

HAMILTON PLANNING BOARD
MINUTES OF MEETING
December 17, 2019

Members Present: Richard Boroff, Peter Clark, Dan Hamm, Rick Mitchell, Brian Stein,
(Chair), Laura Walsh, and William Wheaton.
Planning Director: Patrick Reffett

This meeting was called to order in the Memorial Room, Hamilton Town Hall, 577 Bay Road at 7:00 with a quorum established.

Continued Site Plan Review. 59-63 Willow St. Public Hearing and Site Plan Review as submitted by the Hamilton Development Corporation (HDC) for a multifamily, multi-use dwelling.

Rick Mitchell and Brian Stein recused themselves as they were members of the HDC. Dan Hamm would be acting chair for the project. All revised plans had been received, according to Patrick Reffett. Mr. Reffett recalled that the hearing began November 5, 2019 after being advertised in the Salem News and at Town Hall.

Patrick Reffett said some changes to the plans had been distributed to Board members since the last meeting. Plans changed by adding a vehicular turn around, which had been discussed at the last meeting, and was a priority for the Hamilton Fire Dept. Four more spaces were added to the plan in response to concerns regarding the lack of parking. The proposal now had 30 parking spaces which is in excess of what the zoning bylaw requires. Mr. Reffett wanted to ensure that the public and the applicant were aware that this was a privately owned and maintained project and he had placed language in the proposed decision to that affect. The project was required to maintain and update utilities, erosion control, and landscaping. Mr. Reffett added that any approval of the septic system would be under the purview of the Board of Health and the Health Agent.

Members of the Board agreed that the applicant should offer local preference for the affordable units. Discussion ensued regarding the beneficiaries of the limited restriction as Jill Mann was unable to attain all the abutters' signatures. Ms. Mann said the restriction would run with the land. Ms. Mann said she had filed all affordable housing requirements with the State many times in the past and would assume the responsibility for the project. Ms. Mann said there was no age restriction on the property, so there would be no issue having it approved.

William Wheaton said his personal opinion was that the plan was well designed and met engineering requirements but thought it was too dense. If the project were being approved as a special permit, Mr. Wheaton would suggest a two story building, which was more in common with other buildings in town. Mr. Wheaton said the Board's hands were tied and it would need

to vote in favor as the proposal met zoning requirements. Mr. Wheaton added that he thought the Zoning By-law should be changed. Richard Boroff said he was fine with the proposal.

Patrick Reffett said the Town Manager had contacted Town Counsel and the Attorney General and had hoped to hear back from the Attorney General's office before the meeting but had not. While the Attorney General (AG) had approved the Zoning By-law change, the title on the errata sheet was titled something else. Town Counsel had been told by the AG's office that the Zoning change had been adopted properly and they would issue a supplemental decision to provide to all parties a confirmation of their opinion. Dan Hamm and Richard Boroff agreed there was no reason to wait to render a decision.

Russ Tanzer (Affordable Housing Trust) wanted to make sure two deed restricted (in perpetuity) affordable units were part of the approval. Dan Hamm responded "yes". William Wheaton said the entire project could be a 40B but Jill Mann said she thought it was not feasible.

Elaine Swenson (6 Linden St.) said she had received information from the Attorney General's office stating that the Municipal Law Unit was still reviewing the situation and that a decision had not been made yet. Patrick Reffett said the information contradicted what he received. Ms. Swenson requested the Board delay their vote. Ms. Swenson said her contact was made through Brad Hill's office. Mr. Reffett responded that without a doubt the By-law, which had not been changed had been approved on April 11, 2017. Mr. Reffett received an e-mail from Town Counsel who received information from Kelly Gunagan (Assistant Attorney General) indicating that they were reaffirming that the By-law adoption was valid and done correctly. Discussion ensued whether the Board should wait to render their decision.

Jill Mann said it would be penalizing the applicant to continue the process and that Kelly Gunagan was the party who rendered the decision in the Attorney General's office. Ms. Mann reiterated that Ms. Gunagan said the By-law had been ratified. Ms. Mann continued that if something were to null the By-law's ratification, the decision would also be null and void because there was no enabling provision. Ms. Mann said there was no reason to hold back the vote.

