

**ENFIELD TOWN COUNCIL
MINUTES OF A SPECIAL MEETING
MONDAY, OCTOBER 4, 2021**

A Special Meeting of the Enfield Town Council was called to order by Chairman Ludwick on Monday, October 4, 2021. The meeting was called to order at 5:30 p.m.

ROLL-CALL – Present were Councilor Bosco, Cekala, Cressotti, Hemmeler, Ludwick, Mangini, Muller, Riley, Sferrazza, Szewczak, and Unghire. Also present were Town Manager, Christopher Bromson; Assistant Town Manager, Kasia Purciello; Town Clerk, Sheila Bailey; Town Attorney, James Tallberg

MOTION #5939 by Councilor Mangini seconded by Councilor Muller to go into Executive Session to discuss Real Estate Negotiations and Pending Claims and Litigation.

Upon a **SHOW-OF-HANDS** vote being taken, the Chair declared **MOTION #5939** adopted 9-0-0.

EXECUTIVE SESSION

The Executive Session of the Enfield Town Council was called to order by Chairman Ludwick at 5:31: p.m.

ROLL-CALL - Present were Councilors Cekala, Cressotti, Hemmeler, Ludwick, Mangini, Muller, Sferrazza, and Unghire. Also present were Town Manager, Christopher Bromson; Assistant Town Manager, Kasia Purciello; Town Clerk, Sheila Bailey; Town Attorney, James Tallberg; Director of Finance, John Wilcox; Director of Public Works, Donald Nunes; Susan Choquette and Josh Prouser, Opera House Players.

Chairman Ludwick reconvened the Special Meeting at 6:21 p.m. and stated during Executive Session the Council discussed Real Estate Negotiations and Pending Claims and Litigation with no action or votes being taken.

OPT OUT ADU'S

Present for this item was Laurie Whitten, Director of Development Services

Ms. Whitten stated at the last meeting the Town Council had a discussion on accessory dwelling units regarding Public Act 21-29. She explained the purpose of that public act is to promote alternative, less expensive, and equitable housing. She noted Enfield is actually exempt from the Affordable Housing statute. She stated this was started by a group called, “Desegregate Connecticut”, and they’re trying to promote more fair housing throughout Connecticut.

She responded to the following questions raised at the last meeting:

How often does the Town receive applications for, or has the PZC approved accessory dwelling units or ADU's?

She stated the answer is never because they aren't allowed. She went on to note Enfield does allow accessory apartments, which are known as "in-law apartments", and they usually get about one per year. She explained accessory or in-law apartments are basically for in-laws or relatives, and they are temporary housing only, and they require a special permit from PZC. She noted the maximum apartment size is 400 to 750 square feet, and the minimum lot size where such an apartment can be placed is 17,000 square feet. She pointed out these are usually attached to, or somehow within the same house.

What is the effect if the Town does not completely opt out?

She explained if the Town does not opt out, they would be bound to include the regulations as proposed in the Act. She noted the accessory dwelling unit acts as a permanent structure as bound by full fire and building code regulations whereby the temporary apartments are not. She stated the maximum size would be about 1,000 square feet, or 30% of the primary structure of the residential zone. She noted there is no minimum lot size, but it does need to meet the zoning setbacks and coverage. She stated they've also included a maximum of one parking space per accessory dwelling unit.

Councilor Sferrazza referred to Enfield being exempt from this Act, and he questioned if that's because Enfield already meets and surpasses that, and Ms. Whitten responded that's correct because Enfield surpasses the 10% affordable housing units in Enfield, and Enfield is actually up to just below 13% right now.

Councilor Sferrazza stated his understanding Enfield not only met the bar set by the State, but has currently exceeded it, and Ms. Whitten responded that's correct.

Councilor Sferrazza stated his understanding Planning & Zoning has special use permits for additions to ensure proper setbacks and to look at water impacts. He noted during those special use permit sessions, it's his understanding the public has a right to come and speak for or against a project. Ms. Whitten responded all of that is true.

Councilor Sferrazza stated his understanding that if Enfield does not opt out, people will no longer have to abide by setbacks and there won't be a public hearing because this Act says it is just going to happen and Enfield gives up total local control. Ms. Whitten responded they would not have a public hearing, and the public would not be able to come and speak for or against the project, but they would still have to abide by the setbacks and coverage.

Councilor Sferrazza stated his understanding this takes away the voice from people, and Ms. Whitten responded that's correct.

Councilor Mangini stated her belief it is premature to vote on this. She referred to Councilor Sferrazza's comment about people not having the right to speak, and she noted she is against that. She stated if this is infrequent, why is it being addressed. She noted if Planning & Zoning is going

to be rewriting regulations, why don't they wait until they get to that juncture before the Council looks at these other issues.

