



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

Sean Powers, Chairman
David Ringius, Jr, Vice- Chairman
Charles Kokoros, Member
Timothy Carey, Member
Charles B. Ryan, Ex-officio

July 22, 2019 MINUTES

A meeting of the Committee on Ordinance & Rules was held in the Cahill Auditorium on Monday, July 22, 2019 beginning at 7:14pm.

Chairman Powers was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call.

Present: Sean Powers, Chairman
David Ringius, Jr, Vice- Chairman
Charles Kokoros, Member
Timothy Carey, Member

Also Present: Christine Stickney, Director Planning & Community Development
Melissa Santucci-Rozzi, Assistant Director Planning & Community Development
Residents including:
Jill Coyle
Linda Raiss
Susanne Hamilton
Janet Daylor
Tim Burke
Lee Castignetti
Steve Scaccia

There was a moment of silence for all those serving in our armed services, past and present, and the meeting was opened with the pledge of allegiance to the flag.

Approval of Minutes

• May 21, 2019

Motion: by Councilor Kokoros to approve minutes of May 21, 2019

Second: by Councilor Ringius

Vote: For (4 – Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

New Business

• 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto

MOTION by Councilor Kokoros to TAKE off the TABLE Order 19 011

Motion: by Councilor Kokoros to TAKE off the TABLE Order 19 011

Second: by Councilor Ringius

Vote: For (4 - Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

Councilor Powers, Chairman of the Committee on Ordinance & Rules stated they will begin at Section 6.1 Inclusionary Housing and include 6.5 Flexible Development.

Councilor Powers read along with the "***Readers Guide***" (italics below). The Chairman will ask if there are any questions from members and residents as we go along and each Section is explained.

§ 6.1 Inclusionary housing

New

- Applies to any residential or mixed-use development requiring a special permit and resulting in a net increase of 10 or more dwelling units.*
- 10-15% of any dwellings will be affordable, rounded up to the nearest whole number.*
- Developers will not be allowed to make a payment in lieu of building affordable dwellings. Units may be built on site or elsewhere in Braintree.*

§ 6.5 Flexible development

New

- This section replaces Braintree's existing Cluster 1-2-3 districts, and is meant to allow flexibility in residential development in order to preserve more open space and protect important features of a site.*
- This is now applicable in the Residence A, B, and C zoning districts, for any development of three or more housing units.*
- Currently, multi-family dwellings are only allowed in Flexible development if the developer provides additional amenities such as more open space than required or senior housing. The Town may decide to allow multi-family dwellings without these additional amenities, as a way to promote housing diversity.*
- There are a number of details about this section (regarding incentives, modification of dimensional standards, etc.), that are still being discussed between the consultant team and staff.*

Sec. 6. Special Use Regulations

§ 6.1 Inclusionary Housing

A. Purposes. The purposes of this section are:

- (1) To increase the supply of housing stock in the Town of Braintree that is permanently available to and affordable by low- and moderate-income households (see § 9, Definitions, Affordable Housing);
- (2) To encourage greater diversity of housing accommodations to meet the needs of Braintree residents and local employees; and
- (3) To develop and maintain a satisfactory proportion of the Town's housing stock as affordable housing units, deed restricted per eligibility on the Subsidized Housing Inventory (SHI).

B. Applicability.

- (1) This section shall apply to any multi-family dwellings or dwellings in a mixed-use development (see § 9, Definitions, Mixed-Use Development) or a Flexible Development (see § 9, Definitions, Flexible Development), as listed in Table 1 (Part 1) Table of Principal Uses and defined in this ordinance, that would result in a net increase of six (6) or more dwelling units on a parcel or contiguous parcels under common ownership or control, except as provided below.
- (2) Development shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land or buildings that cumulatively result in a net increase of six dwelling units above the number existing 36 months prior to an application to develop any parcel or set of contiguous parcels in common ownership or under common control, on or after the effective date of this section.

C. Basic Requirements.

- (1) Amount of Affordable Units. In any multi-family dwellings or dwellings in a mixed-use development subject to this section, at least 15 percent of the dwelling units shall be affordable housing as defined in § 9 Definitions. Fractions shall be rounded up to the next whole number.
- (2) Selection Process. The selection of qualified purchasers or qualified renters shall be carried out under an affirmative fair housing marketing plan submitted by the applicant and approved by the Town's Department of Planning and Community Development (DPCD). The affirmative fair housing marketing plan shall comply with the State Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines in effect on the date the application was filed with the Town.
- (3) Methods of Providing Affordable Units. The applicant shall provide the required number of affordable units under this section through one or more of the following means.

