

TOWN OF WESTON

TOWN HALL, 11 Town House Road
Post Office Box 378
WESTON, MA 02493-0002

(781) 786-5020 FAX (781) 786-5029



September 23, 2019

JOINT STATEMENT Board of Selectmen Planning Board

Re: Safe Harbor Invocation

On August 19, 2019, the Zoning Board of Appeals (ZBA) opened a public hearing to hear an application from 518 South Ave LLC for a comprehensive permit for the construction of 200 rental housing units under MGL Chapter 40B. During the hearing, Town Planner Imaikalani Aiu presented evidence that the Town has achieved “safe harbor” based on a 1.5 percent land mass calculation as provided for under Chapter 40B. In turn, the ZBA appropriately invoked this 1.5 percent safe harbor to assert and preserve its rights to deny or condition the 518 South Ave application without being subject to overturn by the Massachusetts Housing Appeal Committee.

In prior analyses, including during the Housing Production Plan process and in connection with prior 40B applications, the Town had previously perceived that this 1.5 percent safe harbor had not been met. However, based on further information and consultation with Town Counsel this past July, the Town Planner’s calculations were updated and demonstrated that the Town has achieved the 1.5 percent safe harbor provided under the 40B statute. The Town intends to present and defend this conclusion and the ZBA's invocation of the 1.5 percent safe harbor to the Massachusetts Department of Housing and Community Development and elsewhere, as needed, until the matter is closed.

Because the ZBA's above decision on the 518 South Ave application is under appeal by the developer, and because several other 40B projects in Weston are also pending or under appeal, the Board of Selectmen and Planning Board will continue to limit their comments on these matters, to safeguard the interests of the Town.

Christopher Houston, Chair, Board of Selectmen
Anthony Flynn, Chair, Planning Board