

HAMILTON PLANNING BOARD  
MINUTES OF MEETING  
May 19, 2015

Members Present: Chairman Jeff Melick, Peter Clark, Ed Howard, Rick Mitchell, Brian Stein, Matt Tobyne, and Claudia Woods

Associate Members: Bill Olson

Planning Director: Patrick Reffett

Others Present: DPW Director Bill Redford, Jenny Rad, Town Manager Michael Lombardo, Town Counsel Donna Brewer, Brad Latham, Alan Berry, Miranda Gooding, Tom Ford, Steve Homer, and Steve Astalphe

The meeting was called to order at 7:30 p.m. by Chairman Melick.

**Patton Property 650 Asbury St. Senior Housing Special Permit**

Jeff Melick stated the draft decision had been distributed. Claudia Woods said she had three versions of the draft and had spent an enormous amount of time on the second version while the version from Donna Brewer had only recently been received. Patrick Reffett said the changes from that afternoon had been redlined for comparison purposes.

Peter Clark recalled that at the last meeting, the Board had discussed further diversification or changes in appearance as a driver would be traveling down Asbury Road. Mr. Clark said he would like to see single family homes and the one triplex which would allow for different garage variation and orientation on the plot plan and continued that by doing so, of the 12 units, only one or two would share the same orientation on the road. Peter Clark said the plan showed one triplex with all others being single with all different orientation and driveway lengths. Diversification in landscaping with individual landscaping plans, and planned color changes would need to be agreed upon, according to Mr. Clark. Mr. Clark stated that the Board would be making that criteria as conditions. Jenny Rad said once the By-law change (to allow duplexes) was approved, the Planning Board would approve the changes to the site plan, as was indicated by the changes to the potential conditions issued by Donna Brewer that afternoon. Brian Stein directed the members to where Ms. Brewer had specified the zoning change (page 20).

Chairman Melick read the portion of the potential conditions that indicated the applicant may make application to the Planning Board but wondered if the conditions could encompass the change to the By-law. Jenn Rad said any modification would be inherent in the law that the applicant must return to the Planning Board if the applicant were to change the site plan at all. Michael Lombardo said the applicant had the ability to request anything in the By-law and the application before the Board was for nine single family and one triplex units and that if the applicant wanted to return to the Board with any changes, they could.

Claudia Woods and Jeff Melick both inquired if approving a site plan that was not before the Board could be conditioned into the approval. Brad Latham, attorney for C.P. Berry said if the term was changed in the approval from "may" to "shall" return to the Board for approval, the applicant would accept that change. Rick Mitchell said the approval should be about the plan in front of the Board.

Brian Stein recalled that when the applicant had duplexes, the entire Board was happier with the plan than the single and tri-plex unit plan. Rick Mitchell thought it was unfair to change the orientation at the "one foot line" of the decision making process. Jeff Melick disagreed and that the applicant's counsel said the applicant had no problem including the term "shall" in the conditions of the current application and plan. Jeff continued that if the By-law change was not approved, the current application including the single family and triplex would still be approved. Rick Mitchell said he believed the Board should approve the current plan and if the applicant wanted to return to the Board with a new plan, they would.

Brian Stein said the current application would be approved by removing the triplex and that the length of driveway, garage placement, and orientation would be varied, but he would also prefer varied colors of the clapboards or roof shingle colors. The landscape variation would be an improvement as well according to Mr. Stein. Matt Tobyne thought the color scheme changes and variation in landscape changes could help differentiate the plan. Claudia Woods agreed with Peter Clark in that they were not trying to block the proposal but were trying to make it work and be more acceptable. Rick Mitchell suggested to Ms Woods that changes of colors would be a way to differentiate the plan.

Peter Clark recommended adding language to the conditions to maximize the diversification of colors and design during construction which included "the color of clapboards on each building would be painted with colonial colors and no building would be the same color as the building next to it." Jeff Melick stated that the terminology was written as Condition # 25, which had been removed in version 3. Mr. Melick added the applicant would have no problem adding the term "shall" to Condition # 21.

