

HAMILTON PLANNING BOARD  
MINUTES OF MEETING  
April 4, 2017

Members Present: Richard Boroff, Peter Clark, Ed Howard, Rick Mitchell, Bill Olson, and Brian Stein (Acting Chair)

The meeting was called to order by Brian Stein at 7:00 pm. in the Memorial Room.

Bill Dery announced that someone had removed his political signs for the office of Planning Board. No one present knew anything about the removal.

**Great Estate By-law.**

Marcie Ricker distributed information regarding definitions as they were written into the By-law. Ms. Ricker suggested considering commercial use. Ms. Ricker defined the list of applicable properties. One property only featured 9.58 acres but other lots around it were in the same ownership, creating more than 15 acres in total. 130 Essex St. (Gordon Conwell) would remain as an eligible parcel. Ms. Ricker and the Board discussed a potential property that had accessory buildings and wondered if the Board wanted to keep the language that allowed for additional square footage for the renovation of small sheds as a vehicle to create additional space. The Board agreed that the language was acceptable.

Marcie Ricker amended number 5 to Section 9.4.1 the Purpose, to allow for a varied housing stock rather than specifying what style of housing would be acceptable. The New Floor Space might create new residential and commercial uses as noted in 9.4.2. Modifications of the uses were discussed as was outlined in Section 9.4.15. Patrick Reffett noted that a minor modification did not need to be advertised and legal notification given, while a major modification would be noticed. Major and minor changes were defined as whether there were detrimental effects as was recalled by Bill Olson. Brian Stein responded that it was a change of non-conforming use but this would be a change of the Special Permit. Bill Olson did not believe that minor and major changes needed to be part of the By-law as it would be determined by the Planning Board. Whether the new use constituted the need for an amendment to the Special Permit, was considered.

Marcie Ricker noted that Evelyn Shuman had reportedly questioned the existence of having a four bedroom limit for a varied housing stock as there were already ample homes in town with four bedrooms, to which Rick Mitchell responded that it was meant to be market driven and flexible. 9.4.21 added accessory buildings under permitted uses. .2 added definitions of the types of dwelling units. While Ms. Ricker was concerned that the commercial use section was too broad, Rick Mitchell noted it was a Special Permit that would define the uses during the preliminary conference. It was agreed that medical offices would not be an allowed use. Brian Stein asked if it would be better to allow general commercial uses to be determined upon the

Special Permit rather than define them in the By-law. Rick Mitchell suggested the broad commercial use. Ms. Ricker suggested adding commercial uses appropriate for the neighborhood. Rick Mitchell added other commercial uses deemed appropriate by the Planning Board.

**Willow Street Overlay District.**

Patrick Reffett said the revised By-law would allow for more clarity. Section 9.5.2. included the addition of assessor map lots to define the area of the district. Section 9.5.9 described the off site views of the proposed project and the language indicated the requirement, within the pre-application conference, where perspective drawings would be sketched from. Building elevation drawings would be required of all four sides. Section 8. added the Hamilton Design Guidelines, which were written by the Hamilton Development Corporation. Section 9. Pre-application meeting would include the submission plan elements, existing conditions plans, site plan survey, demolition plan, utilities plan, roadway access, building plans, building elevations, landscape plan, lighting plans, rooftop plans. If elements, including rooftop elements, would not be fully designed at the time of application to the Board, enough information should be included for the Board to understand the rooftop features of the project. The applicant should inform the Board that the plans were not fully completed. Bill Olson suggested that the applicant should advise the Board what features would still be in the design and planning phase.

Rosemary Kennedy (Rust St.), thought the purpose of the plans was that the Board would know what was being proposed and a project should not be presented without specific plans. Brian Stein explained that the location of vents might not be specific in the preliminary plans. Ms. Kennedy did not think the By-law was tight enough and open to interpretation. Richard Boroff suggested adding a sentence that said, before anything that was not shown on the original drawings was added, complete drawings must be shown. Rick Mitchell read the section indicating that plans needed to be shown to the Planning Board.

Rosemary Kennedy requested that the Board define the building elements and building components to be included in the plans. Bill Olson said the building permit required a sign off by the Planning Board. Rick Mitchell revised the Special Permit Rules and Regulations and noted that Section .6 required that documentation in support of a building permit that included deviations, should require Special Permit modifications of the Planning Board.

Peter Clark discussed mechanical penthouses noting that only machinery should be included in the penthouse. Richard Boroff questioned setback B. There were no setbacks in the Business District.

Bill Dery (Chebacco Road) thought there were a lot of technical things that needed to be changed including the term penthouse mechanical, which, according to Mr. Dery, should be removed. There were no restrictions on the exceptions to the By-law, including chimneys which would typically be 3-4' above the roofline. Mr. Dery suggested referencing the building code on

chimneys. The height restriction of an average gable roof height was 35' and the height should be redefined as 22' to the plate or 38' to the ridge. Mr. Dery discussed volumetric parameters and suggested adding something as a parameter. Bill Olson explained that the gable roof height restriction was a creative way to allow for a height that was better suited for a gable than a flat roof. To keep the ambiance of the town, Mr. Dery suggested using two stories as a template and 18" above the foundation with two 10' stories using a plate height.