Martha Driscoll offered her request that the Board wait to make a decision as the document was not the same one as was presented at Town Meeting, which was why the Attorney General's office was reviewing it. Ms. Driscoll said it would not appear favorable to issue a permit and then retract it because a By-law was not done correctly. Ms. Driscoll said there was no buyer yet and a traffic study had not been done. While Ms. Driscoll thought the HDC was to work with the Police Department to conduct a traffic study, William Wheaton said it was a general comment that the downtown needed a traffic study. Ms. Driscoll said the study could reveal information that would impede residents and businesses. Doing the study first would be proactive. Dan Hamm said he was insulted that Ms. Driscoll insinuated that the Planning Board was not proactive. Ms. Driscoll said doing a traffic study after development was retroactive.

Patrick Reffett said the DPW Director, Police Department, Fire Department, possibly Town Manager, residents, and business owners would work with traffic engineers and a planning entity to undertake a parking study in the next few months, which Mr. Reffett said was proactive. A set of recommendations regarding signage, parking, and traffic would be developed and sent to the Selectmen for approval as they are the Town's roadway commissioners by state statute.

Julia Maycock (Willow St.) urged the Board to wait for the supplemental opinion before they voted on the site plan. Ms. Maycock said the HDC needed to sign the agreement regarding Mac's Shoe property before the abutters signed it. Ms. Maycock said the agreement was not fully digested by the abutters and might give the Board more time to read the document.

Rick Mitchell (HDC President) said the HDC would support whatever they could regarding parking and traffic but that no scope of services or costs had been provided to them so they had not taken a stand. Mr. Mitchell said the HDC wanted to be a part of the solution. Mr. Mitchell urged the Board to proceed to a vote as the By-law had been passed two years ago and the Zoning adoption issue had been created by one individual who wanted to delay the project. According to Mr. Mitchell, there was no evidence that the passage was done improperly and the By-law had met the scrutiny of Town Counsel and the Attorney General. Mr. Mitchell said the HDC wanted a decision as soon as possible as they were creating a Request for Proposal and hoped to issue it. Mr. Mitchell said there was no reason to delay a decision as out of the 5,400 voters, only 20 had a problem with the proposal. Mr. Mitchell said the HDC had met with them, listened to their concerns and found no substantive reason to delay other than speculative information. Patrick Reffett said Town Counsel was in touch with the Attorney General, who had approved it and approved it again, which was all he needed to know.

Carl Swenson (6 Linden St.) had concerns regarding drainage flow as illustrated on the On-Site Grading Plan, which showed the flow of water coming down the driveway and from the parking lot leading to one location noted as snow storage. Mr. Swenson said all drainage from the entire site was localized against the abutting neighbors' properties, which might flood basements. Mr. Swenson was also concerned that landscape plans did not indicate quantities of plant material and that a detail of the 8' fence was not shown. Mr. Swenson said a financial representative was to meet with the abutters before the meeting but Dan Hamm said the issue was irrelevant as the Board was reviewing the site plan, which was in conformance with the By-law. Jill Mann said the fence would be an AZEC stockade fence and that the landscape plan was for approval purposes. April Ferraro (Meridian Engineering) explained that all flow from the driveway would go to the catch basin and that a curb along the driveway would prevent any flow heading toward abutters' properties. A letter had been submitted by Engineer Liz Oltman (as part of peer review report) confirming drainage had been designed in accordance with the Rules and Regulations. All drainage from the carport area would flow to a separate catch basin. The roof flow went into the infiltration basin. The flow would not overwhelm the curb, according to Ms. Ferraro. Ms. Ferraro continued that a construction plan would have the details but not a permitting plan as it

was not required. Patrick Reffett with the Building Inspector would approve the construction permit based on the permit issued.

Motion made by Richard Boroff to close the public hearing.

Seconded by Peter Clark.

Vote: Unanimous in favor.

Motion made by Richard Boroff that the Planning Board approve the Site Plan Review decision as proposed by Patrick Reffett for 59 to 63 Willow St.

Seconded by William Wheaton.

Vote: Unanimous in favor.

Jill Mann said the Attorney General would not overturn the decision as the By-law had been approved twice. Ms. Mann also indicated that Harborlight would not be interested in the project.

