Potential Actions on Housing Issues

New Marlborough Planning Board

Fall 2024

BRPC
Berkshire Regional Planning Commission

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Why Housing?

The New Marlborough Planning Board's purpose and intent is "to review land use, suggest modifications to regulatory and advisory documents, and provide support to advance the following goals:

- Promote New Marlborough's small-town atmosphere,
- Allow for the continuation of traditional settlement patterns in New Marlborough,
- Protect the rural and agricultural environment,
- Protect the Town's natural beauty and habitats,
- Encourage a range of living options for a range of incomes and ages,
- And encourage smart economic growth."

The Planning Board is leading the conversation on housing New Marlborough because housing is wrapped in every one of the Planning Board's goals, even if not obvious at first. Take for example the goal to protect the rural and agricultural environment. This goal makes clear claims on the type of housing that the Planning Board should be prioritizing in the Town. Encouraging a range of living options for a range of incomes and ages is asking the Planning Board to consider the housing mix available for residents within the Town. Even promoting New Marlborough's small-town atmosphere signals the Planning Board to consider ideal locations for housing throughout the community. So why housing? Housing impacts the economic, educational, recreational, agricultural, historic character, natural-beauty, and long-term viability of New Marlborough. A better-informed Planning Board helps produce better informed housing decisions today and in the future.

What is the purpose of this report?

The Town of New Marlborough is at a critical juncture in its story. In 2009, the New Marlborough Comprehensive Plan's Housing Chapter began this way: "New Marlborough's vision for housing includes a range of housing options to meet the needs of the community."[1] Nearly 11 years later in 2020, the Town took a clear actionable step on the Comprehensive Plan's recommendations: a Housing Needs Assessment (HNA). This Assessment produced a set of data-driven recommendations for the Town of New Marlborough to act on housing. In 2024, the Planning Board, in partnership with Berkshire Regional Planning Commission (BRPC), is fulfilling its critical role in compiling a variety of potential actions for addressing the housing needs identified in these past planning efforts. Through these past efforts, data has been gathered, recommendations provided, and now next steps are proposed. At this critical juncture, it is time to review these past planning efforts and then engage in conversations about what comes next.

[1] 2009 New Marlborough Comprehensive Plan: https://www.newmarlboroughma.gov/sites/g/files/vyhlif4771/f/uploads/nm_comprehensive_plan.pdf

What is the goal of this report?

To counteract concerning trends in local housing affordability and development, the New Marlborough Planning Board issued this report to evaluate policies, explore programs, and identify additional housing considerations. This report and the potential actions are an effort to encourage robust housing options at a variety of affordable price points with a focus first on local workforce needs in an effort to keep the Town of New Marlborough thriving for years to come.

How is the report organized?

This report is structured around three categories: Policies, Programs, and Additional Considerations. Within each category there are a variety of defined strategies. Each strategy has an explanation in laymen's terms with more in-depth resources linked in the footnotes, case studies from around Massachusetts, key data related to the strategy and defined next steps for the Planning Board.

What's next?

This report is the result of preliminary conversations between the Planning Board, community members, and the Berkshire Regional Planning Commission (BRPC). None of the actions provided in this report are being recommended to the Town by the Planning Board at this time. However, they are being considered as potential action items. The best way for the Planning Board to begin consideration is by listening to the community regarding these potential actions.

The next step on this report is a public hearing with the Planning Board and community members. This will allow for a conversation to begin on these potential actions and help the Planning Board prioritize where they should focus their efforts moving forward.

Note on the Housing Crisis

An important aspect of the wicked problem of the housing crisis to keep in mind when reading: New Marlborough is not in this alone. The pressures and challenges of the housing crisis are being felt by all 32 towns and cities in Berkshire County, across the Commonwealth of Massachusetts, and the entire United States. For example, the Median Home Price in Massachusetts rose from $285,000 in 2011 to $510,000 in 2021.[2] It has become such a pressing issue that in August of 2024 the General Court passed and the Governor signed a $5.16 billion Affordable Homes Act with nearly 50 new policy initiatives to counter the rising cost of housing.[3] New Marlborough is ahead of the curve in addressing the housing crisis because the Planning Board is thinking about the housing crisis. Not all the strategies in this document will be implemented, but it is a toolbox to pull from as New Marlborough begins to address this issue.

Funding for the *Potential Actions on Housing Issues* was made possible through the District Local Technical Assistance Program administered through Berkshire Regional Planning Commission.

[2] https://www.wgbh.org/news/housing/2022-06-07/housing-is-in-short-supply-in-massachusetts-heres-why-that-matters

[3] https://www.mass.gov/info-details/the-affordable-homes-act-smart-housing-livable-communities

Policy Tools and Levers

Community Preservation Act (CPA)

"The Community Preservation Act (CPA) is a smart growth tool that helps communities preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities.""[4]

How is CPA implemented by the Town? The Town would need to adopt CPA by a ballot referendum in a general election. To place the question of CPA on the ballot, the Town has two options. First, the Town Meeting could vote to put the adoption question on the general election ballot by a simple majority. This is the most common way to place the question on the ballot. A second option is to have a petition signed by at least 5 percent of the Town's registered voters could also request the CPA adoption question be placed on the ballot. Once the question is on the ballot, a simple majority of the votes are needed for adoption.

What happens once a community adopts CPA? If the Town chooses to adopt CPA, it allows for the creation of a locally controlled Community Preservation Committee (CPC). This committee is a five-to-nine-member board that makes annual recommendations on CPA-eligible projects for the Town Meeting's approval. The CPC's recommendations are funded through the Community Preservation Fund. The Fund raises money through the imposition of a surcharge on the tax levy against real property. This surcharge cannot be more than 3%. A surcharge simply means the percentage is only applied to what you pay in property taxes, not your property's actual assessed value. The state then matches whatever funds are raised by the community up to a certain percentage (depending on the year). If the community adopts the maximum 3% surcharged, they are eligible to receive additional matching funds from the state.

How does CPA relate to housing? CPA funding is allowed to acquire, create, preserve, and support community housing for those persons and households whose annual income is less than 80 percent of the area median income (AMI). While housing rehabilitation and restoration of housing is not eligible, it is eligible on units previously created by CPA funds. CPA does require that whenever feasible, adaptive reuse of existing buildings or infill construction is prioritized. More than 11,500 affordable housing units have been creased with CPA funds with an additional 18,000 units supported.

