

HAMILTON PLANNING BOARD
MINUTES OF MEETING
February 23, 2016

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

Associate Members Present: Bill Olson and Richard Boroff

Planning Director: Patrick Reffett

Others Present: Mark Bobrowski, Marc Johnson, Bill Wilson, Bill Bowler, and Anne Gero

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

Public Hearing for Zoning By-law Changes

Jeff Melick said the concept behind the Zoning By-Law revision effort was to make the By-Law easier to read and use but not to make substantive changes. Mark Bobrowski announced that the previous suggested changes to Sections 1-6 and Section 11 (Definitions) had been finished.

Section 7. Special Regulations. Minor changes were proposed in Section 7.1 Temporary Uses. Mark Bobrowski said the zone for Adult Entertainment needed to have about ten lots available for the use so someone needed to do calculations that the area was available for that use.

Anne Gero said that 7.3.1.1., listed the Board of Appeals as granting authority which conflicted with the new section that had the Building Commissioner issuing permits for temporary structures. Section 3.2.1. 1. described the use of construction trailers, while Section 7.3.1.1. described temporary buildings and signs. Mr. Bobrowski said it was better to have an applicant go to the Building Commissioner as in 3.2.1.1., therefore it was better to strike 7.3.1.1. which would also remove the requirement to have a public hearing.

Anne Gero referred to Section 7.2.2.4.5. and questioned where Figure A or Figure B were located. Mark Bobrowski said he would check on their location. Ms Gero also noted Section 7.4.15 c, the expiration of a permit, and said she didn't think it belong there and thought it should be deleted. Mr. Bobrowski agreed. Mr. Gero said she thought the capitalized definitions were inconsistent. Ms Gero wondered about "on site" utility small scale and utility scale size facilities in Section 7.5.2. and said she thought "on site" should be changed to small scale. Rick Mitchell said the terminology came from the Massachusetts template and the terms "utility scale" and "on site" were correct. Ms Gero questioned Section 7.5.18 which described that a special permit should be granted for the following conditions "in lieu of" but should be "in addition to." Jeff Melick agreed with "in addition to" wording. Bill Bowler said no wind energy facilities had been granted to date. Rick Mitchell cited a study which determined there was insufficient wind in town for a utility grade facility.

Section 8. Special Residential Regulations, including OSFPD. 8.1.21 The Planning Board may issue a special permit “in lieu of” or “in addition to” was discussed Jeff Melick and Patrick Reffett agreed with “in addition to.”

8.1.23. Anne Gero said the section described a permit was “granted for a period of two years” but should, instead say it “lapsed” after two years. Mark Bobrowski said a project needed to commence use within two years by State Statute and suggested deleting “granted for a period of two years and.”

Various types of residential uses were discussed as part of Section 8.3.2, by Mark Bobrowski who said, the conversion of two family homes would need to be approved by the Board of Health. Marc Johnson spoke about Section 8.1. OSFPD and recognized that the placement of open space linked with land at least 75’ wide and buildings at least 25’ apart reduced the opportunity for the clustering of units and changes should be considered in Phase II. Mark Bobrowski suggested that the most effective change would be to reduce the required 50% open space and change the requirement to 20% because the higher requirement would cause developers to build conventional subdivisions. Mark Bobrowski also suggested that the density reward be based on reasonably placed units. The Board decided it was best to put the changes off until a further discussion.

Section 8.3.2. Anne Gero asked when the septic systems would be approved and suggested that Section 8.2.2 was old language which she believed should be consistent. Accessory apartments on large lots, in Section 8.3.4. did not exist in the current Zoning By-law and putting them where they should not be was inappropriate, according to Ms Gero. Special residential uses would have special permit criteria or language while others did not.

In Section 10.5.2., according to Attorney Bobrowski, construction wouldn’t be detrimental to neighborhood, health or traffic congestion so it would cover all special permits for all cases except alternative housing. All agreed to strike Sections 8.3.5 and 8.5.5. Bill Bowler requested to remove the provision that the Planning Board would approve the accessory apartment in Section 8.5.2.2, which was then stricken.

Inclusionary Zoning, 8.7 and Senior Housing, 8.6 were discussed. Anne Gero questioned the assemblage of lots provision written in 2008 in an effort to create senior housing. Marc Johnson said that at the time of adoption, people were worried about assemblages of properties as neighbors were worried about potential development in their neighborhood. Mark Bobrowski said the Inclusionary provision was one of a kind.