(a) On-Site Units. Construction of affordable units on the site of the project (“on-site units”) is the preferred approach to creating affordable housing and shall be required for any development that includes 20 or more dwelling units or any rental development regardless of size.

(b) “Off-Site Units,” or Comparable Affordable Units on Another Site in Braintree.

Off-site affordable units may be allowed for developments with fewer than twenty (20) proposed ownership units (rental units are not allowed off-site), per all of the other requirements of this § 6.1 as well as the following:

(i) Off-site affordable units need not be located in the same district as the development.

(ii) The approved location of any off-site affordable housing units shall be identified in the Town’s decision.

(iii) Preservation of existing dwelling units for affordable housing may be accomplished by a developer purchasing deed restrictions and making capital improvements to create housing in compliance with all building and health codes and with equal or greater value as new-construction units.

(iv) Where off-site affordable units are proposed, the newly preserved/developed affordable housing shall be integrated with market rate units. Preserved or newly developed affordable housing shall not constitute more than 30% of any multifamily development. The applicant may propose to exceed this threshold where doing so is advantageous to a group specifically targeted for the homes based on documented needs and professional best practices.

(4) Comparability. Unless otherwise approved by the Planning Board, all on-site affordable housing units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in interior finish, fixtures, and appliances. For both on-site and off-site units that are a part of any development proposal, the number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate units in the development.

(5) Building Permit and Occupancy Conditions.

(a) Building Permit Conditions. An agreement with the Town of Braintree, acknowledging understanding of and commitment to all of the occupancy conditions listed below in § 6.1-C.5.b, shall be executed and delivered to the DPCD prior to and as a condition of the issuance of any approval required to commence construction. The Building Inspector shall not issue a building permit with respect to any project or development subject to this article unless and until the DPCD has verified in writing to the Building Inspector that such agreement has been executed and delivered. Where a Special Permit is required, this agreement may be entered into the record as a condition of approval.

(b) Occupancy Conditions. No certificate of occupancy shall be issued for any market-rate units in a development subject to this section until all documents necessary to ensure compliance by the applicant (and any purchasers of the affordable housing units) with the requirements of this § 6.1, Inclusionary Housing have been executed and recorded, including:

(i) The applicant records an affordable housing deed restriction in a form approved by the Planning Board and provides evidence acceptable to the DPCD that the restriction has been approved by DHCD and recorded with the Norfolk County Registry of Deeds.

- (ii) A deed rider in a form approved by the Planning Board has been properly executed and has been or will be recorded with the Norfolk County Registry of Deeds.
- (iii) Agreement with the Town of Braintree per § 6.1-C.5.a
- (iv) Agreement with a third-party Affordability Monitoring Agent (Monitoring Agent)
- (v) Affirmative Fair Housing Marketing Plan

(6) Timing of Construction: Where feasible, affordable housing units shall be provided coincident with the development of market-rate units, but in no event shall the development of affordable on-site or off-site housing units be delayed beyond the following schedule:

Market rate units (%)	Affordable units (constructed) Up to 30%	None required
30% up to 50%	At least 10%	
50% up to 75%	At least 40%	
75 up to 90%	At least 70% By 90%	100%

Fractions of units shall not be counted.

D. Procedures and Decision Standards.

- (1) Submission requirements and procedures shall be in accordance with § 3.9 Special Permits and § 3.10 Site Plan Review as applicable.
- (2) The applicant shall provide sufficient information for the Planning Board to be able to determine that the proposed project complies with this section and all other applicable requirements of this chapter.
- (3) When the Planning Board grants § 3.9 Special Permits and § 3.10 Site Plan Review as applicable Special Permit, the following shall be conditions of approval:
 - (a) The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD in order for the units to be eligible for the Subsidized Housing Inventory.
 - (b) The applicant will demonstrate compliance with the occupancy conditions of § 6.1-C.5.b.

§ 6.5 Flexible Development

A. Purpose. The purposes of this section are to:

- (1) Promote more sensitive siting of residences and better overall site planning for a smaller-scale single family detached housing development. Preferred housing types include cottages, bungalows, and smaller expressions of other traditional New England forms.

- (2) Encourage development patterns that avoid impacts to sensitive resources or other on-site assets.
- (3) Offer an optional alternative to standard subdivision development.
- (4) Promote the development of housing appropriate for persons and households of a variety of sizes, ages, and living arrangements.
- (5) Encourage development patterns that create a sense of connection and community between households in the neighborhood.
- (6) Promote the development of housing that is affordable for low, moderate, and median income families.
- (7) Preserve Braintree's historical and archeological resources and natural environment, including varied landscapes and water resources.
- (8) Facilitate the construction and maintenance of driveways/accessways, utilities, and public services in a more economical and efficient manner.