Sample CPA Surcharge

$620,214	Average Single Family Assessed Value
-$100,000	$100K CPA Exemption
$520,214	Subject to CPA Surcharge
$3,880.80	Property Tax Subject to CPA ($7.46 x $520,214/$1,000)
$38.80	Annual Surcharge of 1% ($3,880.80 x 1%)

What would be the implications for taxpayers? Looking at regionally comparable communities, it is safe to assume the surcharge on the tax levy on real property would be set at 1%.[5] In addition, assumed exemptions include owner-occupied property of low- to moderate-income households, low- to moderate-income senior households, and $100,000 exemption on all properties.

[4] https://www.communitypreservation.org/about
[5] https://www.sheffieldma.gov/sites/g/files/vyhlif3806/f/uploads/atm_results_5-6-2024.pdf

The Average Single Family Assessed Value in New Marlborough is $620,214. Removing the first $100,000 for the exemption, the homeowner's net value to be surcharged is $520,214. After applying New Marlborough's property tax rate of $7.46 per $1,000 of assessed value, the amount subject to the CPA surcharge would be $3,880.80. **With the 1% CPA surcharge applied, the CPA surcharge for the average homeowner would be approximately $38.80 per year.** This $38.80 would be transferred to the community's Community Preservation Fund by the Town Accountant.[6]

How much money in total could the CPA raise for the Town?

Based on Fiscal Year 2024, New Marlborough would have generated $46,934.74 in CPA funds based on total Assessed Residential Property Value at a 1% surcharge. This is an estimate derived in the following way:

- $723,452,721 is the Total Assessed Residential Property Value in FY24.
- 943 residential properties x $100,000 (standard CPA exemption) = $94,300,000. This Assessed Value Total is NOT subject to CPA surcharge.
- $723,452,271 (Total Assessed Residential Property Value) - $94,300,000 = $629,152,271. This Assessed Value Total is subject to the CPA surcharge.
- $7.46 (FY24 tax rate) x $629,152 (Assessed Value Subject to CPA/$1,000) x = $4,693,473 (Total Tax Bill Subject to CPA Surcharge)
- $4,693,473 x 1%[7] = $46,934.74. This is the total amount of funds CPA would raise for the Town at a 1% surcharge rate.[8]

Case Studies

Right here in Berkshire County multiple communities have seen success with funding affordable housing efforts with CPA funds. The Cable Mills housing project in Williamstown is a prime example. Three historic mill buildings were converted to affordable housing. The adaptive reuse development will create 82 units of housing total with 13 of those being affordable housing.

In Hamilton, Massachusetts, the Town's first CPA-funded affordable housing project was converting the town's former fire station into apartments. Three years of planning and five months of construction created four units of affordable and accessible housing. The units are rented to individuals that have income below 30% of the Area Median Income. The renovations maintained the historic building for a total of $1.2 million, $180,000 of which were CPA funds.

Stockbridge has a similar community profile as New Marlborough with the Average Single Family Assessed Value at $775,000 and $7.37 tax rate per $1,000 of assessed value. However, their CPA surcharge was 3%. In FY23, this resulted in $223,631 in Total Surcharge Revenue and a match from the state of $218,589 for a total of $442,220 for their CPC to allocate within the Town in FY23.

Next Steps

Step 1) Host a series of honest conversations with Town-related entities that would be directly impacted by CPA funding and the associated property tax. This includes, but is not limited to, the Conservation Commission, Cultural Council, Historical Commission, Housing Committee, Planning Board, the Accounting Office, the Town Clerk, the Town Treasurer, and a range of property owners. These

[6] A CPA surcharge of 2% would result in $77.61 per year for the average homeowner, while a CPA surcharge of 3% would result in $116.42 per year for the average homeowner.

[7] A 2% surcharge would produce $93,869.46 and a 3% surcharge would produce $140,804.19.

[8] This does not take into consideration the exemptions for owner-occupied property of low- to moderate-income households and low- to moderate-income senior households

conversations should focus on the potential adoption of CPA, not necessarily the details such as the amount of the surcharge. A positive outcome would be an understanding of the desire for the fund and any potential projects that could be pushed forward with those funds. Even if those conversations result in a lack of desire for CPA, that would still be positive in that the Planning Board would know additional funding sources would need to be pursued.

Step 2) If the conversations produce positive feedback about potentially adopting CPA, the Planning Board should work with the Community Preservation Coalition[9] in discussing next steps for getting the CPA on the Town Meeting Warrant and begin planning for a campaign to promote adoption. If the conversations produce an overall negative response, the Planning Board should look for other options for financing local housing initiatives until those concerns are addressed.

Property Tax Policy

In addition to CPA, the standard method to raise funds for housing initiatives is through allocations from the Town's annual budget. The Town of New Marlborough's budget, along with nearly every other city and town in Massachusetts, relies on property taxes as the chief source of revenue to provide vital services and infrastructure. However, property taxes can also impact development patterns within communities.

How do property taxes affect housing policy within a community? The way property taxes are raised greatly affects who contributes a larger (or smaller) share of their income to taxes in the Town. According to the Massachusetts Budget and Policy Center, low- and moderate-income households tend to pay a larger portion of income in property taxes than those with high incomes. This contributes to an overall regressive tax policy which places a larger housing cost burden on low to moderate income households, effectively pushing them out of the housing market all together.

How can property taxes be adjusted to ease this burden? There are a variety of programs that could shift the tax burden away from low- to moderate-income households to lessen housing cost burden within New Marlborough.

- Residential Tax Exemptions: The Town of New Marlborough may vote to exempt from taxation a certain sum of the assessed value of each owner-occupied residential property. This is the Residential Tax Exemption (RTE). The amount to be exempt is a percentage chosen each year by the Town (up to 35%) of the average assessed value in the Town. Instead of shifting the tax responsibility to commercial or residential properties like the example above, this shifts the tax responsibility within different classes of residential property. In addition, it does not change how much the Town will raise through property taxes, as the Town will have to increase the tax rate on the non-exempt assessed value to raise the same amount of funds. Instead, according to the Division of Local Services, "granting the exemption raises the residential tax rate and shifts the residential tax burden from moderately valued homes, to apartments, summer homes, and higher valued homes." This property tax policy is primarily used on the Cape and in the communities surrounding Boston. This would be the most effective, first-step option for the Town of New Marlborough.

