

**NORTH SALEM TOWN HOUSING BOARD  
MEETING MINUTES**

**January 20, 2010, 6:30 p.m.  
Delancey Hall**

**Members Present:** Michael Palma  
William Monti  
Lori Ferguson, Co-Chairperson  
Anthony Navarro, Co-Chairperson

**Member Absent:** Janet Capolino

**Others Present:** Mary Elizabeth Reeve, Town Board Member  
Janice Will, Secretary

**Approval of December 14, 2009 Meeting Minutes**

***Motion by:*** William Monti  
***Seconded by:*** Michael Palma

***Minutes unanimously approved.***

**Application Fee for MIH Units for Sale**

Chairman Anthony Navarro said he felt an application fee of \$50 would be reasonable, and he mentioned that a letter must be sent to the Town Board requesting this addition to the Standard Schedule of Fees.

It was agreed that Mr. Navarro and Lori Ferguson will collaborate on a memo to the Town Board.

Michael Palma asked if the expense of advertising could be recouped from the property owners.

Lori Ferguson commented that this would still be cheaper than paying a realtor.

Mr. Palma said the THB might be able to arrange to get this reimbursement at closing.

Mr. Navarro asked if they should seek the total cost of advertising or the difference between what is collected from application fees and the total.

Mr. Palma said he thought the seller should pay all advertising costs, or maybe up to a maximum of \$500.

William Monti said this would require a change to the local Ordinance.

Liz Reeve suggested that perhaps it could just be put into the contract, but Mr. Navarro said it would be better to include it in the Ordinance.

***Ms. Ferguson and Mr. Navarro to write to the Town Board requesting an application fee of \$50 for MIH units being sold.***

### **Application Review**

Mr. Palma suggested the applications for 5 Livery Lane could be handled the same way the THB reviewed applications for a recent rental in Croton Falls.

Mr. Monti suggested the members review the applications separately and then hold a meeting to discuss them.

### **Credit/Background Checks**

Mr. Navarro said credit check information could be gotten from an applicant's mortgage bank; if applicants get mortgage pre-approval, a credit check will already have been done.

Ms. Ferguson asked if the THB will do background checks, adding that the Peach Lake cops do.

Mr. Palma asked who would determine what information is used.

Mr. Navarro commented that the house will be owned by the purchaser, subject to the THB's moderate-income-housing rules. He said he did not know how much more responsibility the Board should take on.

Mr. Palma said he considers it the THB's responsibility to make sure the Ordinance is adhered to, and they also set the price and eligibility requirements.

Mr. Navarro said those are minimum requirements.

Mr. Palma said he thought that was the extent of their responsibility, and it should not be up to them to check applicants' credit, etc.

Mr. Navarro agreed, adding that it might be different if the Town owned the property. He said he wasn't sure that even banks do background checks. He said in his experience in commercial real estate, not much information is turned up/a lot gets by.

Mr. Monti commented that it would also cost the Town money to conduct credit or background checks.

***The Board agreed that the Town Housing Board will not undertake credit or background checks of applicants to purchase the house at 5 Livery Lane.***

## **Proof of Intent to Sell Other Property**

Mr. Palma said the Board should require at least a signed contract.

Mr. Navarro said a closing statement would be better, because contracts can fall through.

Mr. Palma noted that in order to produce a closing statement, an applicant would have to be without a home for a period of time. He said he thought a signed contract would be adequate.

Mr. Monti agreed, adding that the Board only needs to know of the applicant's intent to sell other property.

Mr. Palma said the Ordinance states that that an MIH unit-owner may not own another home.

Mr. Navarro said perhaps they could accept a contract at first, with the expectation that a transfer deed will be produced later on. He added that such a situation would require monitoring, and he asked if an applicant could purchase and move into the house before the sale of their other property was completed.

Ms. Ferguson didn't think so, stating that then that applicant would own 2 properties.

Ms. Reeve commented that requiring a closing statement would shorten the list of applicants to those who do not already own homes.

Mr. Palma said that would be unfair to someone with a co-op or very small house, commenting that the Town's MIH Ordinance is not aimed solely at people who don't own a home.

Mr. Navarro said if the purchase of the MIH unit is conditional upon the sale of other property, the Board would know that.

It was commented that the owners would probably not agree to such a contract stipulation.

Ms. Ferguson suggested instituting a monthly penalty for purchasers who have not closed sale on their other property.

Mr. Navarro said the Ordinance aims to prevent "land barons" from acquiring MIH units.

Mr. Palma pointed out that escrow would be needed to enforce a penalty.

Mr. Navarro suggested the Board start by requiring a signed contract for sale of other property.

Mr. Palma commented that the seller might not want to take a chance on a buyer needing to sell another property.

Mr. Navarro said the buyer might own a small condo outright and not need to sell it in order to purchase the house. He said did not want to see the Board to set themselves to try and do something impossible.

Ms. Ferguson commented that the issue may not even come up, and Ms. Reeve added that the issue could be re-visited if necessary.

