

HAMILTON PLANNING BOARD
MINUTES OF MEETING
January 9, 2018

Members Present: Richard Boroff, Ed Howard, Rick Mitchell, Bill Olson, Brian Stein (Chair), and Claudia Woods

Associate Members: Chris Shepherd

Town Staff: Patrick Reffett, Director of Planning & Inspections

The meeting was called to order by Brian Stein at 7:04 pm. in the Memorial Room.

Board Discussion regarding upcoming articles for 2018 Annual Town Meeting.

Patrick Reffett discussed the various opinions received regarding the Conservancy District. Mark Bobrowski recommended the Town remove the District from The Zoning By-law as part of the revision process. Town Counsel reviewed the language and overwhelmingly recommended removing it. Mr. Reffett had invited Bill Bowler (ZBA Chair) and Jim Hankin (Conservation Commission Coordinator) to the meeting to offer their opinions. The ZBA was the special permit granting authority since the 1960's and inception of the Conservation District (CD) Bylaw. Mr. Hankin is the environmental compliance officer for Hamilton who works with the Commission and applicants for wetlands permits and delineation.

Jim Hankin reviewed the Commission's position and noted it was reluctant to express a formal opinion as Zoning issues should be left to the Planning Board, the ZBA, and Town Meeting. According to Mr. Hankin, the Conservancy District line usually occurred downgradient of wetlands. It was difficult to determine what criteria was used to establish the line that appeared on assessor and hard copy maps. Mr. Hankin said when the CD line shows up for wetlands permits during applicable permit applications the line would be indicated on the submitted plans as it is a part of the permitting process.

Jim Hankin explained how wetlands were determined in accordance with DEP. Inland wetlands (bordering vegetated wetlands) were determined by vegetation, hydrology of the site, and analysis of soils for hydric characteristics. The wetland line was specific to each project. MA GIS offered an overview of the entire town and viewers could zoom in for more specific information. As the GIS view was considered a broad picture, it was considered better to have land surveyed and wetlands determined by a professional wetlands scientist. Mr. Hankin said it would be possible but difficult and expensive to upload specific sites into a master map and that's not the process currently undertaken by he or the Hamilton Conservation Commission.

Jim Hankin said projects in the Conservancy District would have been in the resource area and that he did not recall a Conservancy District obstacle in his tenure. Rick Mitchell said the

District was proposed before local wetlands regulations were implemented. It was agreed that the Flood Plain By-law was separate from the wetlands. Mr. Hankin added that the Commission also regulates the 100 year floodplain.

Richard Boroff wondered if the Conservancy District lines were flexible and Jim Hankin responded that they had not changed since they were established. Mr. Hankin added that DEP regulations were revised from time to time and that a wetland delineation was only valid for a period of three years. Mr. Hankin and Mr. Boroff agreed that the Wetlands Protection Act had more power to protect the wetlands than the Conservancy District.

Chris Shepherd asked if there was anything within the lines that would become unprotected. Jim Hankin said it would be difficult to get a permit for work in the resource area, which was what the Conservancy District covered. Brian Stein added that the Conservancy District only protected wetlands and watershed areas. Bill Olson said he could not find criteria that made it a necessary By-law. Patrick Reffett recalled that he had looked at the Ipswich River on the assessor maps and noted that the majority of the riverfront was not even in the Conservancy District, which he considered to be the most important aquatic environment in the town. Mr. Reffett speculated that the District must have been established based on what uses were in place on specific properties back in the day when maps were prepared.

Bill Bowler said that in his 20 years on the ZBA, he could only recall one application for a permit in the District. Wetlands were not the ZBA's area of expertise. The Con Com was contacted and the permit was issued in that circumstance. As ZBA Chairman, Mr. Bowler said he was frequently contacted regarding questions about the Zoning By-law and he had never been asked a question regarding the Conservancy District. Mr. Bowler said Mark Bobrowski had not only indicated that the District was not useful, but was illegal and questioned why the Town would retain the By-law if it was against State law.

The only application for the District was for a barn on Bay Road, according to Bill Bowler. Certain buildings such as duck blinds and certain agricultural things would be exempt. The applicant provided experts to indicate how it would not hurt the environment. Jim Hankin recalled that the barn was in the buffer zone. The Commission had an enforcement order in early 90's then an application for further development which might have been in the Conservancy District. Richard Boroff asked Jim Hankin how many times the Wetland Protection Act had been used by the Conservation Commission. He responded, "Hundreds; every time a permit application had come before the Commission."

Patrick Reffett referred to the letter from Town Counsel that indicated that the Conservancy District By-law did not offer guidance on how to protect the resource areas. The coverage by impermeable surface was the only source of standards found in the broad purpose of the By-law but there was no guidance on how to apply the standard. Bill Bowler said the ZBA had not

discussed the District and thought it might make more sense that the Conservation Commission should be the permit granting authority.

