TOWN OF HAMILTON ZONING BOARD OF APPEALS MEETING

AUGUST 3, 2022 – WEDNESDAY - 7:00 P.M.

In person at 577 Bay Road in the 1st floor Memorial Room or via Zoom

Join Zoom Meeting:

https://us02web.zoom.us/j/81377241999?pwd=VIFReFNhQmZwMXVuS2s2SmFSSVJ2QT09

Meeting ID: 813 7724 1999

Passcode: 322161

Phone Number 1-929-205-6099 US (New York)

PUBLIC HEARING: For an application seeking a <u>Variance & an Extension or Alteration of a Non-Conforming Use, Structure or Lot</u> to construct a new attached two car garage with storage above at the property located at 135 Lake Shore Avenue, Assessor's map 66, lot 91, owner Travis James.

CONTINUATION OF A PUBLIC HEARING FOR A COMPREHENSIVE PERMIT: The Application was submitted by Harborlight Community Partners, for a Comprehensive Permit pursuant to MGL Ch. 40B for the construction of a 45 unit multifamily housing. The property is located at 466 Highland Street, Lot 1, Zoning District RA and is owned by the Britton Family Trust, LLC.

CONTINUATION OF A PUBLIC HEARING: Application is for the property owned by Gordon-Conwell Theological Seminary, Inc., located at 130 Essex Street, Zoning Districts R1B & R1A, Assessor's Map 64, Lot 5. Applicant is Harborlight Community Partners, Inc., 283 Elliott Street, Beverly. Applicant is seeking a Variance from the lot area requirements in Zoning Bylaw Section 4.1 in order to create 3 lots, pursuant to ZB Section 5.3.2.1 and Findings of Fact under ZB Section 5.2 for a Change of Use from student housing to multi-family dwelling, and under ZB Section 5.3.1.2 in order to construct three additions to the existing multi-family dwellings which have historically been used for student housing.

REGULAR BUSINESS

- Meeting minutes: June 1, 2022 & July 6, 2022
- Updates from the Chair

<u>Items may be heard out of the listed order</u>. The agenda items listed are those items which were reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed on the agenda may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Meeting dates, time, and location are subject to change as allowed by the Open Meeting Law. Please refer to the Town web page: hamiltonma.gov for details regarding a specific agenda. The Zoning Board of Appeals typically meets the first Wednesday of the month.

Notice of Public Hearing - Town of Hamilton – Zoning Board of Appeals – August 3, 2022

PUBLIC HEARING: The Town of Hamilton Zoning Board of Appeals will hold a Public Hearing on Wednesday, August 3, 2022, at 7:00 pm, at 577 Bay Road in the Memorial Room & via Zoom/telephone, for an application seeking a <u>Variance & an Extension or Alteration of a Non-Conforming Use, Structure</u> <u>or Lot</u> to construct a new attached two car garage with storage above at the property located at 135 Lake Shore Avenue, Assessor's map 66, lot 91, owner Travis James. A copy of the complete application is available for review by contacting the Building Department.

William Bowler, Chair

Town of Hamilton Zoning Board of Appeals - Public Hearing Notice – August 3, 2022

<u>CONTINUATION OF A PUBLIC HEARING FOR A COMPREHENSIVE PERMIT</u>: The Public Hearing was opened on April 6, 2022 and continued to June 1, 2022, then continued to July 6, 2022, and then continued to August 3, 2022 at 7:00 PM, in the Memorial Room, Town Hall, 577 Bay Road and via Zoom. The Application was submitted by Harborlight Community Partners, 283 Elliot Street, Beverly MA, for a Comprehensive Permit pursuant to MGL Ch. 40B for the construction of a 45 unit multifamily housing. The property is located at 466 Highland Street, Assessor's Map 28-8, Lot 1, Zoning District RA and is owned by the Britton Family Trust, LLC. A copy of the complete application is available for review by contacting the Building Department.