B. **Applicability.** This section may be applied in the Residence A, Residence B, and Residence C Districts to any residential development with three or more housing units where the applicant seeks to develop a site under more flexible standards than those associated with a conventional subdivision. Upon the issuance of a Special Permit by the Planning Board, and in accordance with the following provisions, a Flexible Development project may be created from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of Braintree.

C. **Basic Maximum Number of Dwelling Units.** The basic maximum number of dwelling units allowed in a Flexible Development shall not exceed the number of lots allowed in the zoning district in which the property is located (i.e. conventional subdivision). No variances shall be issued to exceed this number. This number shall be determined through the following calculation:

$Y = (SA * 0.85) \div LS$ Where

Y – Property yield expressed as a number of lots

SA – Site area (excluding all wetlands (MGL131 Chapter 40), floodways, and water bodies)

0.85 – This represents a reasonable factor for infrastructure that would take away land available for actual house lots. It is reasonable to assume that the development of a new road with stormwater infrastructure would occupy fifteen percent (15%) of the site area.

LS – Minimum lot size for the zoning district

D. **Design Approach.** Because Flexible Development places multiple homes on a single lot, the dimensional standards applicable to single family residential development in Table 5.8 Table of Density and Dimensional Regulations do not apply. The following design approach and standards apply and are considered integral to the success of a Flexible Development application.

(1) **Compact Design.**

(a) The overarching design principle for flexible development is to create compact clusters of single-family homes in a layout that fosters connections between neighbors due to the close

proximity of the homes to one another, the potential for shared space, and physical connections with walking paths and similar features.

(b) All such single-family homes shall be situated on a single shared lot with at least 50 feet of lot frontage. Access shall be provided by a shared private accessway or driveway. Approval of a flexible development proposal shall not require review under the Subdivision Rules and Regulations.

(c) At no point shall such single-family homes be closer to each other than ten (10) feet measured at their closest point.

(d) Individual single-family homes shall be set back from the primary access private way or driveway by no more than thirty (30) feet.

(e) Where individual single-family homes are situated back-to-back with abutting rear yards, the homes shall be no closer to each other than 40 feet measured at their closest point.

(2) **Open Space Amenities.** The land that is not used to provide direct outdoor amenities to individual homes (i.e., yards, driveways, etc.) may be used in a variety of ways as described herein so long as it would provide direct benefit to the residents of the flexible development. This land shall be designated with an easement and shown on the proposed development plan. Where necessary, landscape features such as stone walls, boulders, decorative fencing, or other ornamental landscape features shall be used to alert residents and visitors as to where the line between land dedicated to individual homes and designated open space lies.

(a) Open space can include sensitive environmental resources (e.g., wetlands, stream buffers, etc.), unique features (e.g., specimen trees, stone walls, etc.), and areas difficult to develop (e.g., high groundwater, ledge, etc.).

(b) Open space can include developed areas for community gardens, passive and active recreation, and neighborhood gathering areas.

(c) Where open space is set aside for conservation purposes, an easement shall be provided limiting the development of that land for as long as the development exists.

(3) **Open Space Ownership and Maintenance.** The open space and such other facilities as may be held in common shall be conveyed to one of the following with notification to the SPGA:

(a) To a corporation or trust comprising a homeowners' association whose membership includes the owners of units contained in the tract.

(i) The developer shall include in the deed to owners of units beneficial rights in said open land. The developer shall grant a conservation restriction to the Town of Braintree over such land pursuant to MGL c. 184, §§ 31 to 33, to ensure that such land be kept in an open or natural state. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by MGL c. 184, § 33.

(ii) In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homeowners' association assumes said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall record at the Norfolk County Registry of Deeds a declaration of covenants and restrictions which shall provide for the following: mandatory membership in an

established homeowners' association as a requirement of ownership of any lot or unit in the tract and provisions for maintenance assessments of all lots or units in order to ensure that the open land is maintained in a condition suitable for the approved uses.

(b) To a nonprofit organization, the principal purpose of which is the conservation of said open space. The developer or charity shall grant a conservation restriction as set out in (a) above.

(c) To the Conservation Commission of the Town for open space use. Said conveyance shall be subject to the approval of the Town Council, with a trust clause ensuring that it be maintained as open space.

