

HAMILTON ZONING BOARD OF APPEALS

MINUTES

Memorial Room 299 Bay Road.

June 5, 2019

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.

Continuation of Public Hearing. 54 Berrywood Lane. Robert Scholnick.

Six storage bins had been reduced to one almost empty bin, which should be removed by the July meeting. The applicant would likely withdraw the petition. The topic would be continued until the July 10, 2019 meeting.

Public Hearing for a Special Permit. Town of Hamilton Public Safety Building 265 Bay Road. Relief for Sign.

Bill Bowler noted that the Public Safety Building was in the Residential District, which allowed signs of up to six square feet no matter the use. When the Public Safety Building was built, the ZBA granted Site Plan Review and a variance for a 12 sf sign. The applicant is currently requesting to further expand the size of the sign.

Mary Beth Lawton (Director Council on Aging (COA) was present to represent the COA, police, and fire departments. Ms. Lawton recalled that the group had met in January 2014 to discuss erecting the sign. After that discussion, the group looked at 20th century technology versus vinyl letters. The safety department was seeking the sign as a vehicle to inform residents. After the power outages and water issues of 2018, public safety officials found it difficult to inform residents so a temporary sign was put out. Ms. Lawton noted that 25 seniors had signed up for the "Are you okay?" program. Many seniors did not have cell phones and the COA had filed for a \$2,000 grant to provide them. Public Safety officials decided they needed a permanent scrolling sign.

The Planning Board approved the project on March 19, 2019 and now the group is seeking a Special Permit for an internally lit LED sign. The sign would be 6' x 3' to keep in the size of the existing carved sign. The current sign was 6' and the mobile sign was 10' high. The new sign would be 8' high in total. The vinyl post was changed to granite. The proposal for a 6'w x 2'h sign was changed to 6'w x 2.5'h. Mary Beth Lawton said the group did not realize at the time of approval that the posts only came in full foot increments. The applicant was asking for an approval for 3'h. Ms. Lawton did not think the applicant needed to go back to the Planning Board.

John Rodenhizer requested that a visor be installed between the

carved sign and the lower sign to comply with Dark Sky Regulations. Mary Beth Lawton said the lumens could be reduced to 500 at night. If the technology was not certified as Dark Sky compliant, the applicant agreed to put a visor on the sign, which would also protect it from water. Public Safety officials reportedly said the scrolling could be turned off at a certain time unless it was an emergency message.

The carved portion of the sign had gold lettering and the lower portion had white LED lighting. The proposed sign would be set back where the current sign was located. Larry Coats (31 Durham Ave.) asked why the LED could not be colored. Mr. Coats asked why the area could not be rezoned as the Community House was already in the Business District. Bill Bowler said he did not like the colored lights personally as there had been so many comments about the historic quality of the town, especially during the hearings on the Cumberland Farms proposal. Mr. Bowler said the hydrant flushing message took more than one panel to get the message across. There was a ten second minimum scrolling protocol. Content could not be regulated under the first amendment. Mr. Bowler added that he did not want to see flashing lights. Mr. Bowler would add in the Findings of Fact that there would be white lights and if feasible, Dark Sky compliant, however that was achieved. Mary Beth Lawton said the DPW Director programmed the temporary sign but the Public Safety Department and COA would be responsible for the permanent sign with emergency and safety being a priority.

John Rodenhizer thought the sign was an acceptable solution to consolidated four separate signs. Mary Beth Lawton said the sign would be located on the densest traveled intersection of Hamilton. The temporary sign had incredible feedback and would likely be sent out to Chebacco Road to alert residents to the construction there.

Motion made by John Rodenhizer to approve the variance for the sign for the Police Department, the Fire Department, and the Hamilton Senior Center as depicted in the plan with dimensions of the upper sign being 2' x 6' and the lower sign being 3' x 6' as a maximum and that the lower illuminated sign shall be Dark Sky compliant

Seconded by Kim Dietel.
Vote: Unanimous in favor.

Bill Bowler explained that since the previous ZBA voted for a variance, the proposal was an extension of a non-conforming use within the variance. Mr. Bowler would double check.

Public Hearing. 9 Stopford St. Joshua Shackman. Dimension and density regulations.
Bill Heney represented Joshua Shackman, who applied for a variance to alter a non-conforming structure. There would be a 4%

increase in density and Mr. Shackman hoped to add a one car garage at the same level as the living space. The non-conforming single family home was located in Zone R1A. The proposed garage would be 7'8" away from the northerly side lot line. The existing structure was currently 18'. 25' was required. The characteristics of the lot were that it was only 6,000 sf and was bordered by Stopford St., Pierce Ave., and a paper street on the rear. The steep topography of the lot created challenges for garage placement. The sun room would be removed with a breezeway constructed between the garage and the home. Photos were shown of the site. Thirty-one neighbors had signed a petition of support.