William Bowler, Chair

Notice of Public Hearing - Town of Hamilton Zoning Board of Appeals – August 3, 2022

CONTINUATION OF A PUBLIC HEARING: The Public Hearing was opened on Wednesday, July 6, 2022 where it was continued to August 3, 2022 where it will be held at 577 Bay Road, Hamilton, MA, Town Hall, Memorial Room, and via Zoom and will commence at 7:00 PM. The Application is for the property owned by Gordon-Conwell Theological Seminary, Inc., located at 130 Essex Street, Zoning Districts R1B & R1A, Assessor's Map 64, Lot 5. Applicant is Harborlight Community Partners, Inc., 283 Elliott Street, Beverly. Applicant is seeking a Variance from the lot area requirements in Zoning Bylaw Section 4.1 in order to create 3 lots, pursuant to ZB Section 5.3.2.1 and Findings of Fact under ZB Section 5.2 for a Change of Use from student housing to multi-family dwelling, and under ZB Section 5.3.1.2 in order to construct three additions to the existing multi-family dwellings which have historically been used for student housing. A copy of the complete application is available for review by contacting the Building Department.

William Bowler, Chair

MEETING MINUTES

DRAFT HAMILTON ZONING BOARD OF APPEALS MINUTES OF MEETING July 6, 2022 7:00 p.m. Hybrid Zoom Meeting ID 836 6531 670 Passcode 594674 Hamilton Town Hall 299 Bay Road, Hamilton, MA

Members Present:	Bill Bowler (Chairman), Steven Derocher (Associate), Bruce Gingrich,
	David Perinchief, and Andie Philip (Via Zoom).

Others Present: Patrick Reffett and others as noted in the meeting.

This meeting was called to order at 7:00 pm with a quorum established. Bill Bowler announced that hearings held at the June meeting were considered deficient due to lack of Zoom access. Therefore, individual items would be re-voted at this meeting.

PUBLIC HEARINGS:

Variance. 139 Cutler Road. Property owned by Marenglen Zepaj and Flaminio Lanzillo. Reconstruction after Catastrophe or Demolition to construct a new dwelling at the site where a single dwelling was demolished.

The proposal had been presented at the June meeting. No public input was received. Motion made by David Perinchief to grant the relief requested based on the record from the June 6, 2022 meeting.

Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

<u>Special Permit.</u> 145 Cutler Road. Property owned by Marenglen Zepaj and Flaminioi Lanzillo. Reconstruction after catastrophe or demolition to construct a single family dwelling.

Flamonio Lanzillo was present to describe the proposal. The proposed house would be more conforming than the existing structure and would meet the structural setbacks. The septic design had been approved by the Board of Health and the Conservation Commission. The Building Inspector indicated the lot was nonconforming due to area deficiencies. The lot lines had not been defined and there was a discrepancy as to whether the lot had 10,000, or 22,800 sf. The lot was in the RA district. A Zoning map change was pending.

Motion made by Bruce Gingrich to grant the special permit.

Seconded by David Perinchief.

Vote: Unanimous in favor.

Special Permit and Variance. 12 Honeysuckle Road. Property owned by Jeffrey and Krystin Sartorelli. Construct an attached garage and accessory apartment. Density and Side Yard Setback.

<u>Special Permit.</u> 71 Fox Run Road. Property owned by Patrick and Eileen Livermore. Demolish an existing attached garage and build a new two car garage and mudroom with living space.

Patrick Livermore was present to discuss the proposal to allow construction with existing nonconforming front and side yard setbacks. Bill Bowler noted that the front yard setback conformed but the side yard setback was closer than 15'. The proposal was for 14.7'. No questions or comments from the Board or public were heard.

Motion made by Bruce Gingrich to grant the special permit as filed.

Seconded by David Perinchief.

Vote: Unanimous in favor.

<u>Special permit. 156 Gregory Island Road. Property owned by Warren Brown. Request to</u> construct an accessory apartment.

Brian Stein was present to represent the applicant. According to Mr. Stein, reconstruction of a nonconforming home was approved a few months prior. The owner was now requesting an accessory apartment in the basement. The Board of Health had tentatively approved the septic system. The apartment was proposed to be 900 sf with an outside entry door on the south side, which would not change the appearance of the home from the street. There were four parking spaces on the property. No questions from the public or the Board were heard. Motion made by David Perinchief to grant the special permit for accessory apartment 156 Gregory Island Road.

