



OFFICE OF BOARD OF SELECTMEN  
**TOWN OF NORWELL**

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To the Residents of Norwell:

The Board of Selectmen has received numerous communications from residents relative to the proposed 40B Affordable Housing project off of Prospect Street.

The Board of Selectmen does not support the proposed project. Unfortunately, we cannot stop it. We've funded a lot of legal efforts to fight it, and were successful in getting the second/back part of the development blocked. Unfortunately that still leaves the front section that abuts Prospect Street and Simon Hill Road. And it has evolved from a bad to a worse project despite our efforts to stop the developer from being allowed to make so many and such significant changes, i.e. from a smaller number of condos to a much larger number of apartments.

The underlying problem here is that the 40B legislation limits our ability to ward off these types of developments even when they are entirely out of keeping with our community and will strain our resources. Based on the communications that we have received, we do not believe that many of you are aware of some of the specifics of the complex Chapter 40B legislation:

First, the ZBA, which is the only permit granting authority under Chapter 40B, cannot deny a permit outright unless a town has at least 10% of all housing units on the official Subsidized Housing Inventory. We are a long way from this. Consequently, the ZBA has to permit something.

Second, the ZBA can place conditions and requirements on many aspects of the project, including height, density, site plan and utility improvements, PROVIDED these conditions do not make the development economically unfeasible for the developer. That proviso, de facto, works very strongly in the developer's favor.

Third, the developer/applicant may appeal the ZBA's decision to the State Housing Appeals Committee (HAC). This is what happened with the first project proposed by the Simon Hill developer. In that case, the HAC supported the town's position that the second/back parcel of the original proposed Simon Hill project should not be permitted due to the inability to get public safety equipment to those homes. However, the permitting for the front parcel was largely ok'd by HAC in accordance with the developer's wishes.

Our expectation is that the ZBA will permit something with many conditions and that the developer will object to lots of these, claiming they make the project uneconomical. We further expect that the matter will again be appealed to HAC. We will then put forth as strong a case to HAC as possible.

The issue of what is "uneconomic" is difficult for the town. The individual conditions or the conditions as a whole can be ruled uneconomic. And any project where the ZBA decreases the number of units by more than 5% is automatically deemed "uneconomic." If the ZBA's permit is deemed uneconomic, the town then has the burden to prove that the seriousness of a condition outweighs "the regional need for Affordable Housing." Towns have rarely been successful in meeting this burden of proof--probably less than two dozen times throughout the state. (Norwell has actually been one of the most successful, having accomplished this three times. One of those was the denial by HAC of the back parcel at Simon Hill, where the life-threatening public safety issue met this standard.)

In sum, there is little that the Selectmen can do besides fund the significant legal costs incurred to try to stop/mitigate the Simon Hill proposal. Past efforts to talk with the developer about a less damaging project have been unsuccessful. This developer has pursued or is pursuing multiple 40B projects in town and has been consistently difficult to work with.

We truly wish there was a way for the Selectmen to do more. We expect the ZBA's conditions will address the many legitimate concerns about this development and we will support them at HAC in every possible way.

Norwell Board of Selectmen