Councilor Mangini stated she read that if the Town does not opt out, an ADU could be placed on a parcel with a single family, provided conditions for bulk and area requirements are met, and she noted this is not clear to her. She also read, "the Planning & Zoning Commission exercised discretion to opt out due to a lack of predictability with expected backyard privacy." She noted she interprets that as talking about quiet enjoyment, but she questioned how you can predict the lack of quiet enjoyment because it is unpredictable. She noted people have parties all the time in their backyards, and if people call the police, the party stops. She feels that is a fluid statement.

Ms. Whitten stated Planning & Zoning decided to go forward with the opt out, and she agreed that during the re-write they could look at the ADU's as a permitted use, but with regulations and guidance, not probably by right. She added she can't guarantee that it won't be by right, but she believes they will have a little more restrictions than by right and probably a public hearing.

Ms. Whitten stated the infrequency is for the in-law apartments, and the reason they don't have a number for the ADU's is because they're not actually permitted.

As concerns Councilor Mangini's comment about bulk and area requirements, Ms. Whitten stated the maximum size is 1,000 square feet with some restrictions in zoning setbacks and coverage, so it still has to abide by the existing bulk and area requirements regardless.

Ms. Whitten stated one of the concerns that she had related to the Thompsonville section because the coverage in that area is between 30% and 60% when the rest of Enfield's coverage is 20%. She noted if someone could by right put another dwelling unit on every single-family property in Thompsonville, they might have some issues because the density would increase, and they would actually have some utility issues. She stated that is a concern of the Planning & Zoning Commission.

Ms. Whitten stated part of zoning is to provide predictability for what people can use their property for and for what a neighbor can use their property for, so if someone is purchasing a single family home next to another single-family home, a person believes they are only buying that house next to a single-family dwelling, not a single-family dwelling with another house as an accessory dwelling unit.

She stated as a Planner, she absolutely believes they need to have permit fees for accessory dwelling units, but she believes it needs to be done in the proper fashion.

Councilor Riley stated if a house already met the whole coverage, are they not allowed to do an ADU, and Ms. Whitten explained it would be based on the existing coverage prior to the ADU being added, therefore, they could not exceed the maximum coverage for the site with a new unit.

Councilor Riley stated if Enfield didn't opt out, and the State decided to change the regulation they already wrote, would they then be able to have another opportunity to opt out, or would Enfield be

locked in for good if they don't opt out. Ms. Whitten deferred to Legal, but she thinks that would be a new Act, and they would have to look at it.

Councilor Riley stated if Enfield opts out of this, it will still keep the ability of Enfield having a public hearing on the situation. Ms. Whitten stated if Enfield opts out of this currently, they will still require a public hearing to have an in-law apartment because Enfield still does not allow ADU's, but she believes they will be permitted under certain circumstances.

Councilor Riley questioned the timeframe as to when a regulation might be written regarding this, and Ms. Whitten stated their complete rewrite is hopefully going to be done in the spring of 2022.

Councilor Szewczak stated if Enfield does not opt out, and these units go into single family lots, are there additional utilities brought in, i.e., electric, sewer, or utility, or are they just an extension of the primary dwelling. Ms. Whitten stated her belief it could be either.

Councilor Szewczak stated people are always very conscious of when they are buying a home as to what their expectation is of what they will have in that neighborhood. She pointed out when the State takes over a town's zoning, it is always very controversial.

Councilor Szewczak stated her belief it is important for Enfield to opt out of this and take care of this in a way that is best for Enfield.

Councilor Cressotti stated a lot of the reasons people add in-law apartments is for the elderly, disabled persons, or children. He noted he is against having separate dwellings, but if they are attached to the house, that could be equitable for people. He stated housing has to be fair for everyone.

Councilor Cressotti stated he would feel comfortable if he knew what the regulations are going to be before opting out. He referred to this Act and the required training and certification for Planning and Zoning commissioners and the Zoning Enforcement official. He questioned whether that was taken into consideration as to why they want to opt out. Ms. Whitten stated that wasn't necessarily considered as a primary consideration, however, when Planning & Zoning decided to opt out, it was a unanimous vote in August. She noted their reasoning was because of over-taxing utilities, the lack of predictability, drainage issues, traffic, on the street parking, and the lack of oversight. She stated a lot of subdivisions were created in wetlands, and that could always be a concern if everybody decides to build out to their maximum coverage.

Councilor Cressotti stated he would feel more comfortable if he knew what the new zoning regulations are, and he could then vote on it.

Ms. Whitten stated they did discuss they should address it and prepare for it and allow it, but by local guidance and not the State's guidance.