Seconded by Bruce Gingrich. Vote: Unanimous in favor.

<u>Continuation of Public hearing</u>. 466 Highland St. Property owned by the Britton Family Trust. <u>Application by Harborlight Community Partners</u>. <u>Application for a Comprehensive Permit to</u> construct 45 units of multifamily housing.

Bill Bowler offered a history of the proposal with the first hearing being held in April. The Town applied for Safe Harbor but was denied by the State. The Board determined not to appeal the State's decision.

Patrick Reffett shared the proposed schedule of the presentations regarding the project and described the importance of understanding the 40B elements, lottery management, local preference, Subsidized Housing Inventory (SHI) eligibility, project components, scale, size, and design process. The proposal had incorporated neighbors' concerns, based on the Planning Board hearings three to fourth months prior. Material relative to traffic would be peer reviewed for the August 3, 2022 hearing. Site engineering would be discussed in September. Architectural and site design elements would be reviewed in October. The applicant would pay \$20,000 to hire a civil engineering firm to review the project. It was unclear if the special legislation for remote participation during the pandemic would be extended past the July 15, 2022 deadline. Meetings would be in person if the deadline was not extended.

A Supplemental traffic letter had been submitted the day of the hearing. The peer review process had not yet begun as the Town was awaiting funding for the review from the applicant. A proposal from a multi-disciplinary engineering company had been received.

The 102 acre site was described with existing student housing buildings being carved into separate lots to be conveyed to Harborlight, who would convert the student housing to rental apartments. Buildings would be purchased in separate phases, updated, then offered for rent. 25% would be affordable but the entire 210 units would be eligible for the SHI. The Town needed 200 to reach its 10% goal. The project would increase a diversity in housing stock, use existing buildings, and put non-taxable buildings onto the tax rolls. The project would leave the campus intact. Lot A/B would have frontage on Woodbury St. Lot C/D did not have frontage but would be approved as a lot as combined with common ownership with Lot A/B. Lot E/F had frontage on Woodbury St. Lots would no change in how cars entered or exited the site. The campus had 102 acres of land and the required minimum per unit would be 193 aces. The existing educational units were constructed under the Dover Amendment.

Harborlight would build additions between the existing buildings (in sets of two), which would serve as connectors with amenity space. The new construction required Site Plan Review from the Planning Board but the applicant needed a Section 6 Finding from the ZBA to allow for the construction of additions to nonconforming buildings once they were no longer used for educational purposes. Thad Siemasko showed existing photos. An elevator would be added to the connector/amenity spaces to be constructed between existing buildings. Floor plans and elevations were shown.

Rebecca Brown discussed the initial traffic study with an updated trip generation assessment. Ms. Brown said there would be one additional vehicle trip every five minutes. There were only three accidents from 2015 until 2019, which were predominately weather related. Site lines exceeded safety operations. Ms. Brown did not think the increased traffic would create a safety issue.

The applicant decided not to pursue a 40B approval as it would take years. Gordon Conwell was not willing to wait that long. The hardship being considered was due to existing structures not being usable after an educational use was no long applicable.

Nancy Dashkin (215 Woodbury St.) was present to issue her concern about traffic, sidewalks, the septic, and the future of the old building and library. Bill Bowler responded that the Planning Board was responsible for Site Plan Review. All Boards could place conditions and concerns going forward. Miranda Seimasko clarified that the egress to Woodbury St. would not change. The sewage treatment plant would be a separate legal entity with joint ownership.

Rick Mitchell (36 Rock Maple Ave. member of Planning Board, Chair of Hamilton Development Corporation, and member of the Gordon Conwell Task Force) was present to speak as a citizen. Mr. Mitchell wanted to discuss a comprehensive plan but found Gordon Conwell offered little

DOCUMENTS REVIEWED

130 Essex St. Gordon Conwell – Supplemental traffic letter.
130 Essex St. Gordon Conwell - Lot layout plan, floorplans, and elevations.
130 Essex St. Gordon Conwell – Updated traffic study.
130 Essex St. Gordon Conwell - Letter from Fred Vinn.

