

MINUTES  
**Hamilton Historic District Commission / Historical Commission**  
December 20, 2018

Members Present: Edwin Howard, Chair, Margaret Meahl, Jack Hauck, Kristen Weiss, Elizabeth Wheaton and Scott Clements.

Staff Present: Dorr Fox

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Ed Howard opened the meeting and continued hearing at 7:03 p.m.

**PUBLIC HEARING: SUBDIVISION OF LAND AND NEW ROAD AT 601,605,609 AND 613 BAY ROAD**

Mr. Howard stated that Dorr Fox would give an update on the various agency rules and regulations, guidelines and permits. Mr. Fox stated that he spoke with staff at the Massachusetts Department of Transportation and that while they issue a permit, the documents he sent out are guidelines, not regulations. He noted that the Fords had submitted a permit application to the state. He noted that there was a concern that the Historic District Commission would be in conflict with state regulations. Since they are guidelines, not regulations, there would not be a conflict. However, if the permit from the state is different from the decision of Historic District Commission, there would be a conflict.

Mr. Fox noted that the Planning Board Rules and Regulations do not have a radius requirement. However, they have a requirement that roads must be 32 feet in width. They have granted a waiver to this requirement and have approved a 22 foot wide road. The approved plans also have the radius of 15 feet. The Planning Board also usually follows the recommendation of the Fire Department. While the Fire Department does not issue their own permit, they have requested a 22 foot wide road with a 15 foot radius. They are concerned that if the radius is smaller that they will need to go into oncoming traffic when turning onto the road.

Scott Clements stated that he believes that they should look at the proposed roadway in context with the historic district and review the varying widths of the existing roadways and common driveways within the district. He noted that there is substantial variation within the district in regards to the width of pavement of roadways where they meet Bay Road. He noted that the width of the proposed roadway is within the range of the existing roadways. Some of the existing roads are wider than the proposed road, while others are narrower. The proposed road is consistent with the existing roads within the district.

Margaret Meahl inquired about the status of the roadway and whether it was a driveway or a road. She noted that the minutes of the last meeting indicated that this had been an issue. Mr. Fox stated that it is a road, approved under the Subdivision Control Law. Mr. Ford stated that it would be a private road, without a name. The houses off of the road would have Bay Road addresses.

Ms. Meahl stated that she had observations from a recent site visit she took of the property. She noted that the apron of the proposed road does not appear to be changing much. However, she was concerned that the increased pavement of the road would be coming very close to the blue house. Mr. Ford stated that the house belonged to him. He stated that the pavement was located closer to the blue house to maintain the yard of the house on the other side of the proposed road.

Mr. Ford discussed the width of the pavement of the proposed road. Elizabeth Wheaton noted that trees and landscaping would soften the appearance of the roadway and make it look more like a country lane. It would make it fit better into the context of the historic district. Ms. Meahl stated that she believes that the plan has a lot of blacktop. Mr. Ford stated that there is some new landscaping further back from the road. The granite blocks are proposed to soften the appearance closer to Bay road. They will be installed instead of a granite curb.

Mr. Ford stated that Patrick Reffett explained to the Planning Board that when the Hamilton Planning Department inquired about the Historic District Commission's jurisdiction, the Massachusetts Historical Commission stated that local Commissions did not have jurisdiction over this type of project. Mr. Fox confirmed that he spoke with the Massachusetts Historical Commission and they stated that they did not believe that the Historic District Commission had jurisdiction over the project. They also generally advise that communities follow the advice of their legal counsel. Donna Brewer, Town Counsel, did state that the Commission did have jurisdiction over the project. Therefore, the Commission is reviewing the project. Mr. Ford stated that he believes that the Selectmen should be informed of the situation. There was further discussion on jurisdictional issues.

Ms. Wheaton inquired whether Mr. Ford would consider increasing the landscaping closer to Bay Road to soften the impact of the wider road. Mr. Ford noted that he could not place any landscaping on his neighbor's property.

Jim Brao noted that Mr. Ford is only adding one new lot. He believes that the Fire Chief's email on the width of the road is subjective. He noted that the email was never discussed at the Planning Board meetings. He is amazed that the addition of one lot merits such a large expansion of the road. He questions whether the road can be narrowed as it goes into the property. He does not believe that the truck needs the large width all the way back into the property for one additional house.

Mr. Brao expressed concern over the tree that will be removed. He noted that it currently blocks the view of the telephone pole. He would like it to continue to conceal the pole. Mr. Ford clarified that the tree that will be removed is a different tree. He noted that a Japanese Maple that is close to the road will be removed because it interferes with the sight distance when turning onto Bay Road. He also noted that there will be two new homes on the property.

Ms. Meahl inquired whether there could be a compromise on the width of the road. Mr. Ford stated that he believes that the Fire Department has spoken and that he should not narrow the width of the road.

Mr. Hauck requested clarification on whether Ms. Meahl could vote since she missed the previous hearing. Mr. Fox stated that there is a state statute that is referred to as the Mullin Rule that a board member can vote if they missed a portion of a hearing if they read a transcript, view a video or listen to an audio recording of the hearing. This statute has been accepted by the Town. Ms. Meahl has complied with the statute and can therefore vote.

Ms. Wheaton made a motion to close the hearing. Mr. Hauck seconded the motion and it was unanimously approved.

Ms. Meahl stated that she was concerned that there will be several wide roads in the historic district because the Fire Department requests it. She is concerned that if the Commission approves this road, it will set a precedent.

Mr. Hauck stated that the Commission cannot override public safety concerns. Mr. Fox clarified that visual impact is under the Commission's jurisdiction and that they do not have to consider public safety in their decision. They need to determine whether the project is appropriate in the district.

Ms. Wheaton stated that it is inappropriate to see a large swath of asphalt coming off of Bay Road in the district. She questions whether Mr. Ford can soften the road through landscaping. Otherwise the road could be considered inappropriate. Since the Commission does not have jurisdiction over landscaping, they cannot put conditions on the approval. Therefore she is requesting that Mr. Ford volunteer to add landscaping to the road.

Ms. Weiss stated that she believes that the proposed road will be similar to other roads that currently exist in the district. Mr. Hauck stated that he believes that Mr. Ford has always done appropriate work in the district. Mr. Clements stated that he believes the lack of curbing lessens the visual impact. He believes that over time, the road will fit in better in the district. He also thinks that even though the road is wide that it is not out of context with the district. He does not think that it will change the character of the district. If there was curbing, his position would be different.

Mr. Hauck made a motion to issue a Certificate of Appropriateness for the requested road. Ms. Wheaton seconded the motion. The motion was unanimously approved. Ms. Wheaton and Ms. Meahl both recommended that the applicant landscape the road further to lessen the visual impact. Mr. Hauck stated that he wished to state that he was disappointed with guidance of legal counsel. He questions whether the Commission had jurisdiction over the project. Mr. Ford stated that he does not object to the landscaping, however, he is concerned about the sight distance at Bay Road. There was a short discussion regarding the granite pavers.

Mr. Hauck made a motion to approve the minutes. Mr. Clements seconded the motion. Changes were requested. The Commission unanimously approved the revised minutes. Ms. Meahl made a motion to adjourn the meeting at 8:05 p.m. Ms. Weiss seconded the motion and it was unanimously approved.