Claudia Woods asked Peter Clark if Condition #18 (re Landscaping Between Buildings) satisfied him and he responded that it did. Matt Tobyne asked about Condition # 24, Operations and Maintenance and wondered who would be charged with executing those plans and suggested that the association might and Patrick Reffett responded yes, the Association would have purview over the Operation and Maintenance Plan. Jeff Melick noted that the Operations and Maintenance plans were not in existence as yet. The plans would be approved before the occupancy permit was issued, according to Mr. Latham. Matt Tobyne wanted to add provisions to remedy mold in the Operation and Maintenance Plan. Rick Mitchell said that Mr. Latham had agreed to submit the Operation and Maintenance Plan which would include the conditions, to the Board for approval. Brian Stein said Condition # 8 which discussed documents as being approved would cover the submittal and approval of the Operation and Maintenance Plan.

Ms. Woods asked about Condition #26 and was curious about the price structure for the moderately priced aspect of the project. Brad Latham stated that the sales agreement from the Town included the requirement for moderately priced homes. Brian Stein said after one year, the price could increase because after one year, the index would increase, a condition which would allow for an increase in the price. Patrick Reffett said the sales agreement language did not restrict the price over time but was predicated on market demand. Claudia Woods and Peter Clark agreed that even though the Board had discussed that the units were moderately priced, the units which would be sold in the future, would cost more as the price would appreciate. Brian Stein stated that unless the units were deed restricted, there was no ability to monitor the price in the future. Reffett confirmed that comment.

Chairman Melick said the Board should each take a long look at Draft Four and wondered if two weeks time was acceptable to the applicant. Brad Latham said it was acceptable because the decision was due to expire in May. Patrick Reffett thought this would be the final draft.

Brian Stein made motion to approve the extension requested by the applicant for consideration of this application until June 2, 2015

Peter Clark seconded the motion

Vote: Unanimous in favor to accept request for extension

Brian Stein made motion to continue the public hearing for the Stormwater Management public hearing until June 2, 2015

Peter Clark seconded the motion

Vote: Unanimous in favor to continue

### **Berrywood Circle**

Patrick Reffett said the answer to the applicants' question of who was to pay for the as-built plan was decided and was the responsibility of the abutters. Mr. Reffett added that he had earlier let the representative know the response from Town Counsel. Mr. Reffett had thought the representative would let the abutters know the decision, but the representative had not so the abutters were at the meeting even though the discussion had been removed from the agenda.

### **Public Hearing for 540 - 568 Bay Road Made Pony Definitive Subdivision**

Miranda Gooding noted the last public hearing was April 21, 2015 when the Board heard testimony from the Beta Group. Since the last meeting, the applicant had requested a postponement to confer with Beta to discuss concerns addressed in the report but needed more time to prepare all the changes, according to Ms Gooding. Ms Gooding recalled that the applicant's engineer and Beta Group had conversations and this meeting with the Board was a status check in with any changes since the last meeting. Ms Gooding also announced that the applicant was in an on-going proceedings with the Kagans.

Tom Ford presented a "drainage light" schematic plan approach that moved the drainage up away from Bay Road, with him losing lot number 2. Mr. Ford said he was now two

lots down from the prior design approach, but was keeping the barn and intended to use the lot as an equestrian lot. The Form A lot was cut closer to Cutler Pond. Mr. Ford noted that there were four infiltrating basins now adjacent to Bay Road and continued that the finish grade of the basin was about 5' lower than the present elevation.

Tom Ford said the drainage plan would not solve the neighbors' current drainage problems because the existing problems were those associated with groundwater. Ed Howard said he was impressed with the newly proposed changes. Tom Ford said the walking path would be public, not private and that anyone walking up Bay Road could walk up Made Pony Road and could access the trail, even walking behind four of the new homes without being able to see them or have them see the pedestrian. The entire loop inside the project would be 3/5 of a mile.

The front lot would now be a 130,000 sf equestrian lot, according to Mr. Ford. The expectation when arriving at Made Pony would include seeing the barn and fence with detention basin, stone wall and house above it according to Mr. Ford.