- The Expanded Residential Tax Exemption: The concept is the same as the Residential Tax Exemption listed above. However, it includes the ability for a property owner to claim the exemption if the property is occupied by a full-time renter, even if the owner does not live in

[9] https://www.communitypreservation.org/

Town. Thus, it encourages property owners to invest in some sort of rental opportunity on their property and to prioritize full-time renters instead of short-term rentals. This was first successfully accomplished in Provincetown but would need approval by the Massachusetts General Court. However, the Affordable Homes Act passed by the General Court in August 2024 may allow communities designated as "seasonal communities" to do this without General Court approval. However, officially guidance on this matter is pending EOHLC action as of September 2024.

- The Affordable Housing Property Tax Exemption: This exemption is for residential unit owners who rent units to income-qualifying persons at affordable rates on a year-round basis. The applicant must be the owner of the residential property. However, the "income-qualifying tenant" is one whose annual gross income is within 200% of the Area Median Income (AMI). The Town can set a lower income ceiling as well. An affordable rate of rent means that the tenant household is not spending more than 30% of the household's gross income on housing costs (rent, utilities, etc.). The tax exemption is only allocatable to the unit being long-term rented. This means if a property has three units and only one is being rented for a long-term rental, then only a third of the total tax obligation is exempt. Building ADUs or additional long-term rental units on a property can be expensive. This could incentivize property owners to offer their current short-term rental units for long-term rentals for the tax benefit.

How would the Residential Tax Exemption (RTE) affect taxpayers in New Marlborough?

The U.S. Department of Housing and Urban Development currently defines "Housing Cost Burden" as households who pay more than 30 percent of their income for housing. For homeowners (property taxpayers), this includes monthly mortgage payment, home insurance, and most importantly for this analysis, property taxes. According to the Comprehensive Housing Affordability Strategy (CHAS) and the American Community Survey, 177 homeowners in New Marlborough out of a total 575 (30.7%) are housing cost burden, spending more than 30 percent of their income on housing. Of the 177 homeowners, 99 homeowners spend between 30% and 50% of their income on housing, while 79 homeowners spend more than 50%.

The RTE would most benefit households that are Housing Cost Burden. We can calculate the estimate impact of adopting the residential tax exemption on those households by looking at comparable tax rates, the owner-occupied housing rate in New Marlborough, and using the Commonwealth's Division of Local Services data. Here are the assumptions:

- New Marlborough would adopt a 20% residential tax exemption, which is a comparable rate to other towns in Massachusetts including those on the Cape and Islands.[10]
- The owner-occupied percentage in New Marlborough stays steady at 57.1%, which does not include the 33.6% of housing units for seasonal, recreational, or occasional use, who would not have the exemption.
- The Town's Total Assessed Value subject to property taxes remains stable at $723,452,721.
- The Residential Tax Levy for FY24 remains stable at $5,396,957.

[10] Comparable FY19 Residential Tax Exemption Rates: Barnstable 20%, Brookline 21%, Everett 25%, Nantucket 25%, Provincetown 25%, Tisbury 18%, Truro 20%, Wellfleet 20%.

Based on these assumptions, the following property tax burden would be produced in New Marlborough:[11]

- The Residential Tax Exemption would be $94,199.57.
- The New Total Assessed Value subject to taxes would be $672,730,679.
- To raise the same Residential Levy of $5,396,957, the Town would need a new residential tax rate of $8.02 (raised from the current $7.46).
- With the following Estimated Impact on Residential Tax Bills:[12]

Owner-Occupied Home Value	Tax Bill without Exemption	Tax Bill with Exemption	Change in Tax Bill
$100,000	$746	$46.52	-$699.48
$300,000	$2,238	$1,650.52	-$587.48
$510,000	$3,804.60	$3,334.72	-$469.88
$720,000	$5,371.20	$5,018.92	-$352.28
$930,000	$6,937.80	$6,703.12	-$234.68
$1,140,000	$8,504.40	$8,387.32	-$117.08
$1,349,072.41	$10,064.08	$10,064.08	No change
$1,560,000	$11,637.60	$11,755.72	+$118.12
$1,770,000	$13,204.20	$13,439.92	+$235.72
$1,980,000	$14,770.80	$15,124.12	+$353.32

At current housing market assumptions, a household earning the Area Median Income of $105,700 could afford to purchase a single-family home up to $335,000.[13] This family would save between $469 and $587 on property taxes under a 20% Residential Tax Exemption scheme. In June 2024, the median sales price for a home in New Marlborough was $525,000. A single-family home sold at that price would save between $234 and $352 under a 20% Residential Tax Exemption.

Case Studies

According to the Massachusetts Division of Local Services, communities that have adopted the residential tax exemptions are large cities or town with many nonowner-occupied properties like apartment buildings (Boston & Brookline) and resort communities with many seasonal residents (Provincetown & Wellfleet). The Town of Tisbury explicitly identifies the purpose of their residential exemption is to "reduce property taxes for year-round residents, particularly those with modest homes." Tisbury's FY19 Residential Tax Exemption Rate of 18% produced an Average Single-Family Homeowner savings of $1,511.

Next Steps

Step 1) The Planning Board should engage the Board of Assessors, Capital Planning Committee, Council on Aging, Finance Committee, Housing Committee, and the Select Board on conversations about the Residential Tax Exemption to gauge how this type of property tax change would affect their work and help meet their goals.

Step 2) If the conversations produce a positive result, the Planning Board should work with the Select Board on moving forward a motion to adopt a Residential Tax Exemption for the upcoming fiscal year.

[11] At 35% RTE, the Exempted Value would be $164,849.25 with a tax rate of $8.50. At 10% RTE, the Exempted Value would be $47,099.79 with a tax rate of $7.73.

