

HAMILTON PLANNING BOARD  
MINUTES OF MEETING  
August 7, 2018

Members Present: Richard Boroff, Peter Clark, Ed Howard, Rick Mitchell and Brian Stein  
(Chair).  
Members Absent: Janel Curry  
Associate Members: Daniel Hamm  
Planning Director: Patrick Reffett

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

**15 Walnut. Hamilton Crossings Shopping Center – Abbreviated Site Plan Review.**

**Changing retail space to personal pilates trainer space.** Linda Mieggs was present to ask permission to change tenants. Patrick Reffett explained the applicant wanted to change 967 sf of existing retail space to a personal pilates trainer space. No new space was to be built. The parking requirements nor other zoning related elements were affected. Mr. Reffett recommended approval. Ed Howard recalled that a gym had been at the same site in the past. While use changes were required to come to the Board, Mr. Reffett said the applicant should have the right to change in instances such as this when there was a conversion from one limited use to another limited use without parking or size requirement changes. To keep the commercial use thriving, change was needed. Brian Stein suggested that Patrick Reffett could review changes and determine if they were substantive or not. A memo would be placed in the file allowing this to occur.

Brian Stein made motion to approve the Abbreviated Site Plan Review as presented for 15 Walnut Hamilton Crossing Shopping Center.

Ed Howard seconded.

Vote: Unanimous in favor.

Brian Stein made motion to allow the Director of Planning and Inspections and/or the Building Inspector to allow non-substantive changes to retail establishments at Hamilton Crossings provided that no substantive exterior changes or changes to parking areas were requested.

Ed Howard seconded.

Vote: Unanimous in favor.

**Public Hearing – Proposed Amendment to the Hamilton Zoning By-law – Accessory Apartments.**

ZBA Members Kim Dietel and John Rodenhizer were present to offer the suggestions provided by the ZBA. Patrick Reffett had previously distributed the ZBA's comments to the Planning Board. John Rodenhizer suggested that the By-law not contain the restriction of 30% of gross

floor area as it might not be enough to accommodate a smaller dwelling. Another suggested change was that after three years, the permit would terminate and the applicant would need to return to the ZBA, which Bill Bowler thought would create a lot of administrative work. Patrick Reffett added that the likelihood of it not being renewed (as per the text) was high. Peter Clark wondered if the By-law should be addressing temporary units such as in-law apartments or permanent units which would increase the housing stock. Richard Boroff referred to the Purpose statement within the proposed bylaw, which indicated it would be adding to the housing stock. Mr. Clark said it might change the character of the town. Brian Stein said the use would not be by-right but only through a Special Permit issued by the ZBA. Mr. Boroff said it would also be limited by septic constraints.

Gross floor limitation based on the 30% limitation clause was discussed. John Rodenhizer noted that the limitation would forbid a modest home from being permitted for the apartment. A 2,700 sf house would be needed for a 900 sf apartment while the median home size was 2,400 sf. Mr. Rodenhizer said proposals would be limited by other sections of the Zoning By-law such as setbacks. Mr. Rodenhizer also said that most applicants would want the apartment to be to scale of the house. The ZBA was the granting authority by Special Permit and that the cap should remain at 900 sf and that should be the only limitation if a proposal met all the other requirements. The one bedroom limitation had been increased to two bedroom a couple of meetings prior. Richard Boroff said a 900 sf unit could handle two bedrooms. The Board agreed to remove the 30% limitation clause.

The three year termination was discussed. While a transfer of title would be cause to terminate the permit, the owner moving out would be more difficult to police. It was determined that it would be a complaint driven process. Complaints would be filed with the Building Inspector.

The ZBA had suggested the tenant have a one year lease to avoid short term rentals such as Air BnB. Many towns were requiring a six month lease to accommodate college students. Section 4-15 referred to which dwelling unit the owner would occupy. It was determined to section would be deleted. The Planning & Inspections Director's title would be amended to reflect his accurate title.