Patrick Reffett inquired about grading in the new plan and mentioned the 8' graded drop in the road cut on site within the prior plan. Tom Ford said the cut for the road was close to that and specified the inside would be 8' outside and would be 6' as the road design was "slid" into the hill.

Peter Clark said he wanted to point out that the change showed sensitivity to the Historic District and further thought it was a great addition. Tom Ford said there would be nine new houses with two existing houses. Brian Stein noted the traffic study was based on the previous number of homes, so the impact would be diminished.

Tom Ford asked to return in two weeks.

Steve Homer said Tom Ford had graciously dropped off the new plan which included changes that benefited the neighbors and the historic district. Changes to the topography and having a development of this size would affect the neighborhood as well as create lights shining into Mr. Astalphe's home so he believed that the approval would be illegal without further study according to Mr. Astalphe who added that traffic was also a concern.

Bill Redford had comments on the traffic study and had concerns that no specific count was taken during the Town's peak times such as school drop off and pick up times. Site distances as one comes out of the proposed road which included a new stone wall should be noted in the traffic study, according to Mr. Redford.

Tom Ford stated that the traffic chart indicated a 400' site distance and the proposed asymmetrical stone wall was held back from the road, so the proposal should not impede the site distance. The outgoing road was in the exact spot as the current driveway so headlights would be the same as the existing driveway and taillights would be the only concern as they would be in a new location.

Ed Howard said the relation to the school problem, which was a disaster of its own and the nice proposed development should not be a reflection of the school problem. Miranda Gooding said engineers should dialogue with each other to determine solutions.

Steve Astalphe said the proposal looked like an improvement but he was still concerned about lights into his house and was also worried about the 4:30 Shore Country Day Bus that stopped at Town Hall and the traffic study should reflect that influx of traffic.

Jeff Melick made motion to continue the public hearing until June 2, 2015.

Brian Stein seconded

Vote: Unanimous in favor to continue

### **Site Plan Review Recommendation for 17 Bay Road**

Karen Moulton was the applicant for Site Plan Review according to Patrick Reffett. The applicant proposed and had received a building permit for an addition to have a full second floor in the previous attic area. Mr. Reffett stated that Ms Moulton had conversations with the Building Inspector who was under the impression that it was unnecessary to file for Site Plan Review and the Chairman of the ZBA last summer at which time miscommunication took place. A building permit was issued last November and a stop work order was recently issued forcing the applicant to come to the Town Boards for Site Plan Review.

Karen Moulton said last November she submitted for a building permit and met with the Building Inspector and the ZBA Chairman in August of 2014 when they talked about up to six different development options and continued that she had a site visit with both men. Ms Moulton noted that the project was not extending or changing the footprint but was also told not to exceed a height of 35'. From that meeting in November when she met with the Building Inspector, she did not change anything, according to Ms Moulton who continued that she received a phone call from Patrick Reffett as a verbal cease and desist and was told that she needed to request a Site Plan Review.

Rick Mitchell said he was concerned about the process that had affected the applicant. Ed Howard agreed with him but added that the Board never had the chance to participate in opportunities that could include a sidewalk on the property. Matt T Byrne asked the applicant how far the project has progressed. Ms Moulton stated 70% and that she was not able to conduct her business normally. Mr. T Byrne said that having an after the fact conversation and holding the applicant responsible for missing information was unfair and suggested that if the Town was able to add information to last 25% was that would be great. Claudia Woods wondered about the separate spaces and accesses with no new parking, traffic, no abutting property owners affected so the best the Board could do would be to say go and finish the project. Karen Moulton said the second floor had always been there and there was no egress to the upstairs except through the first floor.

Peter Clark wanted to know if the applicant would deed land to the Town for a sidewalk. Rick Mitchell said it was state property. Peter Clark disagreed that the plan showed

where a sidewalk could be created. Peter Clark thought the submitted plan was deficient as a site plan. Jeff Melick suggested that the applicant obtain the list of questions that the Planning Board would ask in their deliberations for Site Plan Review.

