

(508) 906 - 3027

TOWN OF MEDFIELD

Office of the

Board of Appeals on Zoning

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

March 12, 2020

No. 1385

BACKGROUND

1. On April 5, 2017, County Estates of Medfield, LLC (the "Applicant") was issued a comprehensive permit by the Board authorizing the construction of forty-eight (48) home-ownership units on property located at 21, 25 and 29 Hospital Road, Medfield, Massachusetts (the "Property").
2. The Board's decision was based upon a plan set containing five (5) separate architectural building types, labeled Building Type A (three bedrooms), Building Type B (four bedrooms), Building Type C (three bedrooms), Building Type D (three bedrooms) Building Type E (four bedrooms) and Building Type F (three bedrooms). Building Types A through E had a final revision date of May 20, 2016, while Building Type F has a final revision date of December 6, 2016. Each unit type was approved to have two and one-half bathrooms.
3. MassHousing issued Final Approval for the Project by letter dated September 15, 2017.
4. The Applicant submitted the same floor plans to MassHousing for Final Approval that were approved by the Board. The Applicant did not note any change in the number of bathrooms for the affordable units in its narrative for the Final Approval.
5. The Final Approval issued by MassHousing does not address the disparity in bathrooms between the market rate units and the affordable units.
6. From November 16, 2017 through March 29, 2018, the Applicant applied for, and was issued building permits for thirteen (13) affordable units. The Applicant did not inform the Building Department of the change in the number of bathrooms.
7. Occupancy permits for eight (8) of the completed units have been issued, and such units have been sold and are currently occupied.
8. Five (5) affordable units remain unconstructed. On December 5, 2019, the Medfield Building Inspector issued a stop work order on the unconstructed units, because the Applicant failed to obtain a modification of the comprehensive permit to approve the change in the floor plans to reflect the proposed reduction in the number of bathrooms for the affordable units.

9. On January 30, 2020, the Applicant submitted a request for a modification pursuant to 760 CMR 56.05(11), seeking to reduce the number of bathrooms for the affordable units only to one and one-half (1 ½) for each three (3) bedroom unit and two (2) for each four (4) bedroom unit. The Applicant seeks to apply this requested modification to both the completed and sold units, and to the remaining unconstructed units.
10. At its February 12, 2020 meeting, the Board was advised that the reduction in the number of bathrooms for only the affordable units was an issue of programmatic concern within the jurisdiction of the Subsidizing Agency. The Board requested that the Applicant either confirm that MassHousing either was aware of the proposed bathroom reduction for only the affordable units at the issuance of Final Approval or that irrespective of its awareness at Final Approval, whether MassHousing supports the difference in bathroom counts for the affordable units only.
11. At the February 12, 2020 meeting, the Applicant agreed to extend the time for the Board to determine whether the proposed modification constitutes a substantial change to March 13, 2020.
12. At the Board's March 12, 2020 meeting, the Applicant submitted a letter from MassHousing that did not address the issue of whether MassHousing was aware of the proposed bathroom reduction at the time Final Approval was issued, and which did not indicate whether MassHousing considered the reduction in the number of bathrooms for the affordable units only to be an issue of programmatic concern.

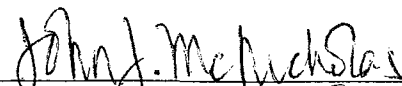
DECISION


The Applicant has submitted a modification to reduce the number of bathrooms for the affordable units only, while leaving the number of bathrooms for the market-rate units unchanged from the approved plans. The Board expressed significant concerns regarding the implications associated with treating the affordable units in a manner so substantially different from the market-rate units. Because the Board was not provided information that such differential treatment had been acknowledged and approved by the Subsidizing Agency, the Board determined that it lacked sufficient information to determine that the proposed modification was not substantial. Accordingly, the Board made the determination that the proposed modification constitutes a substantial modification pursuant to 760 CMR 56.05(11).

RECORD OF VOTE

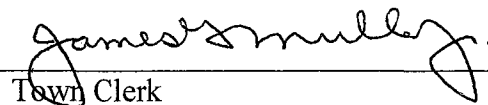
The Board of Appeals voted 3-0, at its administrative meeting on March 12, 2020, to determine that the Applicant's proposed modification constitutes a substantial change pursuant to 760 CMR 56.05(11)(a).

Signed:



Dated: March 12, 2020 

Filed with the Town Clerk on
March 12, 2020


Town Clerk