Section 9 Overlay and Conservancy Districts. Mark Bobrowski said the new draft would be put into Phase II. Anne Gero talked about the GPOD in Section 9.1.8 which prohibited uses and said she thought it was formatted incorrectly as it should not be e but 5. Dave Thompson said in Section 9.1.4., there was a minimum size for the building lot requirement, but a building lot was not defined in Section 11 for multifamily dwellings. Mr. Thompson believed the Districts were proposed to limit the density of development to reduce the sanitary waste into the recharge area. Mr. Thompson said the building lot definition should be clearer and should describe dwelling units. Rick Mitchell said it should be in phase II. 9.1.8 e should be 5.

Dave Thompson said that Section 9.1.8 outlined earth moving which was prohibited within 4' of the water table and believed the statement was naïve because the USGS database location was remote. Mr. Thompson said a geologic study should be done for each development to confirm the development might be within the recharge area rather than referring to maps. Mr. Thompson said in Section 9.1.10. 3, there was a proposal for ground water monitoring wells which he believed was a naïve technical statement because no one would know what was downgradient unless a hydro study had been conducted. Rick Mitchell asked if groundwater monitoring wells were standard for towns of Massachusetts and Mr. Thompson said no. In response to Mr. Mitchell's question regarding the benefit of the wells, Mr. Thompson replied that they would protect the groundwater by understanding what was down-gradient of the site. Jeff Melick suggested to discuss the topic in Phase II.

Sections 9.2. and 9.3. Mark Bobrowski said both the Flood Plain and the Conservancy District must allow for at least one use in the district.

Willow Street Overlay District did not change. Marc Johnson noted a missing word "whether."

Section 10. Job Description of Boards and Officers. Mark Bobrowski said there should be a change from \$100 to \$300 in fines and suggested deleting 10.3 as it should be part of the Regulations not zoning. Associate Members would vote in order of seniority versus qualifications. Jeff Melick said that as chairman he felt uncomfortable choosing one member over another, but if the selection was based on seniority, it would be fair.

Marc Bobrowski said if a Site Plan Approval was appealed, it should go to the court rather than the ZBA, but Peter Clark said it should go to the ZBA. Mark Bobrowski said the Boards were of equal status rather than the ZBA above the Planning Board and the court should decide. Mark Bobrowski said usually the Planning Board does Site Plan Review.

The Site Plan Review process would give the Town the opportunity to better regulate Dover Amendment Uses according to Attorney Bobrowski as currently it cannot in the absence of any stated By-Law criteria. Bill Bowler said he wanted it in the By-law. Claudia Woods recalled that the August letter from Mr. Bobrowski outlined the inconsistencies with zoning and State statute and noted that changes should be with codification only and not the altering of policies. Mr. Bobrowski said there was a fine line between minor changes such as 50' to 25' setbacks and substantive changes.

Rick Mitchell made motion to close the public hearing.

Claudia Woods seconded in favor of the motion.

Vote: Unanimous in favor to close the hearing.

Zoning By-law Changes to be Presented at Town Meeting

According to Patrick Reffett, the Citizen's Petition regarding Site Plan Review (SPR) was advertised and the public hearing would be held on March 15, 2016. Regarding the sunseting of the Senior Housing By-Law which lapses in May, 2016, if the proposed Zoning By-Law revision was accepted by Town Meeting, then the sunseting provision would be eliminated, but if the

Town did not accept the By-Law revision then the proposed 3.2 would apply and eliminate the sunset clause to the Senior Housing By-law. Peter Clark wanted to decouple the changes as it was a substantive change and propose the sunset extension change as a separate change. Rick Mitchell argued that it was not a substantive change to the Senior Housing By-law but simply a useful modification to a useful By-Law. The consensus of the Board agreed to leave the article language as it was.

Annual Report

Jeff Melick said he thought it was good and moved to approve the draft.

Brian Stein seconded the motion.

Vote: Unanimous to approve.

Claudia Woods made motion to adjourn.

Matt Tobyne seconded the motion.

Vote: Unanimous in favor to adjourn at 9:10 pm.

Prepared by:

Marcie Ricker

Attest

Date