[12] Calculations made here: https://dlsgateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=Analysis.ResExemptionCalc

[13] This market assumptions are as follows: 5% downpayment, 7.1% 30-YR Mortgage, PMI=.5%, Home Insurance - $2,400, no HOA fees, and FY24 New Marlborough Property Tax Rates.

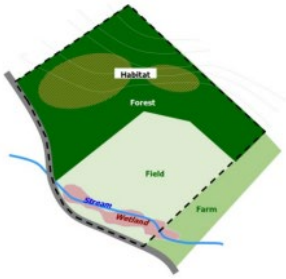
Zoning Bylaws

At its very core, the purpose of the Town of New Marlborough's Protective Bylaw (the zoning bylaws) is to provide the Town with all the protections of the GLC 40A and to protect the health, safety, and general welfare of the inhabitants of New Marlborough. Protecting the general welfare of the inhabitants of New Marlborough includes providing accessible and affordable housing for the current and future residents. In this light, the Zoning Bylaws should be protective of the unique character of New Marlborough without providing an undue burden on the development of housing in appropriate setting and design of housing in the appropriate style. An examination of the current Zoning Bylaws and their impact on housing production should be a top priority for the Planning Board.

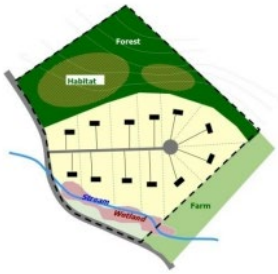
How do the current Zoning Bylaws work? New Marlborough has two zoning districts: The Rural Residential District (RRD) and the Village Center Residential District (VCRD). Attachment A outlines the boundaries and locations of each zoning district. There are six distinct VCRD zoned clusters centering generally around the villages of Clayton, Hartsville, Mill River, Southfield, and New Marlborough Village. The RRD zoning district is generally everywhere outside of these village centers.

The current Zoning Bylaws allow by right Single-Family Dwellings including limited Accessory Dwellings and Accessory Apartments. However, limitations on accessory dwellings include a minimum two-acre lot size and number of accessory dwellings per lot. The limitations for Accessory Apartments include exclusive use in an already existing structure or building with only one accessory apartment per lot.

Multi-family Dwellings are only allowed through Special Permit and are subject to the following key requirements: approval by 4 Town boards, no more than 6 units total, and ambiguous language giving extreme leverage to the Select Board.



Development site with constraints.



Development footprint for 12 homes under traditiona subdivision.

Development footprint for 13 homes as an OSRD.

What Zoning Bylaws changes could be made to encourage housing?
Four zoning changes would allow the promotion of sensible housing development while meeting the other goals of the Planning Board.

1) Open Space Residential Subdivision (OSRD): This was first suggested by the 2009 New Marlborough Comprehensive Plan and compliments the goals of the ongoing 2024 Open Space and Recreation Plan. See Attachment B for example Bylaw language.
    a. Density: Allows minimum lot dimensions that are less than those available under the Town Residential Zoning. Requires at least 50% of the total site be conserved as open space – also requires that a majority of the open space be contiguous.
    b. Uses: Agriculture, single-family attached and detached residential, trails and recreation
    c. Where does it apply? Applies to large developments (5+ potential homes) outside of village center areas.
    d. How does it work? OSRD allows smaller lot sizes in exchange for the developer providing a minimum percent of the total sit as permanently protected contiguous open space (can include agricultural lands). A density bonus is typically offered as an incentive to the developer to select this option such as an

additional number of units onto the maximum units per acre allowed in relation to the percent of open space preserved.

e. What does this accomplish?
   i. Preserves connected open space
   ii. Retains connected habitat areas
   iii. Conserves open space
   iv. Less roadway = less impervious surface (stormwater and water quality benefits)

Vacant Lot in Village

Rural-style Infill in Village: *This house has a large up-front garage, prominent and long driveway, a deep setback, and a more modern feel than other homes in the village.*

Compatible Infill in Village: *This house fits the architectural style and setbacks of the surrounding homes.*

2) Updated Village Center: This was first suggested by the 2009 New Marlborough Comprehensive Plan. See Attachment C for example Bylaw language.

a. Density: Maximum frontage of 100 feet and minimum lot size of a half-acre. Average lot sizes of current vacant lots the developed areas of villages are approximately 0.8 acres.

b. Uses: Residences, apartments, offices, small-scale commercial, schools, civic uses, and mix-use development to support live-work opportunities.

c. Where does it apply? Village Center Zoning would apply to the existing five villages of the town. Ultimately, the boundaries will be finalized through the process of bylaw drafting and adoption and the zoning map amendment process. The boundaries for this district should include the current village area and a reasonable additional growth area immediately around the existing village.

d. How does it work? The zone district would allow for smaller minimum lot sizes and a wider range of uses. Village Center Zoning tailers the development requirements to match the patterns and style of existing town centers. This work would be supported by the development of village center design guidelines.

e. What does it accomplish? This zone district will help retain the character of the villages and enhance their role as center of economic and civic activity for the town.

3) Backlot Development Bylaw: This was first suggested by the 2009 New Marlborough Comprehensive Plan. See Attachment D for example Bylaw language.

   a. Density: Allows for a back-lot development alternative to traditional Approval Not Required subdivisions.
   b. Uses: Single-family detached dwellings, accessory dwellings, open space, conservation areas, and agricultural.
   c. Where does it apply? Applies to backlot development on a tract of land or contiguous tracts of land under common ownership or control.
   d. How does it work? A Backlot Development Bylaw allows the Planning Board to grant a special permit for a second home to be built on a shared driveway with the rural view protected by conservation restriction along the road frontage.
   e. What does this accomplish?
      i. Preserves connected open space along roadways
      ii. Retains connected habitat areas
      iii. Conserves open space view from roads
      iv. Reduce the number of curb cuts on existing roads

4) Conversion Bylaw: See Attachment E for example Bylaw language.
    a. Density: Allows for more density in either zoning district.
    b. Uses: Single-family detached dwellings
    c. Where does it apply? Ideally would apply in both zoning districts but would meet the Rural Residential District development pattern best.
    d. How does it work? It would allow for homes built before a specified date on 3 acres to be converted to a two-family home, and those on 5 acres to be converted to up to three-family home.
    e. What does it accomplish:
        i. Maintains the existing housing footprint while increasing density
        ii. Preserves open space
        iii. Reduces the number of curb cuts on existing roads while increasing density.