Definitions of the new By-law under review by the Attorney General, included the height of a building which shall be the vertical distance measured from the mean finished grade of the ground adjoining the front of the building as determined by the Building Commissioner, to the top of the structure's highest occupied floor in the case of a flat roof to the deck line of a mansard roof, and to the top of the plate of a gable, hip or gambrel roof. Patrick Reffett explained it was scientifically determined by four given points determined by a survey. Brian Stein said it was the average grade of the corners of a building which became the median.

Patrick Reffett discussed lighting and noted that all lights shall be retained on site and shall not create a nuisance to abutting properties and streets, according to the By-law. Condition 6. added language which provided for a complete understanding of the proposed building height, mass and rooftops features. Mr. Reffett added that the building height might be increased under the Special Permit by the Planning Board if the Planning Board finds that the increase would not be consistent with public health and safety concerns or that the increase provided a public benefit. The Board would be under no obligation to approve a waiver of height within the regulations. Mr. Reffett said the language was taken from other Zoning By-law documents regarding public benefits and was consistent with public health and safety requirements as amended.

Rosemary Kennedy asked if she could submit terms that might make the By-law closer to what the Board intended. Section 9.5.12 was discussed by Ed Howard who noted that noise buffering was not a constant and some businesses that have hour restrictions received deliveries 24 hours a day.

### **Special Permit Rules and Regulations**

Rick Mitchell reviewed the Rules and Regulations noting changes to clarify the language. Mr. Mitchell said there should be one overarching set of Rule and Regulations for all Special Permits. Mr. Mitchell reduced the number of paper copies from 16 to 11. There would be 9 separate disk, cd, or usb copies to be submitted. Flashdrive was added. Mr. Mitchell removed redundant information. The Rules and Regulations indicated that the applicant was responsible for filing the Decision with the Town Clerk. Mr. Mitchell said there was a 20 day appeal period and the applicant was required to file with the Town Clerk any conditions issued by the Planning Board. They would have 30 days to submit the Special Permit approval with conditions to the Town Clerk.

Mr. Mitchell discussed the hiring of outside consultants for technical review, which was removed as it was repeated. Mr. Mitchell suggested minor changes within the Section from A. to D.

Fees were discussed and cell tower fees would be increased for \$750 to \$1500. OSFPD would increase to \$2,000 rather than per dwelling. Common driveway permits would be \$500 instead of \$200. The fee would be \$2,500 for Senior Housing rather than per dwelling unit. Brian Stein did not think a common driveway was the same as the other proposals.

Section 6. Applicant proceeds in conformance of the Special Permit was discussed. Rick Mitchell noted the changes including a major modification with the size, design, or other factors such as regulating materials, visuals or other impacts shall each require a Special Permit modification by the Planning Board. Bill Olson suggested reviewing all Special Permit plans before the building permit was issued. Mr. Mitchell added that any deviation in anything, needed to be Special Permit modification. All Construction Documents prior to receiving a building permit must be approved by the Planning Board as a concept considered. An applicant's Construction Documents must be submitted to the Planning Board and approved to ensure conformance with the Special Permit approval conditions.

Patrick Reffett stated the Building Commissioner was legally responsible for issuing the permit, not the Planning Board. According to Rick Mitchell, the Planning Board would compare the Special Permit plan with the Construction Documents and if they found a discrepancy, they would notify the Building Commissioner. If the Building Commissioner issued a building permit regardless, the Planning Board would request a Cease and Desist Order. Mr. Mitchell suggested that the plan should be signed by the Planning Director who supervised the Building Commissioner. Mr. Mitchell suggested adding no building permit shall be issued without Planning Board approval. Brian Stein suggested adding it to the building permit sign off form.

The Board discussed whose responsibility it was to record the Special Permit Decision.

### **Board Business**

Ed Howard updated the Board regarding the CPC annual inquiry of the public regarding important considerations for funding. One meeting per year was required by law.

Shawn Farrell recalled that the Board of Selectmen discussed the Patton Homestead parking lot. Mr. Farrell wanted to get all boards together to determine where the best location for the parking lot would be. Mr. Farrell discussed the Phase II By-law rewrite. There was \$15,000 left in the Zoning rewrite budget with \$5,000 reserved for a zoning map. Air B&B should be regulated.

Shawn Farrell read the Selectmen's list to include: Cottage Housing, Cluster Housing, Senior Housing, and Zoning dimensions for the Business District. The Selectmen had discussed

Overlay Districts and wondered if it was better to keep, modify, or eliminate them. The Selectmen were interested in flexible zoning, evaluation of the need for potential map changes, the possible creation of a mini business area where the bank was being constructed on Bay Road and Bridget St., Assisted Living, Ground Water Protection Overlay District, the need for a seven member with two associate member Board, Bed and Breakfast Zoning, parking requirements, Estate Overlay District, and economic development of open space and non-taxable properties.

Ed Howard said he obtained information from the COA Director that indicated that only 9% of Salem senior citizens had an interest in senior housing. CanterBrook would lose their permit in January 2018.

Motion to approve the minutes of March 21, 2017 made by Brian Stein  
Seconded by Rick Mitchell  
Vote: Unanimous to approve

Motion to approve the minutes of January 14, 2017 made by Rick Mitchell  
Seconded by Brian Stein  
Vote: Unanimous to approve.

Motion made by to adjourn Bill Olson  
Seconded by Brian Stein  
Vote: Unanimous to adjourn at pm.

Prepared by:

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Marcie Ricker

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Attest Date