ADJOURNMENT

Motion made by Bruce Gingrich to adjourn at 9:44 pm. Seconded by David Perinchief. Vote: Unanimous in favor.

Respectfully submitted as approved at the ______ meeting.

Bill Bowler

HAMILTON ZONING BOARD OF APPEALS MEETING MINUTES June 1, 2022 7:00 p.m. Memorial Room, Town Hall, 577 Bay Road, Hamilton, MA

Members Present: Bill Bowler (Chairman), Steven Derocher (Associate), Bruce Gingrich, David Perinchief, and Andie Philip.

Others Present: As noted in the meeting.

This meeting was called to order at 7:00 pm with a quorum established.

PUBLIC HEARINGS:

<u>Continuation of Special Permit and Variance.</u> 12 Honeysuckle Road. Jeffrey and Krystin <u>Sartorelli. Construct an attached garage and an accessory apartment. Variance for the side</u> yard setback.

According to the architect, the garage would not be proposed as before. New drawings had been submitted that showed that new square footage added to the rear of the addition, which did not affect the side yard setback. The 900 square feet apartment space included the first floor entry as well as the second story addition.

Bill Bowler noted that the only issue to be aware of in the By-law was: "Any new outside entrance to serve an apartment shall be located on the side or rear of the building unless the permit granting authority deems otherwise appropriate given the layout and function of the building." Members agreed to a Finding of Fact that the entrance, which was on the front of the building was acceptable as the proposal met all other requirements of Section 3.6. A variance was no longer required with the design change. No specific conditions were noted.

Motion made by Bruce Gingrich to grant the Special Permit for the accessory apartment based on the revised plans as submitted.

Seconded by David Perinchief.

Vote: Unanimous in favor.

Variance. 139 Cutler Road. Property owned by Marenglen Zepaj and Flaminio Lanzillo. Reconstruction after Catastrophe or Demolition to construct a new dwelling at the site where a single dwelling was demolished.

Flaminio Lanzillo was present. Mr. Lanzillo stated that there had been a residential structure on the site. Eight months ago, the structure was being renovated by the previous owner when it collapsed. The foundation remained. The plan already had Conservation Commission and Board of Health approval, according to Mr. Lanzillo. The Site Plan illustrated the footprint of the previous structure in yellow. Mr. Lanzillo noted that the new house was more conforming regarding setbacks but the lot size did not meet current standards. The requirement was 20,000 sf while the lot was 10,000 sf. Mr. Lanzillo said the proposal was in keeping with the neighborhood character.

Motion made by David Perinchief to grant the petition for a variance. Seconded by Bruce Gingrich. Vote: Unanimous in favor.

<u>Special Permit. 8 Villa Road. Property owned by Silas and Ashley Nary. To construct a garage</u> with more than four motor vehicle spaces.

Silas Nary was present. Mr. Nary indicated that the submitted plans were for a multi-purpose barn with two parking spaces. There were two additional parking spaces in the main dwelling unit. There would be a total of four garage spaces including the house. There were no plans to add a dwelling unit within the barn. According to Mr. Nary, the neighbors were supportive of the project. There would be electricity for mini-splits and seasonal water would be provided.

Silas Nary said the Conservation Commission had been involved as there was a wooded trail adjacent to the proposed building. A gravel driveway was planned, which would cross the trail. Mr. Nary said he owned the land but there was a loosely drafted easement allowing use, which he did not intend to block. Mr. Nary said he planned on improving the trail area. The Order of Conditions, issued by the Conservation Commission, specified the area would be restored.

Motion made by David Perinchief to grant the Special Permit to construct the barn as presented.

Second Bruce Gingrich.

Vote: Unanimous in favor.

<u>Finding of Fact Alteration of a Non-Conforming Use. 116 Gregory Island Road.</u> Property owned by Lawrence Katz. To construct a screen porch.

David Jacquith (architect) was present to represent the applicant. Mr. Jacquith said the project had been approved by the Conservation Commission. It was determined that the submitted Site Plan showed an encroachment on the side yard. Both abutters signed a petition in favor of the project and, according to Mr. Jacquith, other neighbors were in support. The abutter was 50' from the property line and it was noted that the full—size plan was correct.

