



MEETING NOTICE

TOWN OF HAMILTON

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All meeting notices and agenda must be filed and time stamped in
the Town Clerk's Office and posted at least 48 hours prior to the
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posted by 2:00 P.M. Monday thru Friday.

**Committee or
Governing Body**

ZONING BOARD OF APPEALS AGENDA

Meeting Location

Meeting Room MEMORIAL ROOM Address 577 BAY ROAD, HAMILTON MA

**Day, Date and Time of
Meeting**

WEDNESDAY Date SEPTEMBER 5, 2018 Time 7:00 PM

**Signature of Chairman
or Authorized Person**

MARY-ELLEN L FEENER

Date

8/30/18

AGENDA

Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

CALL TO ORDER

PUBLIC HEARING: FOR THE SPECIAL PERMIT APPLICATION SUBMITTED BY ELIZABETH TRAIN AND MICHAEL CASSIDY, FOR THE PROPERTY LOCATED AT 786 BAY ROAD, HAMILTON, ASSESSOR'S MAP 31, LOT 32. APPLICANTS WOULD LIKE TO CONSTRUCT A ONE BEDROOM ACCESSORY APARTMENT ON THE SECOND FLOOR OF GARAGE; APPROVAL REQUIRED UNDER TOWN OF HAMILTON BYLAW 3.6 ACCESSORY APARTMENT.

CONTINUATION OF THE PUBLIC HEARING: FOR THE SPECIAL PERMIT APPLICATION SUBMITTED BY RAGHAVENDHER BOLISHETTI, FOR THE PROPERTY LOCATED 11 ARTHUR AVENUE, HAMILTON, ASSESSOR'S MAP 47, LOT 139 APPLICANTS ARE REQUESTING A FINDING OF FACT BY THE ZBA FOR HAMILTON ZONING BYLAW SECTION 5.3, NON-CONFORMING STRUCTURES, IN ORDER TO CONSTRUCT A FRONT PORCH ON THE EXISTING DWELLING.

CONTINUATION OF THE PUBLIC HEARING: FOR THE PROPERTY LOCATED AT 100 UNION STREET, OWNER: SUSAN BYRNE, TAX MAP 55, LOT 276. SPECIFICALLY THE PETITION IS TO OBTAIN RELIEF FROM BYLAW SECTION 4.1 DIMENSIONAL AND DENSITY REGULATIONS IN ORDER TO CREATE A FIRST FLOOR BATH.

PUBLIC HEARING: FOR THE ZONING BOARD OF APPEALS TO CONSIDER AND ADOPT RULES REGARDING 40B PROJECTS

REVIEW AND APPROVAL OF MEETING MINUTES
UPDATES FROM THE CHAIR
MEETING TO ADJOURN

may be heard out of the listed order. The agenda items listed are those items which were reasonably anticipated by the Chair to be discussed at the meeting. All items listed on the agenda may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. The next meeting of the Zoning Board of Appeals is scheduled for October 3, 2018, and will be held at the Hamilton Town Hall, 577 Bay Road, Memorial Room, Hamilton MA 01936, and it will commence at 7:00 PM. Meeting dates, time and location are subject to change as allowed by the Open Meeting Law. Please refer to the Town web page: hamiltonma.gov for details regarding a specific agenda.

HAMILTON ZONING BOARD OF APPEALS
MINUTES

Memorial Room 299 Bay Road.
September 5, 2018

Members Present: Bill Bowler (Chairman), Kim Dietel, and
John Rodenhizer.
Others Present: Bruce Gingrich (Associate member).

This meeting was called to order by Bill Bowler at 7:00 pm with a quorum established.

Continued Public Hearing for a Special Permit. Raghavendher Bolshetti. 11 Arthur Ave. Request a Finding of Fact/Non-Conforming Structures in order to Construct a Front Porch on the Existing Dwelling.