Attorney Tallberg stated Public Act 21-29, an act concerning the zoning enabling act, accessory apartments, training for certain land use officials, etc., is a 28-page piece of legislation. He noted he attempted to summarize it in his memo of July 16, 2021. He stated according to the Act, many

of the provisions become effective October 1, 2021, and any existing zoning regulations that conflict with those new portions of the state law that took effect October 1, 2021 will be deemed null and void, which he believes is effective January 1, 2022. He noted he is referring to Section 6 of the Act, Page 13 of 20. He stated his interpretation is that municipalities have until January 1, 2023 to opt out, but because many of the provisions took effect last Friday, there is a smaller window where they can be out of compliance, and if the town is out of compliance, it is possible that on January 1, 2022 certain provisions might be null and void.

Councilor Cekala questioned if Enfield does not opt out, can a person by right put another dwelling on their home if they already reached the coverage percentage that's allowed by Enfield's regulations. Ms. Whitten responded absolutely not. Councilor Cekala stated her understanding that they still have to abide by Enfield's zoning regulations even if Enfield hasn't opted out, and Ms. Whitten responded correct.

Councilor Unghire questioned how ADU's would benefit Enfield. She stated she is not yet convinced this will improve things. She noted Enfield is a residential area and a suburb, and this would turn Enfield into an urban area. She stated her understanding only four other states have passed and approved this – California, Oregon, Vermont, and New York. She stated her belief this will not improve Enfield. Ms. Whitten stated her personal belief that in the right lots and in the right place, this could be a great opportunity for new dwelling units, however, if it is done without any guidance or rules it could backfire.

Councilor Szewczak stated whether this would have the most impact on R44 and R88 districts, more so than densely built districts. She noted these units can be as small as 400 square feet, so it could be that the R33's may be effected by this. She stated her belief good local control is needed in order to get a really good plan. Ms. Whitten responded statistically, Councilor Szewczak is probably correct.

Chairman Ludwick stated if a lot isn't conforming already, this doesn't have to conform, and Ms. Whitten stated the ADU would still be able to be placed there provided they haven't met their maximum coverage.

Chairman Ludwick referred to the January 1, 2022 date and noted they don't have a lot of time because that is what the State built into the regulations. He acknowledged P&Z is working on regulations, but it won't be ready until spring. He noted the urgency was built in by the memo that was sent in July of this year, and that's why P&Z acted in August, and that is why they are trying to act now because they don't have a lot of time.

Chairman Ludwick questioned if someone wished to put in an ADU, would they have to go to Wetlands, and Ms. Whitten stated they would need to go to Wetlands if wetlands were impacted. Chairman Ludwick questioned whether they must have a public hearing, and Ms. Whitten responded no.

Chairman Ludwick questioned how it would work if the Town of Enfield has an easement due to a pipe on a property, and a person decides to put an ADU in their backyard. He questioned how that would work with connecting to sewage pipes. He pointed out Enfield has many wetlands with

people getting water in their basements. He went on to question who regulates who ADU's can be rented to, and Ms. Whitten stated the public act says it can be occupied by anybody.

Chairman Ludwick stated Enfield already has the first-time homeowner's program, which is working. He noted this is bringing people from outside of town, and they are buying homes anywhere in Enfield. He stated Enfield is committed to providing affordable housing to anyone who wants to purchase a home. He stated his belief Enfield has no choice but to opt out because they have to trust their local boards to do the right thing. He noted P&Z is working on the regulations, but the State put the legislation together where they don't have a lot of time to work through that. He stated people can already add in-law apartments if they want to. Ms. Whitten responded that's correct, and there is a public hearing.

Chairman Ludwick stated perhaps P&Z can add in a special use permit for ADU's, so there's a public hearing. He noted people need a special use permit for a shed.

Mr. Bromson referred to ADU's in Thompsonville and parking requirements for ADU's and Ms. Whitten responded the Act calls for a maximum of one parking space for an ADU.

Mr. Bromson asked the Town Attorney if the drop-dead date based on Enfield's situation is the first of this year or the first of next year. Attorney Tallberg stated a town may not opt out after January 1, 2023. He noted between October 1, 2021 and January 1, 2023 any of Enfield's regulations that conflict with this, are subject to being declared null and void. He stated it is a case-by-case basis. He noted if on a particular lot, somebody came in and said they wanted to do something, they could argue based on the new law they're entitled to do something because it conflicts with the Town's regulation.

Chairman Ludwick stated Enfield is providing affordable housing, and Enfield is committed to providing affordable housing all over town.

Councilor Riley questioned how blight would be handled in the case of a blighted ADU. She went on to state they should trust Planning & Zoning when they had a unanimous vote on this. She feels Planning & Zoning is going to do what is right for the town.

Ms. Whitten stated she's not sure if there's anything in Enfield's zoning regulations that would become null and void.

Ms. Whitten stated part of the Act requires the town do a five-year housing plan and housing study, which they will have to show affordable housing promotion. She noted they will be doing that regardless.

Chairman Ludwick closed the Special Meeting at 6:59 p.m.

Sheila M. Bailey
Town Clerk
Clerk of the Council

Respectfully Submitted,
Jeannette Lamontagne
Secretary to the Council