Edits would be made and the By-law would be voted upon at a future meeting.

Rick Mitchell made motion to close the public hearing on the Accessory Apartment By-law modifications.

Richard Boroff seconded.

Vote: Unanimous in favor.

#### **Public Hearing – 227 Willow St. Amendment to the Special Permit.**

Rick Mitchell read the legal advertisement to open the public hearing. Mike Pallazola had been present at meetings to discuss changes to lighting and landscape. At a prior meeting, it was

determined that reopening the Special Permit public hearing would be necessary to amend the conditions.

Patrick Reffett had distributed the Special Permit Decision and conditions prior to the hearing and noted the differences between the built product and the original acceptance of the Special Permit, dated September 2018. Members of the Board and public were aware that Cam Holdings went to court and the case was referred back to the Town to work with the property owner to come to an acceptable conclusion. Town Counsel had advised the Town to work amicably with the property owner to come to a resolution which would include modifications to the existing Special Permit. Landscape improvements had been made in addition to what was required. Plans had been provided that went into detail regarding landscape and lighting improvements.

Brian Stein referred to turning lights off at 9:00 pm. or one hour after the closing of business, whichever was earlier. Mr. Stein said the upper soffit lights were a big issue and wanted them turned off permanently, while other lights such as entry lights, emergency lights, and egress lighting could stay on all night for safety and ordinary use purposes. One set of lights were allowed to be on from dusk to dawn and Mr. Stein asked if that was necessary as people would be happier if the lighting was minimized.

Mike Pallazola said the upper canopy lights were tied together and that the lights from the neighbors were very bright. He stated that shutting his lights off would accomplish nothing except darken his driveway as his neighbors lighting is beyond objectionable. Discussion ensued regarding lights in the Business District. Mr. Pallazola said he tried to follow the previous addendum conditions as closely as possible, had 44 parking spots, had installed 500 plants when only 150 were required, and had the lights turned off at 9:00 pm. Brian Stein said the hearing was to discuss amendments to the Special Permit. Discussion ensued if the lighting plan had been approved by the Planning Board or the Building Inspector but it was noted that the policy had changed regarding the issuance of a building permit for a special permit to solve such future issues.

Mike Pallazola showed before and after photos of the site and noted that he built a gorgeous building with a legitimate building permit. Brian Stein reiterated that he wanted to have the soffit lights turned off. Mr. Pallazola responded that it was about safety. If he were to turn them off, he would install the pole lights, which were on the plan for safety purposes.

Brian Stein said the lighting framed the building and accentuated the fact that it was a large building in a commercial area that abutted a residential zone. Rick Mitchell said the Board was trying to lessen what people found offensive. In response to being asked if Mr. Pallazola was willing to turn off the upper soffit lights, he responded that he wanted to think about it because it hadn't been discussed before. Mr. Stein said it was asked of Mr. Pallazola but the agreement was turning them off at 9:00 pm. Mr. Pallazola said the lights were timed to turn off at 8:00 pm and currently didn't even go on as it wasn't dark yet at that time. Mr. Pallazola suggested

turning them off at 6:30 or 7:00 pm as a compromise because most of the neighbors were not home from work yet. Mr. Pallazola said he was amenable to turning off the lights.

The Board and Mike Pallazola discussed removing the existing birch tree and planting a Kwanzan cherry tree. Discussion ensued regarding removing parking spaces for a planting bed but it was determined that it would be problematic due to septic and drainage constraints.

Patrick Reffett noted that Ed Howard was concerned about nighttime operation and deliveries. Mike Pallazola had written a letter addressing noise pollution. Mr. Pallazola told Mr. Howard that he wanted to be a good neighbor. The property would be leased for office, medical and mixed-use with no machine shops or that type of noisy use, according to Mr. Pallazola. Mr. Howard said he was convinced that by hearing him say so that Mr. Pallazola was willing to be a good neighbor and that was enough.