At the previous meeting, the Board requested that the applicant prove the porch would be within the confines of the original dwelling. A 6' x 32' porch was proposed. John Rodenhizer asked what the distance was of the setback from the road property line to the properties to the left and right of the subject property. The original proposal had the home moved back to make it more conforming when it was reconstructed. Mr. Rodenhizer noted that the current proposal had the same setback as the previous two meetings. The original plan (before reconstruction) had a 12' setback and when the home was reconstructed the setback was increased to 15'. A 6' porch would create a 9' setback. The steps did not count as part of the setback as they were egress. No site plan had been provided to ensure proper measurements for the current house or the two abutting properties.

John Rodenhizer said a 4' porch might be allowed as there was a water problem with the roof over the front door. Mr. Rodenhizer suggested investigation into ways to post the roof without going down to the ground. The setback requirement was 25' from the house to the road's property line but an average of the two abutting properties' setbacks could be used to keep the character of the neighborhood. It was agreed that the proposed new porch would make the house even more non-conforming than the original home was before it was reconstructed and moved back. Kim Dietel said she did not want to set a precedent and suggested a 3' porch, which would allow water to cascade off the roof. The structure could also be constructed with brackets. Mr. Rodenhizer agreed with the 3' porch concept and added that the step did not count as it was part of the egress. The landing would be 4' and could be the egress for the house but Mr. Rodenhizer did not agree with decks to the left and right of the doorway. Members of the Board agreed that they had never allowed anyone to push closer to the property line than their neighbors and requested that an engineer show a plan with neighboring house setbacks.

The public hearing would be continued until the next meeting on October 3, 2018 at 7:00 pm. Bill Bowler said a mortgage plot plan showing dimensions of the neighbors' property would be acceptable.

Continued Public Hearing for Dimensional and Density Regulations to create a first floor bathroom. 100 Union St. Susan Byrne.

Jamie White was present for the discussion. The previously discussed addition had been minimized by removing the shower. A kitchen window was present, which prevented the addition from sliding down further. The applicant removed 3.5' from the corner, which was now 6'. The shed was put in the corner. 6' was reduced to 5' and 13.5' was reduced to 10'. The date had not been changed on the updated plan. John Rodenhizer noted the applicant was not able to keep the addition within the setback box provided at the previous meeting. Bill Bowler noted that ADA compliance would over-ride local zoning but Kim Dietel said the elderly person was not a resident of the home, only a visitor so having an oversized bathroom was not a reason to bend the general rule. John Rodenhizer was looking for a hardship to be shown and suggested having just a toilet in the addition. Alternates were discussed. Mr. Rodenhizer suggested removing the window that was inhibiting the sliding down of the addition.

The public hearing would be continued until October 3, 2018. At 7:00 pm.

Public Hearing for a Special Permit. Elizabeth Train and Michael Cassidy 786 Bay Road. The construction of a one bedroom apartment on the second floor of the garage.

Bill Bowler recused himself as he had represented the sellers in the property sale to Ms. Train and Mr. Cassidy. The apartment had been an issue discussed during negotiations. Mr. Bowler removed himself from the table and Mr. Rodenhizer became the acting Chairman.

Ms. Train explained the apartment permit had been granted six years prior but the permit had lapsed. There would be no change to the design or layout. No conditions had been issued for the previous approval but a second egress needed to be added. Christine Brophy (an abutter) submitted a letter as did one of the Donovans, who had sold the property. John Rodenhizer read through the list of requirements to include square footage (844 sf provided) with no more than one bedroom. The sketch provided by the applicants showed a bathroom and one bedroom with the remainder of the space open. John Rodenhizer explained that the applicant could not increase the apartment to two bedrooms until

the Zoning By-law changed. Parking was adequate. The second egress stairs could not be added to the front of the structure unless the ZBA approved it. The building department would determine if a fire wall would need to be provided for the in garage access. It was agreed that fewer than ten permits had been issued for the year.

Motion made by Kim Dietel to approve the application with the one condition that the stairway would not be visible from the street for the secondary egress.