Bill Bowler announced that the variance for a garage could be allowed under the By-law as having a garage was a matter of right if the only place for its location required a variance. John Rodenhizer suggested coming in off of Pierce Ave. by grading the area outside the buffer zone, which would decrease the non-conformity to the neighbor. The proposal was to come in from Stopford St. where the applicant currently parked. Attorney Heney said Pierce Ave. would be a difficult location due to septic impact and traffic pattern changes in the neighborhood. The applicant's son and family lived next door. Pierce Ave. did not seem like the front of the house. A shed was also located in the area. Mr. Rodenhizer said a variance would not be granted if other options that did not increase the non-conformity existed. John Shackman said Pierce Ave. was not an accepted road, which was not maintained by the Town. It was treated as a driveway to one residence. The slope would make construction difficult and the driveway would be against the son's back property line with a retaining wall required. Mr. Rodenhizer suggested keeping a 10' set back by reducing the size of the breezeway. The garage would be 12' wide. Access past the chimney was noted as a problem.

The second floor was discussed. The structure had failed the energy and building code requirements and needed a new roof constructed. There was enough space to have a 7' ceiling. Two dormers would add light and character to the building. The new second floor created more open space over the living and dining rooms while reserving enough space for two bedrooms and a bathroom. Better stairs were proposed, which required an expanded roof. The new height would be 28'.

While Bill Bowler was comfortable offering the variance as it was a matter of right to have a one car garage and if the only way to get one was to encroach the setback, it was the definition of a hardship. John Rodenhizer asked the applicant to keep the setback to at least 10' by narrowing the breezeway. If the breezeway were narrower, rooflines needed to be redesigned. The applicant noted he wanted four more solar panels on the breezeway and that ice problems might occur with a redesign. The breezeway door may become a problem. Mr. Rodenhizer disagreed with the

solar panel issue and that it did not meet the hardship requirement but would go along with his colleagues. Kim Dietel agreed with the garage need but thought having a larger set back would be beneficial.

The architect would submit a revised plan to the Building Inspector and Bill Bowler would determine if it complied with the Decision to be filed.

Motion made by John Rodenhizer to grant the extension of a non-conforming use and structure in respect to the second floor renovations.

Seconded Kim Dietel.

Vote: Unanimous in favor.

Motion made by John Rodenhizer to grant a variance with respect to the construction of a garage, which will encroach on the side lot line (north side) not more than 10' with the condition that the applicant will submit a revised plan showing the proposed new dimension to the building department to be reviewed by the Building Commissioner and Chairman of the Board of Appeals. The revised plan will indicate that the garage will not increase the front setback.

Kim Dietel seconded.

Vote: Unanimous in favor.

Public Hearing. 6 Linden St. Density Standards and Non-conforming uses and structures relief. Carl and Elaine Swenson. Carl Swenson showed a photo of the neighbor's tree crushing his garage. The garage was subsequently demolished. Mr. Swenson proposed building a workshop in the new garage by moving the structure 6' toward Linden St. There was no other direction to expand as the entire back yard was leaching field and the garage could not move left, right, or back. The former garage was 17' 3' x 13' 3" and the new garage would be 24' x 13' 3". The proposed setback would be a parallel line that would not encroach 4'7" so as not to increase the non-conformity. Mr. Swenson went to the Wenham ZBA, who said Hamilton had jurisdiction.

Motion made by John Rodenhizer to grant the extension of a non-conforming structure to build a garage slightly larger as shown on the plan submitted with the condition that there be a certified as-built foundation plan.

Kim Dietel seconded.

Vote: Unanimous in favor

Public Hearing for Special Permit. 654 Asbury St. Green Meadow Farm, LLC. Proposal to operate medical marijuana cultivation and production facility in a 65,800 sf building. The property is located in a Groundwater Protection District.

The hearing was continued until July 10, 2019 at the request of

the applicant. The place would be determined.

Meeting Minutes

Motion to approve the February 6, 2019 minutes by Kim Dietel.

Seconded by John Rodenhizer.

Vote: Unanimous in favor.

Updates from the Chair.

None

Adjournment.

Motion to adjourn made by Kim Dietel.

Seconded by John Rodenhizer.

Vote Unanimous to adjourn at 8:46pm.

Prepared by:

Marcie Ricker
Date

Attest