***The Board agreed that a signed contract would be accepted, initially, as proof of intent to sell other property.***

### **Make-up of Family of 3**

The secretary was visited by a married, pregnant woman who wanted to know if her pregnancy would qualify her and her husband as a family of 3 (minimum family size eligible).

***The THB agreed that these applicants would qualify.***

### **Rules/Regulations Requirement of 10% Deposit within 10 Days**

Mr. Navarro stated that it is not usual to make a deposit before signing a contract, and he asked who the check would be made out to/who would hold such a deposit.

Mr. Palma thought it would be payable to the seller.

Mr. Monti said it should be held in escrow by Roland Baroni, attorney for the Town.

Ms. Ferguson suggested speaking to Mr. Baroni about the 10% deposit requirement.

Mr. Navarro agreed, adding that it would not be appropriate to make the check payable to the Town because the Town does not own the property.

Mr. Palma said he would not want to make the deposit check payable to the Town if he were the purchaser.

Mr. Navarro said he thought the deposit requirement might only apply to rentals. He said that normally a deposit of 10 to 20% is made at contract and held by the seller's attorney.

Ms. Ferguson and Ms. Reeve both felt it would not make sense to pay a deposit before signing a contract or even seeing the house.

Ms. Ferguson asked if they might require a deposit of 1% within 10 days of acceptance of the THB's offer to buy the house.

Mr. Monti pointed out that the section of the Rules/Regs dealing with the deposit states that it applies to both rentals and purchase. He commented that 10% would have been a somewhat smaller amount in 1994 (year rules/regulations were adopted).

Ms. Ferguson stated that all qualified candidates should be given an opportunity to see the house before being given 10 days to accept.

Mr. Monti said the deposit might have made sense when the seller was Toll Brothers, the developer of Salem Chase.

Mr. Navarro said it would be unfair to the buyer now.

Mr. Palma said no buyer's attorney would allow them to do this, and he agreed that all eligible applicants should be shown the house.

Ms. Reeve said she thought requiring notice of acceptance of the offer within a maximum of 10 days was reasonable.

Mr. Palma said he thought requiring a signed contract in 10 days would be reasonable.

Ms. Ferguson pointed out that the first applicant could decide, after seeing the house, that they do not want to purchase it.

Mr. Palma said all the eligible applicants should be shown the house before being notified of their place on the list. Then, it will be reasonable to accept the Board's offer within 10 days.

Mr. Navarro thought the approved applicant would also need time to have the house inspected before signing the contract.

Ms. Ferguson expressed concern about slowing down the process, and she pointed out that not everybody will want to have an inspection.

Mr. Navarro said the bank will require an inspection, and Mr. Palma added that water testing is required also.

Mr. Navarro said the point of the Rules and Regulations is for the THB to move the process along in a timely manner. He suggested asking Roland Baroni about the 10% deposit requirement.

Ms. Ferguson agreed, adding that the THB should say that what they want is a signed contract within 10 days of acceptance, at which time a deposit of 10% or more is to be put down.

### **Showing the House**

The secretary explained that her husband is a realtor with Houlihan-Lawrence/Somers, and he would be willing to host a showing of the house at no cost to the THB.

It was generally agreed that qualified applicants should be able to see the house on a weekend day soon after their applications have been check for eligibility.

Ms. Ferguson said she will arrange to get the house keys from the owners when the time comes.

Mr. Monti suggested inviting the sellers to be present when their house is shown to the applicants.

***The THB agreed to have Chris Will oversee one showing of the house to all eligible applicants.***

### **Purchase Offer**

Mr. Navarro asked if the eligible applicants will be informed of their ranking before they see the house.

Mr. Palma said they should know.

Mr. Navarro stated that once the Board approves an applicant, the applicant makes an offer to the owners, adding that the THB cannot act as brokers. Mr. Navarro said that if the owners do not like the offer, they may reject it, and the purchase opportunity would then be given to the next applicant going down the list.

Ms. Ferguson pointed out that the owners will not know whether a subsequent applicant would offer more or less than the first one.

Mr. Monti said the potential buyers should not be negotiating with the sellers until they want to make an offer, at which time they should turn it over to their attorneys as there will be no realtors involved.

It was agreed that the seller may continue to negotiate with a buyer for a higher price.

Mr. Navarro said it should be left up to the owners to negotiate with one buyer at a time, and Mr. Palma agreed that there is no reason why the buyer cannot negotiate directly with the owners.

Mr. Navarro asked if the seller could call the deal off if the buyer takes too long to close.

Everyone agreed that if the sellers feel a buyer wants too much time before closing, the next applicant on the list will be given the opportunity to make an offer on the house, but there will be no THB-enforced deadline.

### **Upkeep/Modifications/Alterations of MIH Units**

Mr. Palma stated that the homeowners association will insist on exterior maintenance, and the owners will only hurt themselves if they damage the interior.

Mr. Monti said he was concerned about illegal interior modifications to increase its capacity. He thought there should be wording in the deed that the house may not be modified.