Seconded by other Bruce Gingrich.

Vote: Unanimous in favor.

Public Hearing for the Zoning Board of Appeals to consider and Adopt Rules Regarding Chapter 40B projects.

Patrick Reffett presented the proposed regulations and noted that the Planning Board had set up design guidelines for 40B projects ten years ago. Other towns had added Regulations to better manage 40B projects in their review process. The Regulations would not take the place of regular 40B Regulations but would work in addition to them. Town Meeting approval was not required for the change. Items within the Regulations would include filing fees, submission materials, a financial package of the developer, and reports on existing conditions, etc. The Regulations would allow for the ZBA to determine what the developer was requesting as exceptions such as density and setback requirements as well as receiving a track record of the proponent's projects. Bill Bowler noted that the ZBA was allowed to hire various experts to assess such things as traffic experts and a forensic accountant to assess of the developer's financial stability. John Rodenhizer thought it was too many obstacles to keep the development affordable. Mr. Bowler explained that the State set the rule that the developer could only make a certain profit. The ZBA would determine if they would be able to stay within that "box."

It was determined that the Regulations did not ask for any information that the applicant did not need to provide, according to Bill Bowler. Mr. Bowler noted that the type of reviews that would occur were the same reviews that would occur for any large project. Mr. Bowler noted that the ZBA had the right to waive the review fee requirements. The review fee for Asbury St./Habitat for Humanity had been waived as there was no need to do a review. Patrick Reffett suggested measuring each project as they came forward.

Discussion ensued regarding the comparison of affordable details and finishes compared to market rate units. 25% of units needed to be affordable with 80% of the average medium income setting at the limit for who could apply. The ZBA had the ability to be as tough on a developer to make the affordable units' interior or exterior finishes comparable or identical to the market rate

units or to make adjustments to the interior as they saw fit. The profit would be limited to 20%. Bill Bowler suggested changing the term "identical" to "comparable." John Rodenhizer did not want to set roadblocks for the developer.

The Council on Aging wanted local preference to be exerted to the fullest extent. The Affordable Housing Trust wanted the 70% local preference but Patrick Reffett was concerned that the demand by qualified local applicants might not fulfill the 70% so the units would go to someone else. The goal was to accommodate those who did not want to move out of town. The Housing Authority had a waiting list of 15 people, which the Housing Authority maintained. The CPC maintained the list for the Junction project, according to Mr. Reffett. Mr. Reffett kept a list of names and numbers for those who call his office. Kim Dietel noted that residents had priority over eligible town employees. John Rodenhizer said the applicability was dictated by the State Department of Housing and Community Development, who ensured certification of those in charge with a lottery.

The developer would be responsible for documentation that allowed units to be included in the subsidized housing list. The length of the hearing would be consistent with the law as it could not extend past 180 days unless written consent from the applicant was received. A decision would be composed with a majority vote within 40 days after the closing of the hearing. A super majority was not required. Patrick Reffett discussed projects that did not meet the criteria or if the application was deficient. Mr. Reffett noted that if safe harbor was met, which would be 5% of the units in a single year created, the town would have a year to say no to other projects. The stipulation was to protect small communities from having too much development. Mr. Reffett said it would not be until someone sold their land for a reasonable price that a development would occur.

Bill Bowler stated the document had been reviewed and edited by Town Counsel. John Rodenhizer thought it was onerous but Mr. Bowler said it was what was required by State law. Mr. Bowler continued that all of the requirements were those that would be placed on any development, excepting the financial information. Mr. Bowler concluded that the ZBA would want to know what was going on with any large project.

The public hearing was continued to October 3, 2018 at 7:00 pm.

Review of Minutes
None

Updates from the Chair.
none

Adjournment.

Motion to adjourn made by Kim Dietel.
Seconded by John Rodenhizer.
Vote Unanimous to adjourn at 8:57 pm.

Prepared by: ' _____

Marcie Ricker
Date

Attest