

HAMILTON PLANNING BOARD
MINUTES OF MEETING
February 9, 2016

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

Associate Members Present: Bill Olson and Richard Boroff

Planning Director: Patrick Reffett

Others Present: Scott Maddern, Marc Johnson, Bill Bowler, Anne Gero, Jackie Hodge, Dave Thompson

This meeting was called to order at 7:00 p.m.

Public Hearing for Zoning By-law Changes

Jeff Melick said he was looking for input from the Town regarding what they wanted as the Board would welcome any changes. Mark Bobrowski stated that there was another meeting on February 23, 2016 so the public hearing would not be closed. Mr. Bobrowski said the proposed changes brought the By-law into conformance with State Statute and case law conformance and added that glaring omissions had been identified and fixed. Redlined versions of the proposed changes were distributed to the audience.

Section One. Mark Bobrowski said this section was the “handshake” of the By-law as it set out the role of zoning in a land use enabling approach. The existing purpose, which was originally removed, was moved back into the By-law. Anne Gero stated that she had submitted comments and questioned the document in regard to land subject to flooding for septic purposes which was land she believed should also not be crossed by roadways. She recalled that this concept had been deleted from the section and she could not find the terminology elsewhere. Mr. Bobrowski replied that Section 9.2 outlined the allowed uses in the floodplain (on page 87) which included verbiage that would prohibit septic. Mr. Bobrowski also noted that the local Conservation Commission would prohibit roadways through the wetlands.

Section Two. Districts. Mark Bobrowski said he did not change any districts or boundaries of any district. Euclidian Districts and Overlay Districts continued to exist, according to Mr. Bobrowski.

Section Three. Use Regulations. Changes were reflected in a use table. A three page use table with a reference to family and adult day care homes was added. According to Mark Bobrowski, a special permit was required for a large day care while a small day care was allowed by right. Peter Clark wanted to have the classification of child care centers spelled out in the By-law, but Bobrowski said there was a reference to the State Statute which was included in the Definitions Section.

Claudia Woods asked about “Social” versus “Adult” Day Care. Mark Bobrowski said Social Day Care facilities did not include medications. Jeff Melick could not find the Adult Day Care definition but Mr. Bobrowski said it would be added. Uses tables were simplified by adding definitions. Jackie Hodge wondered about helipad uses. Mr. Bobrowski said they should be listed as an accessory use. Anne Gero asked about outdoor commercial recreation which was previously approved by the Selectmen but was proposed currently to be allowed as of right. Fast food restaurants should be changed to prohibit facilities such as McDonalds while coffee shops should be allowed according to Anne Gero. Claudia Woods wanted definitions for fast food and open space. Mr. Bobrowski responded that he would work on it. Recreational use included boat and motor vehicle sales and storage. Jeff Melick wanted to add the facilities for the sales and or storage or lease.

Marc Johnson wanted clarification regarding the Use Table in regard to community facilities. Mr. Johnson explained that the Patton Homestead would be used for community meetings and wondered if it would fall under the community facilities section as a use by right. Bobrowski said it would be allowed by special permit, but might be eligible to be included under education for government purposes. A non profit under educational purposes would work, according to Mr. Bobrowski.

Claudia Woods wondered about a convalescent home definition and Mark Bobrowski responded that it was defined by the State. Ms Woods questioned the location within the Business District versus in other districts. Mr. Bobrowski suggested that terms may be defined as a long term care facility and he would look into the terminology.

Section Four. Dimensional Controls were previously in a table which were now in a chart. Anne Gero said a few things were removed from the new By-law to include 4.3.6., to which Mark Bobrowski responded that it was stricken because it should not have been a part of where it was. Peter Clark said the buildability circle was needed but Mr. Bobrowski said it was moved to 4.2.2. to reconcile the buildability requirement. Ms Gero questioned if the circle was required in the Business District or if it was only in the Residential Districts. Mr. Bobrowski indicated that in the Business District, it was not required but Ms Gero thought it should be specified that it was not required in the Business District

Anne Gero said there were dimensional requirements in the existing By-law that did not make it into the Business District. Mark Bobrowski said he would add it as a note. Mr. Bobrowski questioned if the Town wanted houses in the Business District and if so, the chart should reflect that allowance. Jeff Melick noted it was allowed at the present time.

Dave Thompson talked about the 40,000 sf requirement in the GPOD which was directly in conflict with the 80,000 sf requirement of 9.1.4. Bill Bowler said the change should be brought to Town Meeting as he believed it was a substantive change and recalled that the original change was adopted by Town Meeting. Jeff Melick said he believed it was a consistency change. Dave Thompson said the question was about what was approved at Town Meeting in 1985, or whenever it was approved, at 80,000 sf as the intent of the GPOD was to reduce the concentration of pollutants.