Bill Bowler announced that the ZBA was recently alerted to the SJC case where an increase in non-conformity for a non-conforming residential property did not need a Variance. It was now within the ZBA's discretion to require a Special Permit rather than a Variance. Mr. Bowler wanted to ensure that the screen porch was not enclosed and made into a permanent part of the dwelling unit.

Motion made by David Perinchief to grant the Special Permit with the condition that the porch remain a screened in porch and not enclosed and made part of the dwelling unit. Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

DISCUSSION

Bill Bowler referred to an email from George Pucci. Members agreed to continue the public hearing for the application from Harborlight Community Partners for 466 Highland St. until July 6, 2022.

MINUTES

Motion made by Bruce Gingrich to approve the minutes of the May 4, 2022 meeting. David Perinchief seconded. Vote: Unanimous in favor.

DOCUMENTS REVIEWED.

Revised Plan. 12 Honeysuckle Rd. Application with photos of 139 Cutler Rd. Plans for 8 Villa Road. Site Plan for 116 Gregory Island Road. George Pucci email regarding Harborlight Community Partners hearing date. May 4, minutes.

ADJOURNMENT

Motion made by Bruce Gingrich to adjourn at 7:28 pm. Seconded by David Perinchief. Vote: Unanimous in favor.

Respectfully submitted as approved at the _____ meeting.

Bill Bowler

APPLICATIONS

- **135 LAKE SHORE DRIVE APPLICATION IS INCLUDED IN THIS PACKET**
- 130 ESSEX STREET PUBLIC HEARING APPLICATION IS INCLUDED IN THE JULY 6, 2022 MEETING PACKET
- 466 HIGHLAND STREET PUBLIC HEARING APPLICATION IS INCLUDED IN THE APRIL 6, 2022 **MEETING PACKET**

TOWN OF HAMILTON ZONING BOARD OF APPEALS

APPLICATION FOR ZONING BOARD OF APPEALS HEARING To be completed by all Applicants

Date Submitted: 6-30-22

Applicant Name: Travis James Phone: 978-855-0219

Applicant Address: 135 Lake Shore Ave. Hamilton MA

Applicant respectfully petitions the Board of Appeal for the following:

That he/she is seeking (check all that apply):

Variance: (State Type)
 Extension or Alteration of a Non-Conforming Use, Structure, or Lot
 Site Plan Review
 Abbreviated Site Plan Review
 Special Permit: (State Type)
 Appeal of Decision of the Building Inspector
 Conversion for Temporary Living Area
 Comprehensive Permit
 Other:

Address of Property if different from Applicant Address above:

Owner of property if different from Applicant noted above:

Note: If not the owner of the property, applicant must provide proof they are either the holder of a written option to purchase the property (or) verification they have authority to act on behalf of the owner of the property.

Zoning District: **R1A** Existing Lot Size: **9,053 SF**

State Briefly what structures are on the property: Existing single-family residence. 2-Story wood framed building.

State in detail what the petitioner desires to do at said subject property:

Seeking to construct a new attached two-car garage with storage space above.

State whether any petition as to the said premises has been submitted to this Board within the last five years. If so, give details:

On January 2018. Petition for an Extension/Alteration of a nonconforming structure for a setback. The petition was granted.

State if any Building Permit has been granted to said premises within the past two years. If yes, give details: $1 \le 10^{-1}$

Signed: 135 Lake Shore Ave Address: Hamilton MA 01936

Phone: 978-855-0219



TOWN OF HAMILTON ZONING BOARD OF APPEALS

REQUEST FOR FINDINGS OF FACT EXTENSION OR ALTERATION OF A NON-CONFORMING USE

Date Submitted: 6-30-22

Applicant Name:	Travis James	
Non-Conforming Property Located at:		135 Lake Shore Ave Hamilton MA 01936

Note the Existing Non-Conformity (check all that apply):

- M Lot Size
- □ Front Yard Setback
- Side Yard Setback
- □ Rear Yard Setback
- □ Lot Coverage
- □ Property/Building Use
- □ Other:

Will the proposed extension or alteration meet current zoning requirements:

- □ Yes
- M No: State non-compliance of extension/alteration

The proposed addition seeks to extend an existing nonconforming side setback

Will the proposed extension or alteration further encroach on the existing non-conformity

X Yes: State further encroachment

The garage will slightly increase the nonconforming side setback. The setback in question tapers toward the existing structure. The garage wants to align with the existing building to provide access between the new & existing structures

🗆 No

Applicant shall state that the extension or alteration reflects the nature and purpose of the previous use (or) that the extension or alteration is no different in kind in its effect on the neighborhood as compared with the previous use, for the following reasons:

The proposed garage addition is a typical use for a single family residence and is in keeping with the neighborhood.

Applicant shall state that the extension or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure for the following reasons:

The proposed addition will align with the existing building and will match the existing residential details

Signed:

Address: 135 Lake Shore Ave

Hamilton MA 01936

Phone: 978-885-0219



TOWN OF HAMILTON ZONING BOARD OF APPEALS

REQUEST FOR FINDINGS OF FACT VARIANCE

Date Submitted: 6-30-22

Applicant Name: **Travis James** Property Located at: **135 Lake Shore Ave Hamilton MA**

That literal enforcement of the Zoning By-Law would impose a substantial hardship on the petitioner due to circumstances relating to the soil conditions, shape or topography of the land or structures especially affecting the subject property but not affecting generally the area in which it is located, for the following reasons:

The lot size is significantly undersized, as are most properties in this neighborhood which prevents the expansion of buildings to include practical uses such as the proposed garage.

That no substantial detriment to the public good would exist were the variance granted, for the following reasons:

A two garage is keeping with the existing single family neighborhood. The proposed structure matches the existing house and will provide space to house their vehicals

That no nullification or substantial derogation from the intent or purpose of the Zoning By-Law would exist were the variance granted, for the following reasons:

The proposed garage addition will not negatively effect the neighborhood because it is a typical Residential use, will blend in with the exisitng house and the existing land can support the structure

Signed: 135 Lake Shore Ave Address: Hamilton MA 01936 978-855-0219 Phone:

APPLICATION CHECK SHEET HAMILTON ZONING BOARD OF APPEALS

VARIANCE

8 copies of all Materials. Refer to Instruction Sheet. Section of the Zoning By-Law covering desired Board action(s)

Variance Requested. Check all that apply.

- M Lot coverage
- □ Side yard setback
- □ Front yard setback
- □ Rear yard setback
- □ Frontage
- □ Parking
- □ Other. Specify. _

State hardship for which relief is sought:

- □ Soil conditions
- M Shape of the land
- □ Topography of the land

Visual Materials Required - Scaled drawings showing at a minimum the following

- 1. Site Plan: Include at a minimum:
 - Plan showing total parcel of land
 - Title block with Date
 - Scale
 - North Arrow
 - All property lot lines with dimensions
 - Area of parcel of land
 - All building locations with dimensions of structures and dimensions to lot lines
 - □ Location and use of all adjacent structures with dimensions to lot lines if applicant is seeking relief to construct within 20 feet of another building
 - Zoning District including Watershed Protection areas and Historic District areas. If property falls within more than one district, plan shall show all district lines.
 - ☑ Location of wetlands protected areas.
- 2. Exterior Elevations of the Building
- 3. Scaled floor plan of both new and existing structure

TOWN OF HAMILTON Zoning Board of Appeals CERTIFICATE OF PARTIES IN INTEREST

Pursuant to Massachusetts General Laws, Chapter 40A, Section 11, the undersigned Assessor of the Town of Hamilton, hereby certifies that the names and addresses appearing on the list appended hereto are those of the:

- (a) abutters 100'
- (b) owners of land directly opposite on any public or private street or way
- **X** (c) owners of land within 300' of the property line of the property at:

135 LAKE SHORE AVE

So. Hamilton

Dated June 8, 2022

Prepared by Assessor's Office of the Town of Hamilton.

Jane Dooley

Interim Assistant Assessor

