Mr. Navarro said the house may be legally modified or upgraded with a building permit, but the property-owners will not profit from the work when they sell the house.

Mr. Palma added that there is no way to monitor what goes on in the house any way.

Mr. Navarro asked if anything needs to be put in writing to the effect that alterations will all be entirely at the expense of the owner, because the THB sets the maximum sale price of MIH units.

Mr. Monti said something should be included, given the dismay of the current owners over the maximum sale price of their house despite the expensive upgrades they made.

Mr. Navarro asked what form this clarification should take; i.e. written notice, deed restriction, etc.

Mr. Monti said this limit/control needs to be acknowledged by the buyers.

Mr. Palma stated that no one knows what the house will sell for in the future, so the buyers should just be informed that eventual sale of the house will be subject to THB regulations for MIH units at the time of the sale, which may not cover the cost of any improvements made.

Mr. Navarro asked what form that message should take.

Mr. Palma suggested asking Mr. Baroni to draft something to be signed by the Town Housing Board.

Ms. Reeve asked if this could be part of a larger document detailing how the process takes place.

Mr. Navarro said that is in the Ordinance, but he asked how it is conveyed to a buyer.

The secretary said a copy of the Ordinance is provided with every application, and there is a statement in the deed that ownership/sale of the house is subject to the Town's MIH regulations as set forth in the Ordinance.

Mr. Monti read from the Ordinance that MIH units must be maintained per the Board's requirements, and any maintenance or alteration requiring a building permit must first be approved by the THB.

Mr. Palma said this should be signed by purchasers.

Mr. Navarro said it should be made a deed restriction so that it comes up on title search.

Ms. Ferguson said the existing, short statement in the deed restriction should be signed off on by the purchasers.

## **Purchase Offers (cont.)**

Ms. Ferguson asked at what time after the site visit the top-rated applicant decides what to offer the sellers, and do they contact the sellers directly? She pointed out that they may not have a lawyer yet.

Mr. Palma said he thought it would be a discussion between the seller and the buyer.

Mr. Navarro said that with pre-qualification, the bank will have to know how much the house is worth, how much will be put down and how much the mortgage will be for.

Mr. Monti asked if the eligible applicants will be informed what their ranking is before the site visit. He suggested they be asked to call the Board afterwards to let them know they are still interested in purchasing the house, at which time they will be told their ranking and the top-ranked applicant will be given the sellers' attorney's contact information.

Mr. Navarro agreed that all eligible applicants should be invited to inspect the house without informing them of their place on the list, especially if the site visit takes place soon after the filing deadline.

The secretary said there is a form letter offering the right to purchase to the top-ranked applicant, with a 10-day deadline.

Ms. Ferguson said she would first wait a week after the site visit for all the eligible applicants to call and inform the Board that they are still interested in purchasing the house, because any loss of interest or failure to call would change the rankings.

Mr. Navarro added that it must be clear to the applicants that the Board must hear from them re their continued interest in purchasing the house.

Ms. Ferguson said then the top-ranked applicant would be offered the right to purchase, they would inform the Board of the offer they intend to make, the Board would relay that information to the sellers, and then the two parties would be left to negotiate the final price.

Mr. Palma and Mr. Monti both felt the Board should stay out of the price offering/ negotiations between the buyer and the seller.

Mr. Monti went on to say that if an offer is rejected, the sellers would inform the Board, who would then offer the opportunity to the next applicant on the list. He stated that the Board should keep out of the money aspect.

Ms. Reeve asked if the Board shouldn't rank the applicants before they see the house.

Mr. Navarro said they will, they just won't inform the applicant of their ranking at that time.

Ms. Reeve expressed concern that applicants might think they were ranked after the site visit.

*(There will be a meeting of the Housing Board at which the applications deemed eligible by the individual Board members who review them will be ranked by the entire Board, and there will be minutes of that meeting for the record. - secretary)*

***The Board agreed that eligible applicants will be invited to inspect the house after the application filing deadline has passed. Applicants must inform the Board of their continued interest within a week of the site inspection, and then they will be informed of their rankings. The (perhaps newly) top-ranked applicant will be invited to bid on the house and given 10 days to accept.***

**Photographs of MIH Unit**

Mr. Monti thought the THB should take photos of the house as a base-line re its condition at the time of sale.

Mr. Palma said the condition of the house doesn't make any difference to the Board. He added that its condition only affects the sale price, which only affects the seller/not the Board or the Town.

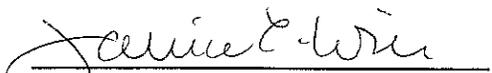
Mr. Monti asked if the THB doesn't have some responsibility for stewardship of the Town's MIH units, seeing that they are kept in saleable condition.

The other members disagreed with Mr. Monti, saying that failure to maintain the house will only hurt the owner.

**Next Meeting: Wednesday, February 12, 6:45 p.m.**

Mr. Monti made a motion to adjourn at approximately 7:45 p.m.

Respectfully submitted,

  
Janice Will, Recording Secretary