

HAMILTON PLANNING BOARD
MINUTES OF MEETING
January 20, 2016

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

Associate Members Present: Bill Olson and Richard Boroff

Planning Director: Patrick Reffett

Others Present: Jill Mann, Rich Hayes, Bill Redford, and Anne Gero

This meeting was called to order at 7:14 p.m.

Minutes

Brian Stein made motion to approve the minutes of January 5, 2016.

Rick Mitchell seconded.

Vote: Unanimous to approve.

Board Business

Ed Howard said he believed there was a problem with the Community Preservation Committee and recalled that Jay Butler had written an article that would only accept an application to the CPC that the Town Manager had previously approved. Mr. Howard said he would challenge that proposal because the law said the Town Manager could not participate in policy. Mr. Howard said he believed this was a policy issue.

Canter Brook Estates Senior Housing Project Special Permit Public Hearing. Asbury St. (354 Highland St.)

Jeff Melick said each member had been given the latest draft written by Jill Man that included the edits of Jeff Melick. Mr. Melick suggested the Board compare the changes as they went through the document. Claudia Woods was absent and an Associate Member would be voting in her place. Jill Mann said the Chairman of the Planning Board was not only able to appoint an Associate Member but could designate which Associate Member would be voting. Mr. Melick said he did not want to choose between the two Associate Members, but would rather have Bill Olson vote because he was the first to be appointed and was present at all meetings, except for the November 3, 2015 meeting for which Mr. Olson had submitted a Mullin rule filing.

Jeff Melick said that he, Peter Clark, and Matt Tobbyne had all submitted a Mullin rule filing for the portions of (Mr. Melick) or for the total meeting (Mr. Clark and Mr. Tobbyne) that they had each missed. Peter Clark and Claudia Woods both missed the first meeting on July 21, 2015. Jill Mann said the meeting of January 5, 2016, a meeting that Mr. Clark had missed, was closed with no further information presented. Because the hearing was closed on January 5, 2016 after some discussion and no new evidence was presented, it made intuitive sense that those who were not present for that meeting would be able to vote, according to Jeff Melick. However, Richard Boroff's vote would also need to be recorded. Even though Peter Clark and Claudia Woods

submitted a Mullin rule filing for the meeting of July 21, 2015, the meeting of January 5, 2016 did not need one as the public hearing had been closed, according to Jill Mann.

Jeff Melick had highlighted his changes to the document in yellow. Jeff Melick stated that the Board would verify the plans being “as noted” in the Decision. Mr. Melick clarified that on Page 4, the approved plans, which have been set aside along with the binder, would be on file at Town Hall as evidence for reference. Bill Olson requested a refining to the color choice reference as well as lighting to consist of LED lighting of a 3000K temperature. The lighting change was added to the conditions as well.

Jill Mann wanted a mechanism to allow a public meeting instead of a public hearing if there were minor modifications, by changing reference to public hearings to public meetings. It was agreed that in the event of a minor modification, the applicant would notify the Director of Planning and Inspections instead of the Planning Board. Jill Mann suggested that all of these changes were required to be incorporated into the document being voted upon and she would make the changes to the document for the Board, send the revised document to Patrick Reffett, who would then send it to the Board members for their review. Once all had reviewed the document, each member would go to Town Hall to sign it. Ms Mann said the Board didn’t need to sign the document at the meeting.

Bill Olson, as designated by the Chair, was voting for the absent Claudia Woods, but Jill Mann said it was only necessary to call for a voice vote. The Local Preference Plan, Tripartite Agreement and Covenant were attached before the vote was made. Covenant restrictions were by statute according to Jill Mann but the document would allow the project to be sold to a bank or developer in the event of a foreclosure but individual lots could not be sold.

Brian Stein made motion to issue the Senior Housing Special Permit based on the findings and petitioner’s promise of its clients to all the above conditions pursuant to Section V.E. of the Hamilton Zoning By-law as amended and approved by the Hamilton Planning Board.

Rick Mitchell seconded.

Vote: Unanimous in favor.

Brian Stein made motion to issue the Stormwater Management Special Permit based on the findings and petitioner’s promise of its clients all the condition pursuant to the Hamilton Stormwater Bylaw.

Rick Mitchell seconded.

Vote: Unanimous in favor.

Proposed Zoning By-law Revisions

Jeff Melick reviewed the history of the project to include the upcoming February 9 and 23, 2016 public hearings. Patrick Reffett said the Steering Committee and consultants would also meet on January 26, 2016. Jeff Melick noted that some changes were substantive while some were making the document easier to read. Peter Clark said the scope of work included making changes to streamline and correct errors but not to change the By-laws with replacements. Jeff Melick said there were two phases, first of which was to make the document easier to follow as well as incorporating changes required by law and the second phase included more substantive

changes. According to Mr. Melick, Marc Bobrowski went off on his own suggesting changes to consider and Mr. Melick thought it might be better to discuss those items, if possible. Patrick Reffett said Mr. Brobowski had made it clear that he was providing a “sushi menu” to purposely address issues or gaps with the current bylaw but some more complicated items might be better to include in the second round. Peter Clark said he thought the public was caught by surprise.