Review of Open Space and Farmland Preservation Development (OSFPD) By-law.

Patrick Reffett distributed the full By-law text with a copy that had revisions. Mr. Reffett hoped to develop a clean and direct By-law as consultants had suggested simplifying the document. Brian Stein noted that only one or two developers had tried to use the By-law with one saying there was no way he could make it work as it did not allow for enough density or a combination of multiple residential uses such as single family, cottage, cluster, or senior housing.

The original OSFPD By-law was developed in 2004 in response to a concern that one and two acre lot subdivisions would devour land in an inefficient form of development. If 50% of land was placed in preservation, a density bonus would be offered. Members of the Board discussed that 85% of land in Hamilton was already permanently protected or restricted. Rick Mitchell discussed whether the By-law should have been mandatory for developments on over 10 acres but it was preferred that it was allowed under a special permit, which put the developer at risk. Mr. Mitchell referred to the Rich property on Route 22 and the 20 acre parcel recently subdivided by Gordon Conwell. The financial health of Gordon Conwell was discussed.

Members discussed the difficulty in determining density in the current By-law, which Patrick Reffett said needed to be clarified, especially so building inspectors could understand the process. Mr. Reffett said the By-law was explicit about maintaining open space and that density would be pocketed in clustered development that would work with the topography and save a large amount of land that should be connected to other open spaces.

Brian Stein suggested creating a list of things a developer could do to get a density bonus, such as senior housing or affordable housing. Rick Mitchell suggested finding a theoretical piece of property and applying the By-law to it. The Rich property was discussed. The property was in the center of 70's subdivisions in the R1B district (1 acre), allowing for about 30 houses. Mr. Mitchell suggested inviting a developer to look at the parcel and see if they could make it work.

It was noted that the Esdaile property did not work as there was not enough density offered and that the developer wanted to do a combination of multiple residential uses. Dan Hamm said subdivisions ruined communities as housing was the single focus. Mr. Mitchell noted the lack of diversity.

Patrick Reffett said the By-law presumed that the open space would be given to the Town but that it should remain in private ownership. A set of standards should be written for the maintenance of such ownership. Mr. Reffett said the DPW was not able to maintain such properties and shouldn't be placed in that position. William Wheaton recalled that the State did not want to have more State parks and that private conservation groups were being used instead. The best way to have open space would be to have the ownership remain private but the land conserved. Development rights should be sold for \$1 to an entity such as Essex County Greenbelt to maintain the land with a succession provision that another organization would take over the title in the event the entity's failure. If the open space were owned by the development residents, a liability issue would exist. Mr. Reffett would contact Tom Ford and Larry Smith to have them take a critical look. Peter Clark said Marc Johnson had cluster developers who were interested in the Pirie property.

Discussed ensued if wetlands could be part of the open space calculation. Patrick Reffett thought it should be incorporated as it was a contribution to the public for scenic value. Richard Boroff added wildlife value. Brian Stein said a reasonable percentage should be included and that there was a 50' no build zone.

Patrick Reffett said Marcie Ricker and Susannah Colerado Mansfield offered to discuss the Great Estate By-law if the Board wanted to revise it. Of the 17 original properties, several had been developed. While a revision to the bylaw had been proposed a couple of years ago many abutters were opposed to the By-law because of the commercial piece and the fear of residential density.

Review/vote upon final Housing Production Plan Document

Motion made by Rick Mitchell that the Planning Board vote to approve the final version of the Housing Production Plan document as discussed previously in a joint meeting with the Selectmen on November 18, 2019.

Richard Boroff seconded.

Vote: Unanimous in favor.

Board Business.

Minutes of Joint Meeting with the Selectmen re: Housing Production Plan.

Motion made by Rick Mitchell to approve the minutes of November 18, 2019.

Seconded by William Wheaton.

Vote: Unanimous in favor.

Minutes of December 3, 2019.

Review schedule of 2020 meetings.

Meetings would be held the first and third Tuesdays of every month but the schedule could be modified.

Committee reports

Future agenda items.

Preparation for 2020 ATM.

Adjournment.

Motion made by William Wheaton to adjourn at 8:53 pm

Seconded Rick Mitchell.

Vote: Unanimous in favor.

Prepared by:

Marcie Ricker

Attest

Date