU initiative from the Executive Budget; this action highlights our primary concern, which is to get all of the details of the bill right, rather than enact a bill right away," he stated. "I will continue to engage with stakeholders and work to settle all concerns with this legislation. It is important that we keep driving a conversation, however, on affordable housing for our workforce and equitable treatment for our residents."

Despite most towns in Westchester having adopted forms of local ADU regulations as well as affordable housing legislation based on the county's model ordinance stemming from the county's

2009 affordable housing settlement with the federal government, Harkham said those efforts have failed to put a dent in what he described as a housing crisis across the state.

Proponents of his bill pointed to the 2019 Westchester Housing Needs Assessment, which concluded 11,703 additional units of affordable housing were needed to meet demand in the county alone. The assessment came 15 years after Rutgers University released a study for the county that had pegged that number at 10,768.

The 2019 assessment also found that more than 20 percent of county residents spent more than half their income on housing expenses.

Harkham said earlier last week, two days before Hochul pulled the ADU legislation, that as earnest as the attempts have been to have greater housing affordability, those efforts have failed.

"The reason why the state needs to get involved is because our system of local control has failed when it comes to housing," he said. "We have a housing crisis in New York, not just in Westchester, but let's focus on Westchester. The average price for a new home last month was over \$750,000. We pay the highest property taxes in the nation. How do our seniors on fixed incomes stay in their homes? How do our young people who've gone away to college come back and find a place to live when everything is single-family zoning and there are no apartments?"



Gov. Kathy Hochul removed accessory dwelling unit and transit-oriented development legislation from the next fiscal year's state budget after opposition to the plans swelled.

Local officials who spoke after Hochul's removal of the items from the budget, said they want to work with the state but the plan that was offered was the wrong approach.

Mount Kisco Mayor Gina Picinich said all sides need to take a step back and do the hard work such as analyzing whether communities that have laws that create more ADUs are more affordable. Mount Kisco, for example, does not have ADU

continued on next page

Communities Grapple With How to Provide More Affordable Housing

continued from previous page

legislation, but is one of the more affordable communities in the area.

She agreed with nearly all of her local colleagues that because of unique sets of variables in each community a one-size-fits-all approach was the wrong strategy to employ.

"I greatly appreciate Sen. Harkham who has been an advocate for reducing housing costs for a very long time," Picinich said. "But we need a broader coalition. Folks just sitting in Albany, we cannot expect for them to have the answers and we need a broader coalition."

North Castle Supervisor Michael Schiliro, who was perhaps the most outspoken official against the legislation, said he was pleased the ADU and TOD measures were pulled from the budget, although they could remain as standalone bills. He urged residents to continue to write their state representatives to make sure that the legislation

Schiliro said he would support a task force that includes all stakeholders to see how more affordable housing can be realized without ceding local control. The decision-making process has to remain with local officials because they have the knowledge about what would work regarding concerns about the environment, parking, strain on emergency services and schools, he said.

Similar to many towns, North Castle has had accessory dwelling unit regulations

on its books since 1984, that has produced more than 80 units. The town approved creation of middle-income units in the mid-1990s and adopted an affordable housing ordinance in 2014.

"We're happy to be part of the solution but this (legislation) was a problem and you can see how fervently people pushed back... in what they are trying to do because we support those efforts, but it was how they were trying to do it and one size cannot fit all," Schiliro said.

Assemblyman Chris Burdick (D-Bedford) recommended the state provide incentives for towns to revise their zoning that increases the number of units in their communities but leave the review to the municipalities. A model ordinance drawn up by the state that communities can tailor to their needs, similar to what Westchester County did in the aftermath of the affordable housing settlement, could also work, he said.

However, proponents of the legislation said until a real commitment is made to increase the housing stock that is more affordable, New York will continue to have a housing affordability crisis.

Michael Romita, president and CEO of the Westchester County Association, the county's largest business organization, said there is the danger of businesses leaving the area because people want to live near where they work. If too many potential employees leave, then businesses leave



State Sen. Peter Harkham's plan to increase housing affordability was dealt a major setback last week after the governor took it out of the budget.

and it could threaten economic stagnation, which leads to higher taxes.

He said there needs to be some state involvement because local control hasn't solved the housing problems facing Westchester. New York lags most other coastal states with strong economies in

addressing state-level zoning regulations to ensure housing stock diversity, Romita contended.

He suggested looking at a Massachusetts law that provides an appeals process if a project is rejected, so there isn't unfettered local discretion. Other states require multifamily housing zones as of right, but if a project builds in a certain threshold of affordability, then the municipality doesn't have to comply with the law.

"If people have an opportunity to vote their values, they will generally vote in favor of inclusive zoning laws," Romita said. "But when they're faced with developments in their backyard, obviously things change and they come out against it. That's exactly the kind of issue that requires a state-level approach."

Moses Gates, vice president of housing and neighborhood planning for the Regional Plan Association, said despite last week's disappointment, he's hopeful the recent debate initiates a dialogue that leads to meaningful solutions.

"The region's housing shortage is not going away and will likely worsen," Gates said. "Patterns of residential segregation will remain stubbornly locked in place until we intentionally address them. We look forward to working with lawmakers and our coalition members to continue expanding housing choice and create a more equitable and prosperous region that works for everyone."