Anne Gero (Asbury St.) asked if the Town was giving anything up by deleting the By-law. Ms. Gero noted that the District was in the resource area and did not protect the Ipswich River. Ms. Gero suggested comparing the wetlands, floodplain areas, and the Conservancy District on a GIS map to indicate the overlapping of areas. The comparative map would show Town Meeting that the area was already protected. The Zoning map indicated the District currently. The District boundaries were the same as those established by Charles Elliott. Brian Stein would attempt to determine if there were areas outside the wetlands that coordinated with the Conservancy District and create a visual to show the town that they would not be losing any protection. Patrick Reffett mentioned that Peter Clark was concerned about the aesthetics of the wetlands and the visual impacts on the community.

If no significant loss was evident, the Board would vote and take the proposal to Town Meeting. Claudia Woods read from Town Counsel's opinion that included the protection of groundwater, watershed resource protection, flooding areas, swamps, marshes, preserves, increasing the amenities of the town, natural habitat, and conserving open space, which Ms. Woods said was slightly different from the wetlands. Brian Stein responded that the language was never used and the comparison would be solved by an overlay.

Richard Boroff added that 61A and more land conservancies had been added to protect land areas. Brian Stein added protections under Title V. GPOD, and wellhead areas had also been implemented. Patrick Reffett said the Selectmen had discussed the topic at their January 8, 2017 meeting and that he and Mr. Stein would go to the Selectmen's meeting in the future to present the idea.

Brian Stein said the Board should determine major priorities in Phase II of the Zoning By-law changes. Members would review and provide input as to Mark Bobrowski's proposal. Patrick Reffett recalled that the Board had discussed creating dimensional requirements for the downtown Business District as a possible zoning amendment. Setbacks were determined through Site Plan Review and height had been defined. Mr. Reffett did not think the downtown area would ever be a "hot bed" for development, except that the Willow Street Overlay District could have sizeable projects. Mr. Stein said defining setbacks would make some lots nonconforming. Mr. Stein wanted to keep setbacks discretionary. Mr. Reffett added that the town may not want setbacks as the Board might want to keep the relationship between a building and the sidewalk, which would be typical of a New England town.

Claudia Woods wanted to anticipate the downtown area once the Wenham parcel on Bay Road that abutted the town line would be developed.

Brian Stein said he thought accessory apartments should be looked at. The GPOD could be created from a template from the State. Mr. Stein did not believe Senior Housing, Commercial Overlay District, or Estate Overlay District needed to be considered. While Claudia Woods said the Senior Housing proposal would be different from what the Town currently had, Rick Mitchell said it could be added to the consultant's scope of work for the updated Master Plan.

Patrick Reffett suggested the Sign By-law. Bill Olson added the possibility of adding operation of a commercial kitchen use within the business district. Mr. Reffett wanted to focus on the rigidity of uses in the downtown district, GPOD, parking, signs, and accessory apartments. Mr. Reffett would take the Bobrowski suggested list of December 19, 20-17 and cross out the things that the Board didn't want to pursue and create a new list of wanted items. Mr. Bobrowski would report to the Planning Board rather than a steering committee.

Board Discussion Regarding Draft Demolition Delay By-law.

The latest revision had a few edits. Brian Stein researched other towns and cities. Bill Olson was in favor of the By-law but thought the document was very wordy, which would make it hard to sell. Mr. Stein was concerned about the timeframe as other towns, including Beverly were much faster. Mr. Olson noted incentives given in other towns such as being able to move a house to a nonconforming lot. Members noted that they were in favor of the concept but that the document needed to be cleaned up.

Board Discussion Regarding Master Plan Update 2018 Town Meeting.

Patrick Reffett had approached the Affordable Housing Trust (AHT) to be a joint applicant to pursue CPA funding for Master Plan elements to address housing. While the AHT thought the need was important, the joint application would be beyond their scope. Attainable housing and broader housing concepts were more than what they wanted to pursue. The negative implication and push back over affordable housing connotation was discussed. Mr. Reffett would file an application for funding for the CPC meeting the following Thursday night. Rick Mitchell and MAPC had made edits to the scope of work. MAPC questioned the expansive nature of the public survey. The Board would focus on financially assessable market rate housing. Mr. Reffett would finalize the edits, prepare the application for the meeting, and submit it.

Other Board Business – Minutes

Historic District Commission would hear a presentation for a false tree (mono-pine) as a cell tower at their next meeting (January 17, 2018). Ed Howard needed legal advice regarding his litigation and sitting on the Historic District Commission. Patrick Reffett said he had the addresses but not the architectural significant determinations of buildings that had applied for a demolition permit. Claudia Woods requested a list of properties where structures were demolished during the prior year.

Motion made by Brian Stein to approve the minutes of December 19, 2017.
Seconded by Ed Howard.

Vote: Unanimous in favor.

The February 20, 2018 meeting would be on February 27, 2018.

Adjournment

Motion to adjourn made by Bill Olson.

Seconded by Rick Mitchell.

Vote: Unanimous to adjourn at 8:31 pm.

Prepared by:

Marcie Ricker

Attest

Date