Case Studies

Hopkinton, Massachusetts has Interstate 495 running right through the middle of Town. Despite this, the people of Hopkinton are passionate about preserving the Open Space they maintain in Central Massachusetts. The Open Space and Landscape Preservation Development Zoning District allows the Town to do just that. The Old North Mill housing development took advantage of this innovative zoning technique. The Total Parcel size started as 100.11 acres. Under the Open Space and Landscape Preservation Development Zoning District, 34 lots were developed with 51.99 acres preserved and protected as open space. If conventional zoning had been in place, the parcel would have produced 59 lots, but not preserved any open space.

In addition, nine-approved lots were not built, rather an additional 20.24 acres of land was donated to a local land trust. The tax benefits of this donation enabled the developer to build fewer lots while still earning a profit. All of the parcel's wetlands were placed in the protected open space, which maximized the amount of connected habitat preserved. Public access to the open space was also guaranteed through a parking lot and a trail network.

Further incentives to the developer included a reduction in road width and absorbing road shoulders for sheet flow. Flexible design in collaboration with the Town allowed minimal grading, cutting, and filling by adapting the location and placement of structures to the existing topography. The one downfall to Hopkinton's approach to the Open Space Residential Subdivision Zoning is that there is no density bonus, and it is not mandatory under their bylaw. Thus, the homes that are built are very large on small lots.[14]

Next Steps

Step 1) The Planning Board should review the attached draft zoning bylaws and consider how they might be applied and worked into the current Zoning Bylaws. Specific language should be drawn up for those Bylaw changes the Planning Board sees fit to recommend to the Town. This should be done in consultation with Town legal counsel.

Step 2) Once official language has been drafted, standard Zoning Bylaw adoption process should be followed to implement them into the Town's Zoning Bylaws.

[14] More case studies on OSRD can be found here: https://www.mass.gov/doc/green-neighborhoods-open-space-residential-design/download

Programmatic Tools and Levers

The Abandoned Housing Initiative

According to the Attorney General's Neighborhood Renewal Division, the Abandoned Housing Initiative (or Receivership) uses the enforcement authority of the State Sanitary Code to turn abandoned residential properties into safe, habitable homes for the people of the Commonwealth. This program allows Towns the ability to examine on an on-going basis, sites listed as abandoned properties and/or presenting a public health threat and enroll them into the Abandoned Housing Initiative. This program can be used to acquire abandoned or delipidated properties for renovation or demolition/new development for the purpose of adding affordable housing units.

How does the Abandoned Housing Initiative work? Receivership petitions can be brought by effect occupants or by a public agency such as a Town or the Attorney General's Office (AGO). Petitions are commonly brought forward by the AGO in close partnership with the Town. The petition is filed in the appropriate court and asks the court to appoint a receiver to bring the residential property into compliance with the State Sanitary Code. This role is typically filled by an individual or entity with property management or restoration experience. In Berkshire County, the most successful receivership examples have been given to non-profits like Construct, Inc. The Receiver does not work for the Town or the AGO, but instead is an agent of the court.

What happens to the home after renovation? Once the Receiver completes the restoration of the property and passes the final inspections, a final report of the Receiver's expenses is presented to the court. After approving the expenses, the Court gives the residential property owner the opportunity to pay off the entire bill of the Receiver. If that occurs, the Receiver is no longer responsible for the property and the Receiver's lien is discharged. However, in most cases, the residential property owner does not pay the Receiver's final bill. This leads to the foreclosure of the property. The Receiver can then petition the court to either auction off the property or list the property for sale.

What happens to the original homeowner? It is important to note that the Town and the AGO work with the original residential property owner before a petition is ever filed in court. Nearly 80% of distressed properties brough to the AGO through local authorities are resolved before a court filing can be made.

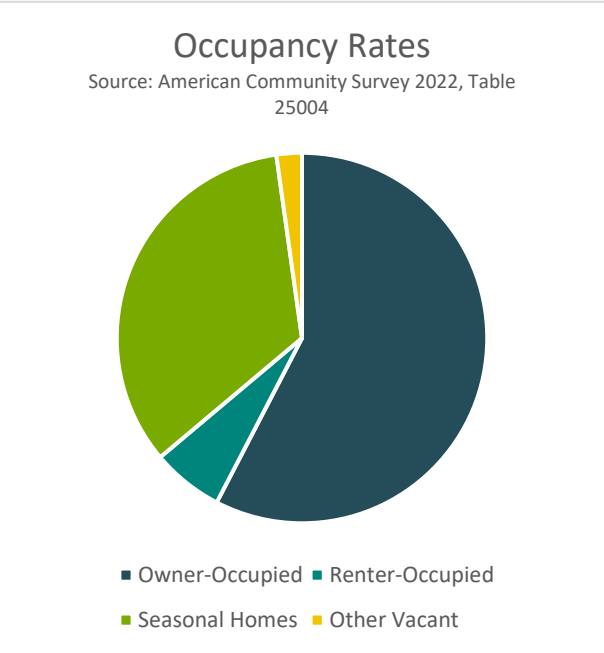
Case Studies

The Town of Becket worked with Construct Inc., a nonprofit provider of affordable housing, through the town's Community Preservation Committee to transition an abandoned building into affordable housing. Through the receivership program, the abandoned property was able to be turned over to Construct Inc. which took over and managed the property's rehabilitation and eventual transition to affordable housing. Construct Inc. then held a lottery for the three-bedroom, two-bath house to be purchased for $250,000 by a first-time homebuyer at 80% or less of the area median income. This program allowed the Town of Becket to bring back onto the housing market an abandoned home to be sold directly at an affordable price for local buyers.

Key Data and Implications

According to the 2022 American Community Survey, New Marlborough had 996 housing units. 631 of those housing units (63.4 percent) are occupied while 365 housing units (36 percent) are vacant. This may be surprising. However, of the 336 vacant housing units, 335 (or 33.6 percent) of those are classified as "For Seasonal, Recreational, or Occasional Use" by the US Census Bureau, or second homes. In

addition, 22 housing units in New Marlborough have been identified as "Other Vacant." This indicates there may be ideal candidates for the Abandoned Housing Initiative. However, it does show that there are housing units being underutilized in some way.



New Marlborough Occupany and Tenure		
	Est.	%
Total Housing Units	996	100.0%
Occupied Housing Units	631	63.4%
Owner-Occupied	569	57.1%
Renter-Occupied	62	6.2%
Vacant Housing Units	365	36.0%
For Rent	-	0.0%
Rented, Not Occupied	-	0.0%
For Sale Only	8	0.6%
Sold, Not Occupied	-	0.0%
For Seasonal, Recreational, or Occasional Use	335	33.6%
For Migrant Workers	-	0.0%
Other Vacant	22	2.2%
Source: American Community Survey 2022; Table 25004		

Next Steps

Step 1) The first step for the Planning Board is to work with the Board of Health to identify any properties that aren't up to the State Sanitary Code and are abandoned. The Board of Health may already have a list established of code-violating properties. The Board of Health should be able to identify which may be ideal candidates for the Abandoned Housing Initiative.

Step 2) After those properties have been identified, the Board of Health should contact the AGO's Neighborhood Renewal Division to begin the process of petitioning and working directly with the residential property owner.

Rehabilitation

A key focus for communities with an older housing stock is to promote programs and funding sources that would rehabilitate or modify housing units within the community. The age of housing stock in New Marlborough is similar to the housing stock age across the rest of Berkshire County and Massachusetts. For example, 0 percent of housing units were built in 2020 or later in New Marlborough. This is in line with the 0.1 percent in Berkshire County and 0.3 percent in Massachusetts in the same category. On the other side, 33.3 percent of New Marlborough's housing stock was built 1939 or earlier. This is again in line with Berkshire County's rate of 36.7 percent and Massachusetts' rate of 31.1 percent in the same category. However, both ends of this age spectrum produce a dilemma: there is not enough new housing while simultaneously the older housing stock is going to need more rehabilitation to remain viable options for those seeking housing. Successful promotion and implementation of these programs would encourage aging in place and maintenance of the existing housing stock instead of focusing solely on new construction, which tends to be the most disruptive to communities.

What type of programs exist to rehabilitate housing?

- Community Development Block Grants (CDBG) through the Executive Office of Housing and Livable Communities (EOHLC) is the primary source of funding for housing rehabilitation in the Commonwealth. The CDBG program focuses specifically on providing rehabilitation grants to low- to moderate- income households for necessary work in their homes. To access this program, an application must be submitted to EOHLC typically in the spring. The Berkshire Regional Planning Commission (BRPC) has been administering CDBG grants for nearly 15 years and has completed at least one program in New Marlborough.[15]
- In addition, the Home Modification Loan Program works specifically with older individuals and individuals living with disabilities to provide 0% interest loans to modify their home in order to remain in their community of choice. The program pays for home modifications tied to a disability or mobility limitation up to $50,000 per household. This can be a game-changing modification for those facing the choice of remaining in their homes at risk to their health or leaving the community all together.

Case Studies

Berkshire Regional Planning Commission currently administers a CBDG Housing Rehabilitation Program for almost $1 million to go toward 15 homes in the Town of Sheffield. This includes rehabilitation on roofs, septic systems, failing foundations, and water damage for homeowners. Each homeowner can benefit up to $50,000, and even more if there is a documented need. This program is funded through EOHLC who in turn receives funds from the U.S. Department of Housing and Urban Development. Another grant in Becket and Dalton will be administered by BRPC under FY24 EOHLC awards.

Age of Housing Stock	New Marlborough	
	#	%
Total:	996	100.0%
Built 2020 or later	0	0.0%
Built 2010 to 2019	24	2.4%
Built 2000 to 2009	108	10.8%
Built 1990 to 1999	188	18.9%
Built 1980 to 1989	120	12.0%
Built 1970 to 1979	84	8.4%
Built 1960 to 1969	58	5.8%
Built 1950 to 1959	41	4.1%
Built 1940 to 1949	41	4.1%
Built 1939 or earlier	332	33.3%

Key Data and Implications

As mentioned above, over half of the housing stock in New Marlborough was built before 1980. This means that most homes in the Town are typically in need of a variety of upkeep to remain viable housing units moving forward. Combine the need for upkeep on homes with the Median Household Income of New Marlborough of $75,156. While there is considerable wealth in New Marlborough, there are also many working families who might not be able to afford the upkeep of their older home, which they are likely to own if they live in New Marlborough. **For example, a new roof priced in the summer of 2024 was listed at over $38,000, or 50.5% of the annual Median Household Income in New Marlborough.** Retention of households and high-quality housing stock would be increased through the assistance of a housing rehabilitation program.

Next Steps

Step 1) The Planning Board should discuss the potential for applying for a CDBG Housing Rehabilitation program with the Town Administrator, the Select Board, and Berkshire Regional Planning Commission.

[15] Examples of EOHLC CDBG awards for FY24 can be found here: https://www.mass.gov/news/healey-driscoll-administration-awards-39m-in-community-development-block-grants-to-65-communities

Step 2) The Planning Board should work with the Board of Health to connect properties that may need additional help on maintenance and rehabilitation with the resources listed above.

Municipal Affordable Housing Trust

A Municipal Affordable Housing Trust allows municipalities to collect funds for affordable housing and separate them out from the general municipal budget into a trust fund. Those funds are then utilized for local initiatives to create and preserve affordable housing. Some examples of local housing initiatives funded through the Municipal Affordable Housing Trusts include:

- Provide financial support for the construction of affordable housing by private developers,
- Rehabilitation of existing housing stock to convert into affordable housing,
- Develop housing on surplus town land and/or buildings,
- Create programs to assist low- and moderate- income homebuyers, and
- Educate and advocate for further housing initiatives.

How does the Municipal Affordable Housing Trust raise funds for these housing initiatives? The sources of funding vary across the Commonwealth. However, the most common sources include:

- Community Preservation Act (CPA) funds,
- Negotiated developer fees,
- The Town's general fund,
- Tax title sales,
- Cell phone tower lease payments,
- Resale of affordable units as market rate, and
- Private donations.

How would the Town create a Municipal Affordable Housing Trust? The authority to create a trust lies with the Town Meeting as the municipal legislative body. Acceptance of a trust requires a simple majority vote. Given the typical Town Meeting schedule, trust would usually be established at the Spring Town Meeting.

How is a Municipal Affordable Housing Trust different from existing Town Boards? The Town would give the authority to think, act, and plan for housing issues in New Marlborough exclusively to the Municipal Affordable Housing Trust. This means the Planning Board could focus on their traditional portfolio of work. However, the Housing Committee could delegate its tasks to the Municipal Affordable Housing Trust since the work will be so similar. The Town could also simply empower the Housing Committee with the powers of a Municipal Affordable Housing Trust to prevent duplication of work.

Case Studies

Affordable Housing Trusts come in a variety of forms and do a vast diversity of work across the Commonwealth. Here are a few success stories from Berkshire County's Affordable Housing Trusts:

- *Lenox: Using CPA funds, the Trust has created the First-Time Homebuyer Assistance Program. This program awards $20,000 grants to individuals and families looking to settle in town. This grant can be used toward the purchase of a single-family home, townhouse, duplex, or condominium.*
- *Egremont: The Egremont Affordable Housing Trust has limited funds but uses its meetings to discuss and plan for the future of housing in the town. This has included working with BRPC on a Housing Production Plan which will allow it to access certain state funds and programs to expand housing and other opportunities.*
- *Stockbridge: By right under state law, the Stockbridge Affordable Housing Trust was able to accept a $1 million donation of 34 acres of open land in the town. The gift of land, which is adjoining to*

the municipal solar farm and cell tower, is given for the explicit desire to create affordable/workforce housing units on the site. While the future is still unclear for the development, the Town was only able to accept the donation of affordable housing due to the Trust being in place.

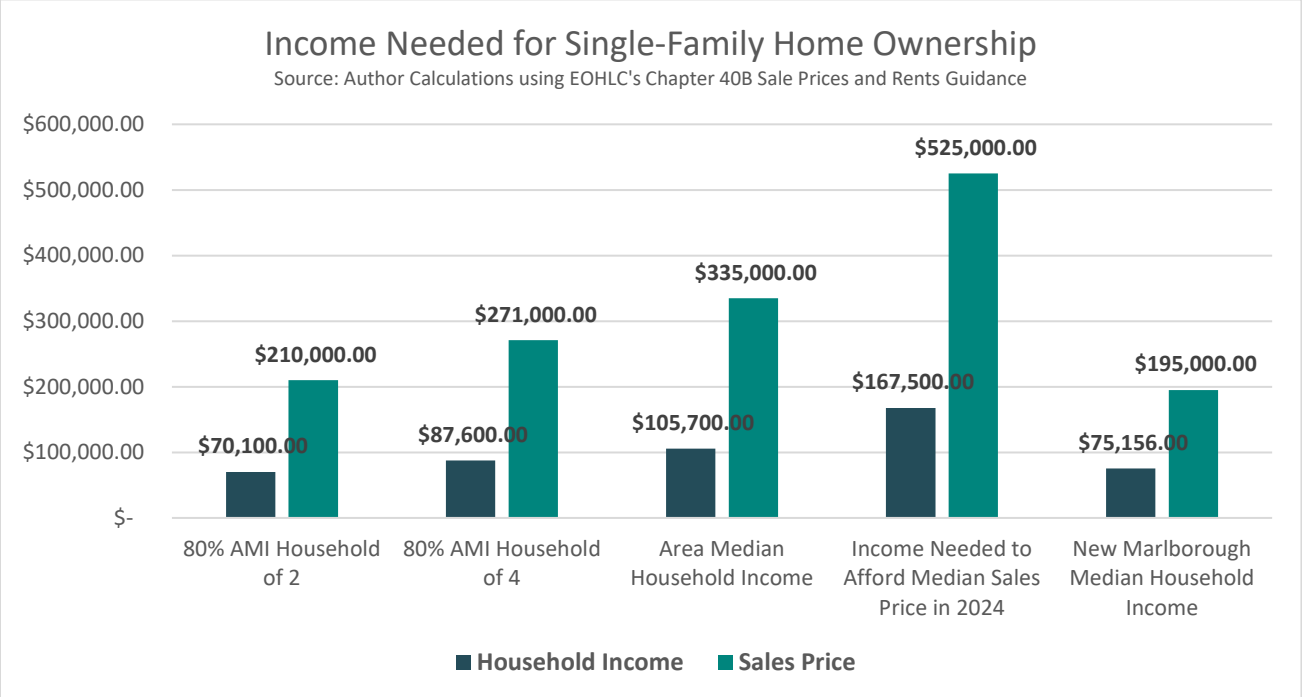
Key Data and Implications

A Municipal Affordable Housing Trust can do a variety of things, as seen by the case studies above. However, its focus is on making housing affordable for low- to moderate- households throughout New Marlborough. In response, a fair question could be asked: how do we know housing is unaffordable in New Marlborough? That is where the affordability gap comes in.

Affordability of home ownership is determined through an analysis of the Area Median Income (provided by HUD) and the median sales price for a single-family home in New Marlborough. The chart below outlines the relationship between Household Income and Housing Costs. A household earning the Area Median Income of $105,700 could afford to purchase a single-family home up to $335,000. As mentioned above, the median sales price for a single-family home in New Marlborough in June 2024 was $525,000. This gap between the Area Median Income's affordable home and the actual median sales price for housing is called the Affordability Gap. New Marlborough's Affordability Gap for Single-Family Home Ownership is $190,000.

Turning to those below the Area Median Income, the situation is even more dire. As mentioned above, the Average Household Size in New Marlborough is 2.46. Consider the situation of an Average Household earning less than the Area Median Household Income. A household of 2 earning $70,100 (80 percent of the Area Median Income for household size of 2) can afford to purchase a single-family

"The Affordability Gap for Single-Family Home Ownership for the Median Income in New Marlborough is $330,000."



home up to $210,000. Similarly, a household of 4 earning $87,600 (80 percent of the Area Median Income for household of 4) can afford to purchase a single-family home up to $271,000. Even more surprising, the Median Household Income for New Marlborough is below the Area Median Household income at $75,156. The Median Household Income in New Marlborough can afford a single-family home up to $195,000. That means the Affordability Gap for Single-Family Home Ownership for the Median Income in New Marlborough is $330,000.

Renters have a similar struggle when it comes to affordability. Rental Affordability is defined as household income spending no more than 30 percent of household income on base rent and utilities. According to the US Department of Housing and Urban Development, the Fair Market Rent (FMR) Rate for a One-Bedroom apartment in Berkshire County is $1,104 a month. This means an individual would need to earn at least $44,160 a year to afford FMR. New Marlborough's Median Household Income of $75,156 means an individual would be able to afford up to $1,878.90 in rent a month. By this same measure, to afford the cheapest rental unit in New Marlborough found on Zillow in July 2024 at $2,800 a month, the household would need to make at least $112,000 a year.

Income Category	Household Income	Affordable Monthly Rent
Very Low (50%)	$ 43,800.00	$ 1,095.00
Fair Market Rent (One-Bedroom)	$ 44,160.00	$ 1,104.00
Low (80%)	$ 70,100.00	$ 1,752.50
New Marlborough Median Household Income	$ 75,1560.00	$ 1,878.90
Area Median Income (Berkshire County)	$ 105,700.00	$ 2,642.50
Source: HUD FY24 Income Limits, American Community Survey 2022, Table B25119		

Next Steps

Step 1) The Planning Board should meet with relevant Town officials and committees to investigate the interest in creating a Municipal Affordable Housing Trust. These conversations should include what type of work the Trust would be responsible for and where their authority and funding would come from directly.

Step 2) If the conversations produce a positive result, the Planning Board should work with the Select Board on moving forward a motion to create the Municipal Affordable Housing Trust.

Additional Housing Considerations

Partnerships to Create

There are a variety of key partners that are critical for successful housing development in New Marlborough. These include Berkshire County Regional Housing Authority, Community Development Corporation of South Berkshire, Construct Inc. of Great Barrington, Habitat for Humanity, and the Berkshire Community Land Trust. A critical partner for housing development, especially considering the work already being done, is Construct Inc. of Great Barrington. Construct Inc. is spearheading an affordable housing project at the Historic Cassilis Farm. This partnership is working to renovate and convert the historic property into 11 affordable housing apartments. The partnership was only possible through an ongoing relationship between the Town's Housing Committee and their partner at Construct Inc. Working with Construct Inc. and the Town's Housing Committee on a deeper level should be a priority of the Planning Board.

Next Steps: After determining the most pressing next steps in this document, reach out to these organizations who may be able to help with tasks like receiverships, adaptive re-use, expanding utility capacity, and development of Town-Owned Land.

Development of Public Utilities

A concern when thinking about housing is also the limited drinking water and wastewater capacity in the Village Centers for gentle density, in-fill development, and adaptive re-use of existing housing stock. This limitation exists due to the lack of a centralized sewer system and the prevalence of septic systems in the Village Centers. Without sufficient drinking water or wastewater capacity, only very limited housing development and adaptive re-use can take place in a meaningful way. The Commonwealth of Massachusetts has a variety of grant and loan programs to assist communities analyze, plan, design, and implement effective public utility systems. These include programs such as the Community Development Block Grant (CDBG) program, the MassWorks Infrastructure Grant Program, and the State Revolving Fund (SRF).

Next Step: Contract with BRPC or other consultants to develop grant application(s) to analyze, plan, design, and implement utility upgrades.

Examples:

- See the Executive Office of Housing and Livable Communities (EOHLC) press release for projects funded through CDBG funds in 2023. BRPC has successfully administered nine CDBG projects through EOHLC going back to 2014.
- See the MassWorks Infrastructure Grant Program 2023 award announcement. The Town of Wellfleet was successfully awarded $3,000,000 for construction of a de-centralized wastewater treatment solution that provided the required infrastructure to support an affordable housing project.

Removing Unreasonable Barriers to Development

Between 2000 and 2022, New Marlborough's residential permitting has fluctuated between a high in 2003 (22 permits) and multiple years with zero permits. Most notably however is that there have been no multi-family residential permits issued in the Town of New Marlborough.[16]

This lack of data and lack of permits being issued may be a result of overburdensome barriers within the Town's governance structures. A complete analysis of the Town's building permit system from the eyes of a local developer would allow the Town to change or smooth out problem areas. It should be noted that not all regulations need to be gone away with, rather a process that doesn't increase the cost of overall development should be the goal.

[16] Please note that the Town did not submit data for 2002, 2004, 2005, 2015, 2016, 2017, and 2018.

Action Plan

Step	Target Timeline (month/year)	Strategy Leaders (Board, committee, point, etc.)	Funding Needed? Y/N and Source
Community Preservation Act (CPA)			
Step 1: Open Conversations	TBD by Public Hearing	Planning Board	None.
Step 2: Promotion of CPA	TBD by Public Hearing	Planning Board, Town Meeting	None.
Property Tax Policy			
Step 1: Open Conversations	TBD by Public Hearing	Planning Board	None.
Steps 2: Select Board Approval	TBD by Public Hearing	Select Board	None.
Zoning Bylaws			
Step 1: Bylaw Draft Review	TBD by Public Hearing	Planning Board, Legal Counsel	None.
Step 2: Adoption of Bylaws	TBD by Public Hearing	Planning Board, Select Board	None.
Step	Target Timeline (month/year)	Strategy Leaders (Board, committee, point, etc.)	Funding Needed? Y/N and Source
The Abandoned Housing Initiative			
Step 1: Conversation with Board of Health	TBD by Public Hearing	Planning Board, Board of Health	None.
Step 2: Contact AGO	TBD by Public Hearing	Board of Health	None.
Housing Rehabilitation Programs			
Step 1: CDBG Conversations	TBD by Public Hearing	Planning Board, BRPC	None.
Step 2: Conversation with Board of Health	TBD by Public Hearing	Planning Board, Board of Health, BRPC	None.
Municipal Affordable Housing Trust			
Step 1: Open Conversations	TBD by Public Hearing	Planning Board, Housing Committee, Select Board	None.
Step 2: Establish Trust	TBD by Public Hearing	Planning Board, Select Board	None.