(3) Housing Choice. Homes proposed for flexible development should be chosen for their ability to provide options that are not easy to find in Braintree. These could include, but are not limited to:

(a) Units for condominium ownership.

(b) Small homes such as bungalows or cottages that may have footprints no smaller than 900 square feet and no larger than 1,200 square feet.

(c) Homes designed for individuals with disabilities or seniors that have mobility challenges, with enhanced features related to mobility and visitability.

(d) Housing that is expected to be affordable to households that earn less than 100% of the Area Median Income.

(4) Housing Variety and Design.

(a) The style and finish of housing in a flexible development shall not be homogenous. An applicant may propose a single housing type (e.g. cottages or bungalows), but the single-family homes must have distinguishing features in terms of building form, color, and architectural details (e.g. trim, fenestration, dormers, etc.).

(b) The architecture of all buildings shall be residential in character, particularly providing gabled roofs, predominately wood siding, an articulated footprint, and varied façades.

(c) Front porches or other features that draw people into contact with their neighbors are highly encouraged.

(5) Parking. Parking may be provided for each individual housing unit or some combination of individual and shared spaces. No dedicated parking spaces shall be provided between the front façade of any home and the primary travel way.

(6) Drainage. Stormwater management shall meet the standards of the Massachusetts Stormwater Handbook as amended.

--- END - DRAFT PROPOSED ZONING ORDINANCE---

DISCUSSION:

Councilor Powers stated we will begin with 6.1 Inclusionary housing which is new.

Melissa Santucci-Rozzi stated we drafted in our inclusionary by-law is the option for on-site units or off-site units. We are not proposing any type of allowances for land donations or cash contributions. There has been talk about an affordable housing trust which functions off cash contributions from an inclusionary by-law. We did not include it but it does not mean it can't be included.

The first section is the Purpose that is to try to provide for additional affordable units.

The AMI (area median income) is anything under 80% is the percent for affordable housing for people to apply.

Councilor Powers asked how do we ensure the affordable housing being built go to Braintree residents?

Melissa Santucci-Rozzi stated you need to demonstrate to DHCD you have a need in order to get a local preference. They allow up to 70% of the units.

Councilor Powers stated it is more palpable to know units will go to as many Braintree residents as possible. It's good to see lifelong Braintree kids are able to get "starter homes" in Braintree. It is also for folks at the end of their careers that still meet the criteria of the (AMI) that want to stay in Braintree.

Councilor Powers asked can we come up with a formula for multi-family development to include a minimum contribution. Maybe have a conversation about 3 and above. Maybe at 4 and 5 there is a minimum contribution and at 6 the 15% kicks in.

Councilor Powers said this is a state law and if the Town of Braintree doesn't meet its threshold for affordability that is when developers can come in and propose denser and more units under the state's law which gives the town less control under local zoning laws and that is why this ordinance is extremely important for us to manage and plan our affordable housing units so it works for us and not the developers.

Melissa Santucci-Rozzi stated you are essentially saying this applies to any development. Typically the formula calculations for contributions in lieu of units is essentially the difference between the market rate unit and the affordable unit.

Councilor Kokoros stated I feel this should apply to 4 units and up instead of 6 and up. This puts us in the driver's seat in regards to this type of development.

Councilor Powers stated we should have a scaled payout for developments of units with 4 and 5.

Melissa Santucci-Rozzi stated we can look at options for payouts.

Councilor Kokoros stated I feel there shouldn't be any off-site affordable units allowed for the developer. The project should be approved or disapproved in its entirety.

Councilor Powers stated this might be something the resident Zoning Working Group could look more into.

Councilor Powers asked if there were any questions from residents on section 6.1.

Susanne Hamilton, Storrs Ave/ZWG Chairperson agreed with the Councilors on the number of affordable units. It thinks this is where we need to look into an affordable trust for the town so we can use those funds in off-site units in other areas. In larger developments of 6 or greater where it is

15% I have seen other communities have even increased the number of affordability. With larger developments we could look into in lieu fee to fill the gap that way. Rental for on-site units is important because once we get to 25% we can include all those units towards our number. For off-site affordable units we would like to consider it for senior housing.

Melissa Santucci-Rozzi stated I have concerns giving flexibility to certain populations and not to others.

Councilor Powers asked which communities increase their percentage.

Susanne Hamilton, Storrs Ave/ZWG Chairperson stated Medway updated in 2018 over 21 units they go to 20% but do start lower with 6-12 units is 10%, 13-17 is 12% so they definitely tier it.

