

# **Summary of Zoning Board of Appeals Review of Proposed Senior Housing Zoning Code Changes**

July 21, 2017

Board of Trustees,

On June 22 and July 13, 2017, the Hastings on Hudson Zoning Board of Appeals (ZBA) discussed proposed changes to the Village of Hastings on Hudson's Zoning Code, hereafter referred to as the Zoning Code.

Unanimously, the ZBA does not support the proposed local law being considered by the Board of Trustees as it is currently written. It permits densities too great to be comfortably and appropriately accommodated within the affected residential neighborhoods, and the increased heights would permit buildings that are out of character, permanently changing the nature of the Village.

There are viable alternatives to promoting senior housing within Hastings on Hudson, ones that do not risk of changing its fundamental nature. This memo, which represents a summary of the ZBA's feedback and recommendations, captures these alternatives.

## **Summary:**

- The Board of Trustees should use the Gateway Cluster Overlay (GCO) and the zoning code language that governs it as the basis for the senior housing code changes. Development should be permitted only on lots of four or more acres within the GCO.
- This would encourage senior housing development that achieves many if not most of the goals outlined in the 2011 Comprehensive Plan.
- It also would enable the Village to preserve its fundamental character, especially in the R-10 and R-20 districts.
- Special Use Permits should be granted exclusively by the Zoning Board of Appeals.
- Maximum building heights in these clusters should be consistent with the maximum heights already in place for single-family homes.
- The Board of Trustees should define the types of senior housing to become permissible in the Village more specifically than the State of New York provides. The goal here is to retain the flexibility and authority to accommodate housing solutions that are unique to the Village's needs and goals and not risk an undesirable change in the State's definition that would subvert those goals.
- The ZBA recommends an increased oversight role for the Architectural Review Board, whose guidance would help new senior housing remain in keeping with the architectural identity of neighboring homes. This could be accomplished by requiring an advisory review by the ARB during the site plan/special permit process as is now done in the CC District.

- Given the likely need for significant re-writing of the proposed code changes, the ZBA requests time to review and provide comment on the next draft prior to the Board of Trustees voting to enact it.

### **Detailed overview:**

The ZBA's approach: To ascertain the Village's goal for accommodating increased senior housing, the ZBA referred to Chapter 8, Quality of Life, Strategy 1.6 of the 2011 Comprehensive Plan. Though it leaves room for interpretation, this strategy calls for accommodating a relatively modest increase of up to 60 seniors in the Village. The ZBA anchored its position around this number while allowing for a modest increase above that threshold. The ZBA then evaluated the proposed language's ability to achieve this outcome. At the same time, the ZBA remained mindful of its duty to preserve the Village's character, which includes such things as a development's bulk, massing, height, and density. This duty is established in the first of the State of New York's five factors for evaluating an applicant's request for a variance: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

What follows is not specific rewording of the proposed zoning language, but rather guiding principles with which to evolve it.

Utilizing the Gateway Cluster Overlay: To achieve this balance of a senior housing capacity goal and maintaining Village character, the ZBA recommends that the Board of Trustees apply the Gateway Cluster Overlay, as described in section 295-85.1 of the Zoning Code, as the basis for the proposed senior housing amendments. That's because the large tracts of land identified in the GCO represent the most developable areas that could achieve the Comprehensive Plan's goal of increasing senior housing while giving it the best opportunity to preserve the Village's character. Within the GCO, the ZBA recommends that senior housing clusters only be permitted on lots of four or more acres. The methodology for relating the density to the underlying zoning district density would have to be determined, but there should be a relationship.

By contrast, the current draft of the proposed senior housing language provides for a significantly larger increase in senior housing inventory than specified in the Comprehensive Plan. The proposed combination of 40 beds per acre on as little as a two-acre plot and structures up to 40 feet high would result in buildings that are not in keeping with the Village's character, especially in the single-family R-10 and R-20 districts. That is why the ZBA does not recommend this approach.

Special Use Permitting should remain the ZBA's responsibility: Because section 295-86 vests the authority to grant special use permits with the ZBA, and because the considerations for granting these permits are similar those that govern the granting of area or use variances, and because in practical terms it does not make sense for two different boards to grant a special permit, the ZBA recommends that it continue to be the sole board to review and grant special use permits.

Maintaining consistency of new senior housing development: To maintain consistency with the structures within the existing subdivisions, any new senior housing developments within the GCO should abide by the underlying district's existing zoning requirements for building height, and there should be a formula to relate the density to the underlying zoning. The buffer setbacks

of the GCO should also be applied. The ZBA expressed specific concern regarding the proposed maximum building height of 40 feet. It's too high.

In addition, the ZBA recommends an increased oversight role for the Architectural Review Board (ARB) in the review and approval of new senior housing structures. The ARB's guidance will help new senior housing remain in keeping with the architectural identity of the surrounding homes. This could be accomplished by requiring an advisory review by the ARB during the site plan/special permit process as is now done in the CC District.

Precise definitions of senior housing: The proposed zoning code changes refer to existing State of New York definitions for things such as Assisted Living. To avoid subjecting the Village to undesirable changes in the State's definition and to maintain a clear line of sight to the Village's goal of increasing housing options for seniors, the ZBA recommends that the Board of Trustees devise its own definitions. For example, the Board of Trustees could indicate that the Village's definitions match those of the State of New York as of July 2017.

Conclusion: The Board of Trustees enacted the GCO to preserve the natural and scenic qualities of large tracts of land that are found within the Village's Gateways along major roadways. This has given the Village the ideal tools with which to achieve its goals of increasing senior housing options while at the same time maintaining its character. By comparison, the proposed zoning code language risks fundamentally eroding that character. That's because allowing the development of even one facility that would accommodate 80 or more residents in a single structure would result in the creation of something that would look to many like a mid-size hotel in districts zoned for single family housing. Thankfully, the Village's foresight led to the zoning of the GCO, and the ZBA recommends that the Board of Trustees use this tool to meet what we all agree is a noble objective while helping guide this change in a responsible way, reflecting our collective role as stewards of the Village for future generations.

The Zoning Board of Appeals looks forward to reviewing the next draft of this proposal.

Respectfully submitted on July 21, 2017.

*Matt Collins*

Matt Collins, Chairman, Hastings on Hudson Zoning Board of Appeals