The list of conditions to be within the final permit included the cherry tree, lighting with the upper soffit lights being turned completely off and other lights, listed as A, B and C on the July 1, 2018 plan would remain. All accent lighting, except sign, emergency and egress lighting would be turned off by 9:00 pm or an hour after close of business, whichever is earlier. The canopy lights above the quad windows would be on at dusk and off at dawn, which were considered to be better than pole lights. One condition would be to keep the parking spaces as designated, with spaces 5 and 6 on plan to be removed and replaced with green space. The space at the rear of the area between the two buildings would be a green space. 44 parking spaces existed. Rick Mitchell stressed the new conditions to include the upper soffit lighting be turned off permanently, canopy lighting to be on from dusk to dawn, and the lighting fixtures (B and C) on the Schedule from the plan dated July 1, 2018 along with the Kwanzan cherry trees to be installed in the northwest corner planting area.

Mike Pallazola said he didn't want to go back to court and wanted the lights on until 6 or 6:30 but agreed to the condition.

A letter submitted late that afternoon from Rust Street resident Rosemary Kennedy noting the lighting and landscaping was read into the record.

Motion made by Rick Mitchell to close the public hearing for 227 Willow St. amendment to the Special Permit.

Richard Boroff seconded.

Vote: Unanimous in favor.

Motion made by Rick Mitchell to accept 227 Willow St. as built in its current condition as of August 7, 2018. with the conditions previously mentioned agreed to.

Seconded by Richard Boroff.

Vote: Unanimous in favor.

**Approval Not Required 278 Cutler Road.**

Brian Stein announced the Board had reviewed the parcel weeks ago and the current proposal was for modifications of lot lines. The applicant was changing lot lines to modify the amount of property being provided to Essex County Greenbelt Association. The previous ANR approval had a smaller residential portion and a larger section for Essex County Greenbelt. After negotiation and site logistics were considered, the residential portion was being made larger than previously approved. Patrick Reffett explained that the primary consideration of an Approval Not Required (ANR) property was if it had adequate access and both subject lots had access. Mr. Reffett recommended approval.

Motion to approve the ANR for 278 Cutler Road plan, dated 7-20-18 made by Brian Stein.  
Seconded by Richard Boroff.  
Vote: Unanimous in favor.

**Select Planning Board Representative to the Community Preservation Committee.**

Rick Mitchell nominated Janel Curry.  
Seconded by Richard Boroff.  
It was noted that Ms. Curry, who was absent from the meeting, had previously expressed an interest as service as the liaison.  
Vote: Unanimous in favor.

**Other Board Business/Discussion**

Minutes from June 26, 2018 and July 10, 2018

Motion made by Richard Boroff to approve the minutes of June 26, 2018.  
Seconded by Rick Mitchell.  
Vote: Unanimous in favor.

Motion made by Rick Mitchell to approve the minutes of July 10, 2018 with minor changes.  
Seconded by Richard Boroff.  
Vote: Unanimous in favor.

There were no meeting minutes of July 24, 2018 due to a lack of a quorum.

**Updates from Members**

Rick Mitchell discussed the formal approval of Dan Hamm to be appointed by the Board of Selectmen. Patrick Reffett explained that State Law Chapter 41 indicated that ordinary protocol would be to select a person to fill an existing empty seat by a joint appointment by the Selectmen and the Planning Board. August 13, 2018 would be the potential meeting date. The requirement was not new but the Interim Town Manager and Selectmen wanted to follow State laws.

Ed Howard suggested the Board send flowers to Claudia Woods. Patrick Reffett said there was no budget, but the Board could take up a collection to fund the flowers and he would make the arrangements.

**Adjournment**

Rick Mitchell made motion to adjourn.

Seconded by Richard Boroff.

Vote: Unanimous to adjourn at 8:41 pm.

Prepared by:

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Marcie Ricker

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Attest

Date