Medfield is 6-20 15%, 21-49 at 20% greater than 50 they go upwards of 25%.

Melissa Santucci-Rozzi questioned if these bylaws produce affordable units. I do get concerned with competing with 40B. Larger units you can be pretty sure what developers would do.

Councilor Powers stated but our goal is to maintain the towns threshold so we can manage better under our own bylaws for units and developments that want to come in. The strategy is to always meet our 40B requirement so we can tell developers we have already met our threshold so you have to conform to our local zoning bylaws rather than the state. We need to come up with a plan to meet our affordable housing.

Lee Castignetti stated you are not at 10% at present. You might want to consider leave it at 15% presently and at a future date once you have achieved 10% consider a tiered approach and then amend your bylaws.

Jill Coyle, stated Inclusionary Housing truly encourages very dense development. We need something to get us to our affordable housing marks. The affordable trust may be very beneficial.

Jill Coyle suggested the following changes in red

B. Applicability.

(1) This section shall apply to any multi-family dwellings and/or dwellings in a mixed-use development (see § 9, Definitions, Mixed-Use Development) or a Flexible Development (see § 9, Definitions, Dwelling Multi-Family, Flexible Development), as listed in Table 1 (Part 1) Table of Principal Uses and defined in this ordinance, that would result in a net increase of six (6) or more dwelling units on a parcel or contiguous parcels under common ownership or control, except as provided below.

Chairman Powers stated we are skipping over Section 6.2. We will continue with 6.5 Flexible Development.

Melissa Santucci-Rozzi stated this allows for anyone in A or B Zoning District instead of doing a definitive sub-division they can pursue a cluster flexible development through a Special Permit through the Planning Board. (See formulas on page 50 Section C) The goal is to cluster the units and preserve large tracks of open space.

Councilor Kokoros stated this is a non-starter. For example Teabury Lane is a Flexible Development where there are no property lines. They have come to me asking for property lines. I do not think there is any land in town that is big enough for this to be implemented. People in Res A and Res B came to that meeting because they own property there and they do not want it to change. I would completely eliminate it.

Melissa Santucci-Rozzi stated the reason for this is to preserve open space.

Councilor Carey asked if there is any land in mind for a site like this.

Melissa Santucci-Rozzi stated we get calls about the property behind St. Thomas More. There is a lot of land back there. It is zoned Res B.

Councilor Kokoros stated creating cluster development and allowing it into Res A and Res B does not make sense to me and I don't think it ever will.

Janet Daylor, Middle Street stated I am at a different place in my life. I have a big house. I don't need the big 5 bedroom house. Cluster zoning seems like a way to do it. It affords you to make a smaller unit and yet we would be able to stay in town.

Linda Raiss asked about parking and was told one space per bedroom is being proposed.

Lee Castignetti, Ray Lane stated this shouldn't be in Res B. I also do not know of any location in town where you could do any type of meaningful flexible development. Most towns that do a 55 plus development use an overlay district that allows you to increase the density.

Melissa Santucci-Rozzi stated if in Res B you couldn't be considered for flexible development unless you have at least 45,000 square feet of land.

Councilor Kokoros stated I am glad a previous speaker mentioned overlay district to build 55 plus. We need to find a way to help folks stay in Braintree. We need to find a way to create an overlay district for 55 plus.

Councilor Powers stated the Zoning Working Group should also look into this. My opinion is over 55 housing is a critical component to our housing plan for the future.

Jill Coyle, stated I feel flexible development is the closest type of development that you could offer this town to its current character. I think it is ideal for 55 plus. I would encourage a garage.

Steve Scaccia, Hollis Ave stated allowing flexible development in Res A, B and C is allowing what the residents have been saying they do not want. I think it would be of value to other areas of town.

Councilor Powers stated the Zoning Working Group can pursue and look into further.

Christine Stickney, Director of Planning & Community Development stated when we began this we did a lot of outreach and we kept hearing people wanted smaller affordable housing where they did not have to maintain the property. This was in response to what the public had said they wanted.

It was discussed to have the next meeting (August 21, 2019) begin at Section 5 Dimensional Requirements.

MOTION by Councilor Ringius to TABLE Order 19 011 to August 21, 2019 at 6:00pm

Motion: by Councilor Ringius to TABLE Order 19 011 to August 21, 2019 at 6:00pm

Second: by Councilor Kokoros

Vote: For (4 - Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

Old Business

- None

It was unanimously voted to adjourn the meeting at 9:23 p.m.

Respectfully submitted,
Susan M. Cimino
Clerk of the Council

Documents provided for Meeting

- 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto