

RESOLUTION GRANTING HANOVER TOWNSHIP, MORRIS COUNTY A WAIVER FROM

N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a)

COAH DOCKET # 08-2016

WHEREAS, on August 4, 1999, Hanover Township, Morris County, received second round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (“COAH”); and

WHEREAS, on September 14, 2005, Hanover received extended substantive certification; and

WHEREAS, on December 21, 2005, Hanover petitioned COAH with its third round Housing Element and Fair Share Plan; and

WHEREAS, Jewish Service for the Developmentally Disabled of MetroWest, Inc. (“JSDD”) purchased and plans to renovate a single-family dwelling located at 18 Jeffrie Trail in Hanover, comprising four bedrooms, for use as a group home, available to low income individuals and housing a maximum of four total residents, all aged 18 or over; and

WHEREAS, to finance the purchase and renovation of the dwelling JSDD received HUD Section 811 Supportive Housing for Persons with Disabilities funding in the amount of \$475,800; Federal Home Loan Bank of New York financing in the amount of \$60,000; Morris County HOME funds in the amount of \$75,000; and funding from the New Jersey Division of Developmental Disabilities in the amount of \$40,000; and

WHEREAS, JSDD contributed \$405,000 of its own money toward the purchase of the dwelling, with the expectation that it would be reimbursed for this contribution from Hanover's affordable housing trust fund; and

WHEREAS, in a motion dated September 15, 2008, Hanover seeks a waiver from COAH, pursuant to N.J.A.C. 5:96-15.1, from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), enabling the Township to reimburse JSDD in the maximum total amount of \$405,000 for costs associated with purchasing the dwelling, to be paid from its affordable housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.1(d) mandates that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH and N.J.A.C. 5:97-8.7(d) requires that funds generated by the collection of development fees may only be applied toward housing activity identified in a COAH approved spending plan; and

WHEREAS, the waiver is necessary because the affordable housing project on which the Township wishes to spend affordable housing trust funds is neither identified in its third round Housing Element and Fair Share Plan nor does the Township have a COAH approved spending plan; and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2, COAH's review of a waiver request shall consider whether the strict application of the rule would create an unnecessary hardship; or that such a waiver fosters the production of affordable housing, fosters the intent, if not the letter, of COAH's rules, and that the Housing Element and Fair Share Plan provide a mix of housing options; and

WHEREAS, granting the waiver requested would foster the production of affordable housing and would serve the intent of COAH's rules by ensuring that Hanover addresses its fair share obligation through a variety of affordable housing options including the creation of a group home; and

WHEREAS, JSDD requires Hanover's funding commitment in an expeditious manner so as to prevent the loss of HUD funding for the project and of the financial viability of the project; and

WHEREAS, no replies in opposition to Hanover's waiver request were received by COAH; and

WHEREAS, COAH staff has prepared a report dated October 29, 2008, attached and incorporated as Exhibit A, recommending that the waiver from N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a) be granted.

NOW THEREFORE BE IT RESOLVED that COAH finds that the waiver is necessary for Hanover to take advantage of an emergent affordable housing opportunity in the municipality, thus fostering the production of affordable housing in the Township, fostering the intent of COAH's rules, and preventing the creation of an unnecessary financial hardship on JSDD ; and

BE IT FURTHER RESOLVED that the disbursement of funds from Hanover's affordable housing trust fund to reimburse JSDD for costs associated with purchasing a single-family dwelling for use as a group home is consistent with the goal of promoting affordable housing in the Township; and

BE IT FURTHER RESOLVED that COAH grants the waiver from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), with the following conditions:

1. Hanover must, within 45 days, adopt a resolution committing to petition COAH by December 31, 2008 with a revised third round Housing Element and Fair Share Plan or in accordance with the

deadline established for municipalities opting in to the Highlands Regional Master Plan pursuant to a Memorandum of Understanding to be executed by the Highlands Council and COAH; and

2. Hanover must include the JSDD group home project in its revised third round Housing Element and Fair Share Plan and Spending Plan.

DATED: *October 29, 2008.*



Renee Reiss, Council Secretary