



MEETING NOTICE

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Committee or
Governing Body

ZONING BOARD OF APPEALS REVISED AGENDA

Meeting Location

Meeting Room MEMORIAL ROOM

Address 577 BAY ROAD, HAMILTON MA

Day, Date and Time of
Meeting

WEDNESDAY

Date

OCTOBER 3, 2018

Time

7:00 PM

Signature of Chairman
or Authorized Person

MARY-ELLEN L FEENER

Date

9/28/18

AGENDA

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

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 APPLICATION SUBMITTED BY DARREN & AMANDA MAIDMENT FOR THE PROPERTY LOCATED AT 65 MAPLE STREET, ASSESSOR'S MAP 48, LOT 06. SPECIFICALLY THE PETITION IS FOR AN EXTENSION A NON-CONFORMITY ON THE LOT IN ORDER TO DEMOLISH EXISTING GARAGE AND CONSTRUCT A LARGER 2 CAR GARAGE

PUBLIC HEARING: FOR THE APPLICATION SUBMITTED BY STEPHEN ERICKSON, FOR THE PROPERTY LOCATED AT 36 LORENZO ROAD, HAMILTON, MA. APPLICANTS ARE SEEKING RELIEF FOR LOT SET BACKS AND LOT COVERAGE IN ORDER TO CONSTRUCT AN ADDITION TO THE EXISTING DWELLING FOR FAMILY ROOM, MUDROOM, BEDROOMS AND A SMALL PORCH

PUBLIC HEARING: FOR THE APPLICATION SUBMITTED BY JENNIFER PAINTER FOR THE PROPERTY LOCATED AT 78 WILLOW STREET, ASSESSOR'S MAP 61. LOT 18. SPECIFICALLY THE PETITION TO INSTALL A 2'X 6' SIGN FOR A BUSINESS.

CONTINUATION OF A 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

HAMILTON ZONING BOARD OF APPEALS

MINUTES

Memorial Room 299 Bay Road.

October 3, 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. 11 Arthur Ave. Raghavendher Bolshetti. Request a Finding of Fact/Non-Conforming Structures in order to Construct a Front Porch on the Existing Dwelling.

The ZBA reviewed the setbacks for the proposal. Setbacks were set at 25' from the street or the mean distance setbacks from each abutting house. Bill Bowler said he had visited the site to find the two houses on each side of the proposed site were further back than the subject property. One house faced Garfield Ave. and the setback was actually a side yard setback. Mr. Bowler indicated that the proposal would need to be considered as a variance and suggested the applicant withdraw without prejudice and if circumstances changed, he could return with a new proposal within two years. Mr. Bowler noted that there was no hardship to grant the variance. There was no existing porch that could be extended.

Raghavendher Bolshetti referred to the houses being built by Harborlight but Bill Bowler responded that the houses were not closer to the property line than the pre-existing house. John Rodenhizer said no one on the Board would pass the current plan. The non-conformity would become 9' in the front when the original house was 12' for the road. The new house was 15' from the road but still closer than neighboring houses. Mr. Rodenhizer suggested that the applicant contact John Meridien who could propose ways to protect the front door. The porch along the front of the house would not be allowed but a 3' porch by the front door might be allowed to deal with the water issue. Mr. Rodenhizer also suggested using brackets or other creative solutions so a variance would not be needed. Bill Bowler said if something over the door to prevent leaking were constructed, the applicant would not need to return to the ZBA. Mr. Bolshetti requested to withdraw his application.

John Rodenhizer moved to allow the applicant to withdraw without prejudice.

Kim Dietel seconded.

Vote: Unanimous in favor.

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

Susan Byrne submitted a revised plan. Bill Bowler stated the goal to not increase the non-conformity had been met as the addition fit into the box that had been created. Ms. Byrne said

the criteria had doubled the cost as she needed two foundations. The addition would be on the Asbury St. and the back side. A certified as-built would be filed with the Building Department upon completion.

Motion made by John Rodenhizer to approve the extension of the non-conforming structure based on the revised plan drawn by Kane Surveyors, dated June 23, 2018 with revisions October 2, 2018 and a plan drawn by Dominion Designs, dated October 2, 2018. The approval required the submission of a certified as-built.

Kim Dietel seconded.

Vote: Unanimous in favor.

Susan Byrne suggested informing residents that exceptions to setbacks were not given. Bill Bowler explained that the long-time administrative assistant had passed away and her replacement would be encouraged to check with Mr. Bowler in the same manner that the previous one had done. John Rodenhizer suggested hiring an architect or engineer who would do their homework to determine laws and create a box in which to build. Mr. Rodenhizer said most towns were similar in their approach to upholding the law.

Public Hearing. 65 Maple St. Darren and Amanda Maidment. Petition for an Extension of a Non-conformity on a lot in order to demolish an existing garage and construct a larger two car garage.

