

HAMILTON PLANNING BOARD  
MINUTES OF MEETING  
June 21, 2016

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

Associate Members Present: Richard Boroff and Bill Olson

Planning Director: Patrick Reffett

Others Present: Donna Brewer, Gretel Clark, Robin Sears, Dan Sears, Bill Dery and David Geeke.

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

**Zoning By-Law Changes**

Jeff Melick said he wanted to have the changes sent to Mark Bobrowski to make sure the changes were legal and consistent with MGL 40A. Claudia Woods voiced a number of concerns including the difference between Long Term Care Facility and Nursing Facilities. Mr. Melick suggested asking Mr. Bobrowski. Ms. Woods wanted to know why “stable” was deleted. Mr. Reffett said he added it back into the document. Ms. Woods had a question about financial institutions and the definition, which, according to Mr. Reffett would have been a substantive change. Boarders were originally four, but Attorney Mark Bobrowski had suggested three, so it was left at four so as not to introduce a substantive change.

Claudia Woods wondered about the term, “other uses” as part of the dimensional requirements. Ms. Woods asked about 4.2.3. and contiguous lots to which Mr. Reffett agreed was confusing but was in the current By-Law. 4.3.3. was discussed by Ms. Woods, which described minimum sf requirements within the GPOD. Ms. Woods said it was always 80,000 sf. Jeff Melick said it was an inconsistency in the existing By-Law and should be explained at Town Meeting. The Board consensus was to change the 40,000 sf typo to 80,000 sf to be consistent. 7.1.2. which described a driveway radius requirement of a 60’ radius was standard language, according to Mr. Reffett. Ms. Woods wanted to keep the language of the OSFPD the same until Phase II. 8.2.5. was discussed by Ms. Woods regarding the removal of kitchen facilities for accessory apartments. Ms. Woods wanted any future changes made by Mark Bobrowski to be tracked and explained.

Peter Clark asked Patrick Reffett about the Willow Street Overlay District. Mr. Clark said if there were no substantive changes, he recommended approving the changes. Reffett mentioned that Planning board member Rick Mitchell had proofed it with the board at the prior meeting.

Jeff Melick began discussing Phase II and suggested tackling one topic at a time as part of the overall revision to the Zoning By-Law.

**Citizen's Petition to Change Site Plan Review to be under the authority of the Planning Board.**

At 7:30 p.m. Planning Board Clerk Brian Stein read the public hearing notice to open the public hearing. Chairman Jeff Melick declared the public hearing as open and said the Planning Board needed to vote to approve the proposal as well as create a report regarding the proposal. Donna Brewer said it was ready to go to Town Meeting. Robin Sears was present to support the petition for the By-Law change. Jeff Melick said he had a few changes and asked Donna Brewer to respond about the legality of the changes. Ms. Brewer did not think the changes were necessary because the strike outs would be the portions deleted and the additions would be in bold so the whole document would not be changed.

Donna Brewer said the Zoning Board would still have decision-making power under Section VI. Claudia Woods wondered if there were an appeal from the Planning Board decision, would it go to the ZBA and Ms. Brewer said it was silent because there was uncertainty about where the appeal would go. Ms. Brewer said Marc Bobrowski thought it would go directly to court. Bill Dery said in 2015, the proposal said an appellate would go to the ZBA and Mr. Dery removed Section 8 so it would go to land court. Patrick Reffett said Mr. Bobrowski had mentioned on a number of occasions that since the Planning Board and ZBA were equal boards, an appeal should go to land court. Ms. Woods noted that the Board cannot turn down a project under Site Plan Review, but only condition it.

David Geeke said he didn't think the Board could eliminate Section 8 as the appellate section cannot be eliminated but if it went to land court, it would sit around in court for two years. Mr. Geeke said the Planning Board had the expertise to make a decision but if, for some reason, they did not follow procedures, it should go to the ZBA. Jeff Melick mentioned the consultant said 95% of towns in MA have the Planning Board as Site Plan Review authority and appeals to land court. Mr. Geeke said one Board should not over ride another Board but if there were a procedural problem, it could go to the ZBA. Ms. Brewer said sending it to land court made more sense.

Jeff Melick referred to a letter from ZBA Chairman Bill Bowler regarding Site Plan Review which he read into the record. The ZBA did not believe that a change to the SPR permit granting authority should be made.

Motion made by Jeff Melick that the Planning Board recommend the Town approve the amendment to the Zoning By-law attached to the Citizen's Petition not withstanding that Town Meeting voted unfavorable on this change within the last two years.

Seconded by Claudia Woods.