Brian Stein thought the information was moot because the project was already 70% complete and some of the information was not applicable as it was an inconsequential change. Claudia Woods agreed with Mr. Stein because the applicant was so far down the road and it wasn't her fault and continued that answering questions didn't make sense as the Board needed to make a resolution for the applicant.

Karen Moulton stated that nothing was changing and the plan that the Board had referred to was not in her possession. Peter Clark suggested that she should indicate parking, lighting and access to the doorway with a site plan that included the second floor. Matt Tobyne wondered if, because she had a building permit, the Board even have the right to request those plans from her.

There was no additional lighting and the clapboard was composite to match Salem Five, according to Ms Moulton who added there was real brick that existed on the building. Ed Howard said what he saw from the roadway was attractive and the Board was to help her but not hurt her.

Rick Mitchell added that he wanted to consider the existing use of the building and the parking of vehicles which would not exceed a truck and trailer as a condition. Peter Clark said the Site Plan showed 17 parking spaces and he wanted a new plan that showed allowable parking places. Karen Moulton said parking should remain the same.

Rick Mitchell wondered if the existing garage doors could be upgraded. Peter Clark requested a list be made of things that should come before the Board at the next meeting, including parking, lighting, public access and public provisions for passage and problem with access to Henderson's driveway for turning to gain right of way. Mr. Clark wanted a proper site plan to comment to the ZBA. Rick Mitchell said the applicant should come back with more clarity. Brian Stein said he thought the requirements were kept simple.

ZBA Chairman Bill Bowler expressed his intention to move forward with the situation. Mr. Bowler recalled that his memory of the project included the plan review of a dormer addition in the site meeting in August 2014 unlike the November plan in which the building permit was issued which increased square footage while the plan he saw only had a change in roof with the addition of dormers. Karen Moulton said she did seek counsel but had filed for an appeal from the Building Inspector even though she wanted to work through the process with the Town.

#### **Recommendation for the CPC/All Boards Meeting on May 21, 2015**

Ed Howard said he wanted to encourage the Town to study the possibilities of what was possible to be funded by the CPC. Mr. Howard wanted the Board to be on board with an engineering study of the process of opening up the Chebacco Bay Lake beach which would meet the historical requirements and open space requirements as well as consider a

ski and sledding slopes. Jeff Melick asked about how much the projects might cost. Brian Stein said a civil engineer would be needed. Peter Clark said the Rec Board should be involved as the Planning Board was not in charge of Recreational programming. Ed Howard wanted the Planning Board to support him rather than his presenting the project alone. Peter Clark agreed.

Rick Mitchell thought he would like to see CPC funds used for affordable housing rather than recreation. Mr. Mitchell wanted to find ways to attract young couples to town and keep seniors from moving away.

Peter Clark made motion to hire a landscape designer to design improvements to the Town beach and Donovan Hill, both of which the Town owned. Brian Stein wanted to include affordable housing in the proposal. Matt Tobyne talked about the mechanics of soft funding and noted there could be a return on it.

Jeff Melick amended the motion to include three feasibility studies one for Chebacco Lake, one for the Donovan land to be used as a ski/sledding facility and one for creating a balance for affording housing.

Rick Mitchell seconded

Vote: Unanimous vote in favor to support three feasibility studies

#### **Associate Member Vacancy**

Rick Mitchell said he noted Richard Boroff was interested in the position. Jeff Melick said he wanted to advertise the position. Patrick Reffett said the listing was on the Selectmen's agenda and town website. Shawn Farrell said the vacancy was not in the newspapers and announced that he was the new Selectmen liason to the Planning Board. The Board agreed that the topic would be discussed at the next meeting.

#### **Other Board Discussions**

Peter Clark discussed the access from the Patton property to ECTA trails and that he had a review of all public access trails that connect to Patton property. Mr. Clark said all the multitude of trails were open to the public.

#### **Minutes**

To be discussed at a future meeting

Next Meeting Dates – June 2, 2015

Peter Clark made motion to adjourn at 10:37

Seconded by Rick Mitchell

Vote: Unanimous in favor to adjourn

Prepared by:

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Marcie Ricker

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Attest

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Date