Section Five. The Non Conforming Uses and Structures Section was the most rewritten section, according to Mark Bobrowski. Mr. Bobrowski stated that Statute and case law existed that did not distinguish between existing one and two family homes and if the By-law allowed changes, it needed to be listed. Permissible changes to non conforming uses were consistent with what the By-law provided. Jeff Melick said the change would allow a greater opportunity to extend non conformity and Mark Bobrowski added that it would be beneficial as long as the change was not a change in the level of detriment. Mr. Melick questioned how much latitude the Town had to allow non conformity. Jackie Hodge said it would be subjective. Peter Clark offered his concern if this was part of the reorganization of existing uses or if this was an extension of those abilities. Mark Bobrowski explained that changes, reconstruction, or structural change or alteration for a substantially different purpose was part of the Statute and that the only difference was for a change to a less conforming use.

Marc Johnson discussed Section 5.2.1.2. and the issue regarding who was the authority. If the Planning Board determined what was less detrimental, the issue would not be about what was less detrimental but who decided it. Jeff Melick questioned if it was a substantive change and said he thought it was.

Anne Gero spoke about Section 5.3.1.1., reconstruction or structural change. Mark Bobrowski said the repair was anything that required a structural change which would require a structural special permit and continued that anything that was not a house would require a special permit. If the project was a tear down, the applicant could rebuild but if the footprint was moved, there would be a need to have a special permit.

Section Six. General Regulations. Bobrowski said there were no changes to parking or signs. Bobrowski added 6.10 for the ZBA to approve site plans and have the power to have a special permit hearing for a reduction as long as there was no reduction in detriment to the neighborhood. Mr. Bobrowski said he believed that the General Landscape requirements needed to have more objective standards. Claudia Woods said she thought it should be second stage. Brian Stein said that currently an applicant didn't know what the Board wanted. Peter Clark said that by trying to streamline things, he was worried about Town Meeting acceptance.

Bill Dery and Gretel Clark were present to discuss the Citizen's Petition. Bill Dery recalled that last year they presented a Citizen Petition to remove the Site Plan Approval authority from the ZBA and have it under the Planning Board. Mr. Dery agreed with Marc Johnson who said the proposal set out the direction or philosophy of how the Planning Board was implementing their ideals but went too far because it gave the Planning Board authority to allow what they wanted. Patrick Reffett said he believed it gave applicants guidance as to what the Board wanted.

Jeff Melick made motion to continue the hearing until February 23, 2016 at 7:30 pm

Brian Stein seconded

Vote: Unanimous to continue the hearing

Jackie Hodge added that she wanted the sign standards clarified.

Board Consideration of Other Changes

Bill Dery and Gretel Clark continued their discussion regarding the proposed changes to the Site Plan Review process. Mr. Dery said he would resubmit a petition along with Gretel Clark in an effort to change the authority of Site Plan Review from the ZBA to Planning Board. Mr. Dery asked the Board if they supported the change. Jeff Melick asked the elected Board if they supported the petition and noted that 95% of towns have Planning Boards as the Authority over Site Plan Review. Mr. Melick recalled that last year, the Board supported the change unanimously because an applicant would only need to go to one board rather than two. Peter Clark added that the ZBA did not want to be bound by the Planning Board's recommendations. All agreed to support the Citizen Petition.

Patrick Reffett recalled that the sunset clause for the Senior Housing By-law would expire this year so a separate article was being proposed to update the clause in the event that changes to the Zoning By-law were not passed. Peter Clark said that now that there were projects approved, the Town would trust the Board so he believed there was no need for a sunset clause. Ms Hodges said that in terms of development and water protection, it would be better to have the change in Phase II because many understand that small developments would be fine but taken in totality, even small developments may have the same potential effect of a larger development. Mr. Reffett said it was a part of the By-law now as each project was concerned with ground water implications. Jeff Melick said it was fine to leave the change until Phase II so the current proposal should be for an extension of two years.

Board Business

Draft of Planning Board Report. Patrick Reffett said Jeff Melick had made changes to the draft that had been distributed as had Claudia and Richard. To be discussed at the next meeting

Ed Howard said he was looking for specific instruction for the next CPC meeting.

Minutes

January 20, 2016

Jeff Melick made motion to approve with minor changes

Seconded by Brian Stein

Vote: unanimous to approve

Jeff Melick made motion to adjourn.

Seconded by Claudia Woods.

Vote: Unanimous in favor to adjourn at 9:13 pm.

Prepared by:

Marcie Ricker

Attest

Date