Vote: Unanimous in favor.

Jeff Melick made motion that the Planning Board report to Town Meeting that the Board recommend the Town approve the amendment to the Zoning By-law attached to the Citizen's Petition not withstanding that Town Meeting voted unfavorable on this change within the last two years.

Seconded by Claudia Woods.

Vote: Unanimous in favor.

Peter Clark recalled that it would be a 2/3's vote to approve the change.

Jeff Melick made motion to adjourn the public hearing.

Brian Stein seconded.

Vote: Unanimous to adjourn.

### **Zoning By-law Changes**

Shawn Farrell talked about the Town Wide Survey with 1002 residents responding. Mr. Farrell said he was comparing the previous survey with the new one and how the demographics of the Town had changed. Cottage Zoning was positively approved by the Survey and could be brought to Fall Town Meeting and would be approved as 700 people said yes on Survey, according to Mr. Farrell. Overwhelmingly over 75% of respondents wanted to keep open space according to Mr. Farrell. Mr. Farrell wanted a central policy file. Mr. Farrell referred to a proposed bill regrading zoning reform that had recently been approved by the State Senate and would soon be considered by the House.

Regarding Phase II additions, Chairman Melick asked if Cottage Zoning should take priority. Claudia Woods wanted to develop a list of potential changes. Shawn Farrell suggested looking at how other Towns handled Medical Marijuana By-Laws. Peter Clark said the Planning Board was a Land Use Board and the Board of Selectmen should have a policy. Patrick Reffett said the State had a model By-Law for medical marijuana zoning that we could use.

Cottage Housing, Cluster Housing, OSFPD, and GPOD, were the big issues according to Claudia Woods. Richard Boroff wanted new uses to be no more detrimental than existing uses but not limited to the original use. Ms. Woods wanted to consider changing the boundaries of the Business District and thought the Great Estate By-Law, Transfer of Development Rights, and Accessory Apartment uses should be considered too. Patrick Reffett said there was \$35,000 out of the \$50,000 budgeted in the contract spent and that he would ask Attorney Bobrowski to suggest specific By-laws in connection with the above. Claudia Woods mentioned the existing OSFPD and said it somewhat compared to PUD (Planned Unit Development) zoning.

Regarding the state zoning reform package, Patrick Reffett said the enabling laws were proposing to allow every home on more than a 5,000 sf lot to have the ability to have an accessory apartment to help grow the housing stock and make housing more affordable. Brian Stein said towns can cap it at 10%. A question was posed as to how many apartments, accessory apartments and non-single family residences were in the Town. The Housing Production Plan and the Federal Census for the Town would have the number of apartments according to Patrick Reffett. The proposed zoning legislation also mandated that a zone for 40B projects would be part of the proposal, according to Mr. Farrell.

### **Board Business**

Ed Howard talked about the CPC and why there was no interest in the Town wide meeting that described how they were spending money. Mr. Howard described a feasibility study of \$20,000 for the Town beach and ski slope. Mr. Howard wondered who would carry the ball to move ahead or not for this type of recreation. Mr. Howard recalled that Jay Butler, who had been on the Recreation Board said they did not want to be involved with Chebacco Lake but wanted to

focus on organized sports. Mr. Howard also recalled that Ray Whipple had noted in the CPC meeting that the Town previously had facilities like that and wanted to have them continue. Mr. Howard said the Selectmen had decided a year ago that they would remove the closed status of the beach to one that was swim at your own risk. According to Ed Howard, activities at Chebacco Lake had move up a level in priorities for the CPC.

**Minutes**

Jeff Melick made motion to approve the minutes for 5/3/16 to include the attendance of Chris LaPointe.

Seconded by Brian Stein

Vote: Unanimous to approve

Jeff Melick Made motion to approve the minutes for 5-17-16 with minor changes

Seconded by Peter Clark

Vote: Unanimous to approve

Jeff Melick made motion to approve the minutes for 6-7-16 with minor changes

Seconded by Brian Stein

Vote: Unanimous to approve

Next Meeting would be tentatively scheduled for July 19, 2016 if Marc Bobrowski can be present and if not, scheduled for the week before or after. Peter Clark recommended not having a meeting on August 2, 2016. Jeff Melick wanted to keep the momentum going for the Zoning By-Law changes. Patrick Reffett said a couple of ANR's may be forthcoming and the Board only had a couple of weeks to respond to those.

Motion to adjourn made by Claudia Woods.

Seconded by Brian Stein.

Vote Unanimous to adjourn at 8:49 p.m.

Prepared by:

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Marcie Ricker

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Attest

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Date