Kim Dietel recused herself as she knew the petitioners. Darren Maidment submitted a letter in support from David Cutter, a direct abutter. Mr. Maidment did not have plans for the new structure but indicated that since the two garages were so close, he was considering using a concrete wall on that side of the new garage. The Fire Department had been notified of the proposal but had not responded. John Rodenhizer suggested making the space between the garages large enough that a person could walk between the two. Mr. Maidment said he could move it 2' but would not be able to move it to the setback. Mr. Rodenhizer said moving the garage or using a block wall for fire delay would be preferable.

Darren Maidment said there was just open space in the loft area, which would be used for storage as he did not have a basement. The garage was a kit and Mr. Maidment had the elevations and would receive plans of the garage. John Rodenhizer recalled that he had contacted EPS Associates to determine that the survey was done via instruments. Pins had been located in the ground. Mr. Rodenhizer was skeptical that someday the loft could be an apartment. Mr. Rodenhizer requested having a 6' setback as was the setback in the back. Mr. Rodenhizer wanted to receive a letter from the Fire Department. Bruce Gingrich agreed. Bill Bowler noted that if the loft were converted to an apartment, Mr. Maidment would need to return to the ZBA for a permit. It was suggested that Mr. Maidment refer to the Apartment By-law to determine specific needs such as a second egress that could not be seen from the street in the event the loft was eventually converted to an accessory apartment.

The public hearing would be continued until November 7 or December 5, 2018 depending on how many members could be present as Kim Dietel was not able to vote. A letter from the Fire Department would be submitted to the file. Copies of the floor plans would be submitted to the administrative assistant.

Public Hearing. 36 Lorenzo Road. Stephen Erickson. Relief for lot set back and lot coverage to construct an addition on an existing dwelling. Family room, mudroom, bedrooms and a small porch.

Stephen Ericson said he wanted to maintain the character of his existing house but wanted bedrooms and a bathroom for future children. The plans were drawn by Bill Tally. The applicant was not seeking a variance for setbacks but needed a variance to exceed the 25% limit of lot coverage. The 863sf exceeded the limit by 387 sf. There was one place where the setback was 14' where the mudroom met the garage. The existing house and the garage totaled 1,406 sf. The combined proposed total was 29% of lot coverage. Bill Bowler explained that there was no basis for granting a variance and there was no precedent set. Mr. Bowler read the section of Chapter 40A regarding variances and the criteria that needed to be met including the need for circumstances due to soil conditions, shape, or topography of the land or structure or effect of a structure but not the Zoning District. A literal enforcement of the By-law would need to cause a substantial hardship due to those criteria. Mr. Bowler offered an example of a large rock upon a lot causing the house to be built outside the setbacks. Mr. Bowler noted that the existing property was useful and that the Board had always been strict granting variances. Mr. Bowler did not see a hardship under the statute as the existing building was viable.

It was suggested that the applicant work with the architect to get under the 25%. Bill Bowler would confer with Town Counsel to determine if the request required a variance. Mr. Bowler suggested the applicant request to continue until the next month and return with a revised plan. John Rodenhizer suggested rearranging the second floor to bring the proposal into conformity. The applicant asked if it would be helpful to find other examples of lot coverage variances that had been granted. Mr. Bowler responded that he had been on the Board for 20 years and lot coverage issues were usually not heard.

The hearing was continued until November 7, 2018 at 7:00 pm at Town Hall.

Public hearing. 78 Willow St. Jennifer Painter. Request for a 2' x 6' sign for a business.

Heidi McCann was present to request a variance to install a sign. Ms. McCann was replacing a 2' x 6' sign at the corner of Railroad Ave. and Willow St. The sign would replace a sign that was the same size as the existing orthodontics' sign. The sign would be mounted on the wall. It was noted that over-sized orthodontics sign was not approved by the ZBA but when Bill Bowler drove past the area, he was surprised that it exceeded the sign size requirement. Ms. McCann agreed to have the sign be slightly smaller than the orthodontics sign. John Rodenhizer suggested having the enforcement officer issue a cease and desist for the orthodontics sign to make them conform. After Mr. Bowler suggested having the sign the same as the orthodontics',

Mr. Rodenhizer asked if two wrongs would make a right. Mr. Bowler referred to a previous ZBA variance approval of the Public Safety Building sign, which did not conform and did not have a hardship.

Members of the Board questioned the power of the Hamilton Development Corporation as it applied to signage. Kim Dietel would agree to the sign if it stayed within the footprint of the previous sign. Heidi McCann said if the orthodontic owner was in trouble, she would just use a 3' sign but Bill Bowler thought the matching signs would look better. John Rodenhizer suggested taking the larger sign down and putting up two 3' signs. Ms. McCann presented a photo of the building where the sign had been. The 2' x 6' sign appeared to be conforming, according to Bill Bowler. Ms. Dietel thought the signs should match.

Motion made by Kim Dietel to approve the sign that the petitioner had submitted for approval understanding that it was the same size and color as the sign on the abutting dentist.

Second by John Rodenhizer.

Vote: Unanimous in favor.

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

The topic would be discussed at the November meeting.

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 8:26 pm.

Prepared by:

Marcie Ricker
Marcie Ricker

Bill Bowler 3/1/15
Attest Date