Jeff Melick said his plan was to go through the document page by page and see if changes were acceptable but he thought some changes should be tabled until a further time. Peter Clark said he had received calls offering concern that Jeff Melick had asked Tom Ford to rewrite the OSFPD and people were shocked that a developer who had trouble with the Esdaile property development would be in a position to rewrite the draft. Jeff Melick said he wanted Tom Ford’s suggestions but was not planning on bringing them to Town Meeting to adopt as changes. Richard Boroff said he recalled the conversation and thought the request was appropriate. Mr. Boroff stated that the context was to find out what would make the By-law useful and make development profitable. Jeff Melick said he was looking for input from people in town. Patrick Reffett said the Board just wanted to know that the general public was involved with the Steering Committee, their public meetings, and the public document. Mr. Reffett said the Steering Committee was constituted of land use board chairmen and other board members so they could take the committee progress back to their respective committees as Jeff Melick had done. Nothing was done in secret and all drafts were on the website according to Mr. Reffett who added that he has also been accessible to the public.

Anne Gero said she sent a letter to the Steering Committee and Planning Board which crossed with the newest draft. One point she had made had to do with the open meeting law. The steering committee was an advisory committee to the Town Manager for which there was no requirement for open meeting law posting, according to Ms Gero, who continued that she couldn’t find a posting on the Town calendar or in the Clerk’s office. She had made the open meeting law comment in her letter but wanted withdraw it.

Anne Gero said she went through the 88 page prior draft. Ms Gero was a commercial real estate attorney, but not involved in land use, and admitted that she did not have the expertise of Marc Bobrowski, but that she did have the ability to read Zoning By-Laws at least more so than most residents. Ms Gerro noted that a number of changes might be put off until the next stage and that the Open Space Farmland Preservation By-law was back in its original format with landscaping and performance standards still listed in phase I but which had been shortened.

Anne Gero was concerned that a number of small changes were substantive but were hard to see unless one had the ability to do a detailed review. A change for a prior non-conforming use that was abandoned currently would not be able to start up again, but the new draft says the ZBA would have the power to reestablish it. Most citizens wouldn’t find that, according to Ms Gero. Ms Gero stated that she believed the Planning Board was responsible for finding the small changes that might create substantive changes. Ms Gero found expanded authority to the ZBA in the document and recalled that Site Plan Review approvals could be overseen by either the ZBA or the Planning Board but were commonly overseen by the Planning Board as was noted previously by Marc Bobrowski.

Jeff Melick said the draft was not a product of the Steering Committee. Mark Bobrowski was told it needed to be easier to read and he made substantive changes. Jeff Melick said that he would not vote for the draft in its current state but would listen to comments at the public hearing to take out items that might belong in Phase II. Anne Gero thought it was a great project but it would be hard for the average citizen to review and come up with comments, therefore, it was the responsibility of the Planning Board to help them through it. Patrick Reffett said Mark Bobrowski had prepared a diagnostic of the By-law and the document was useful to illustrate where our By-law had significant gaps and issues. According to Mr. Reffett, there were so many gaps in the current By-law that Mr. Bobrowski suggested more recommendations than was originally anticipated. Rick Mitchell said what was missing was the diagnostic and understanding of the process. Ms Gero said preparing a summary for the public would be helpful.

Ed Howard said his feelings and observations were closer to Peter Clark's thoughts and the people listed on the committee sounded like a stacked deck. Jeff Melick said the people put on the committee were members of boards and committees that dealt with the Zoning By-law. Mr. Howard said he didn't believe in the concentration of power in one place and that this sounded like a concentration of power which caused abuse. Anne Gero said she wanted more resident participation.

Sean Farrell said he and the Board of Selectmen wanted to resubmit a survey from the Master Plan, Open Space, and Downtown Business Survey. The survey would be the same as in 2002 and would be used to compare the changing demographics. The survey might be relevant to include Phase II zoning, finding out how people felt about the changes. Jeff Melick thought the benefits of cottage housing with open space would go along with all the open space in town.

Town Meetings article

Rick Mitchell suggested considering the expiration of the Senior Housing By-law, taking it as it was with a continuation date, continuing it indefinitely, or modifying it in phase II. Patrick Reffett said in 2013, it was extended until May 2016, and the Board could consider extending it again or eliminate the dates entirely. Rick Mitchell advised eliminating the dating was appropriate. The Planning Board would hold a hearing at the same time as changes to the Zoning By-law.

Brian Stein made motion to adjourn.

Rick Mitchell seconded.

Vote: Unanimous in favor to adjourn at 9:00 pm.

Prepared by:

Marcie Ricker

Attest

Date