

HAMILTON PLANNING BOARD
MINUTES OF MEETING
Webinar 871 -268 2744
Hybrid with Members in the
Memorial Room
Hamilton Town Hall
September 21, 2021

Members Present: Richard Boroff, Marnie Crouch, Rick Mitchell (Chair), Jonathan Poore, William Wheaton, and Patrick Norton (Associate).
Planning Director: Patrick Reffett.

This meeting was called to order by Rick Mitchell at 7:05 pm with a quorum established.

Senior Housing Special Permit Public Hearings Continued. Chebacco Hill Capital Partners, LLC. 133 Essex St. 50-unit age restricted condominium development. Senior Housing Special Permit and Stormwater Management Permit.

Members discussed that topics for the next meeting would be determined one meeting ahead to allow for proper review time. This meeting would focus on the requirements of the Senior Housing bylaw, the Groundwater Protection Overlay District (GPOD), and Inclusionary Housing bylaw (number of units and amount of payment).

Jill Mann was present. Bill Wheaton said he had read the minutes and signed the Mullen Affidavit, which he stated he filed with the Town Clerk. (Members who miss a meeting are eligible to vote if they file a statement under penalty of perjury attesting to have examined “an audio or video recording of the missed session or a transcript thereof.”)

Jill Mann shared her screen. Ms. Mann agreed the meeting would focus on project eligibility, density, GPOD, and inclusionary zoning. Ms. Mann said the intention was to be mindful of the purpose of the Senior Housing By-law, which included flexibility in land use and preserving woods and farmland in lieu of clearing land for a conventional “as of right” subdivision. The project plan, according to Ms. Mann, would protect natural features, and open space, while implementing smart growth principles. The project would provide senior housing fiscal benefits without burdening the school system. According to Ms. Mann, the project would protect the rural feel of Hamilton by only having one entrance to the development instead of several that would be required under a conventional subdivision plan.

Jill Mann explained that the land would be developed regardless of whether Chebacco Hill Capital Partner, LLC was the developer as it was in private ownership. Ms. Mann thought the proposed senior housing development was the best proposal as it aligned with the consolidated purposes enacted at Town Meeting and defined in the Master Plan. Ms. Mann showed a hypothetical by-right subdivision and discussed the benefits of having a senior housing

development compared to a by-right project. All homes and infrastructure in the senior housing proposal would be located outside the wetlands and a directional drill would allow for access under the wetlands for the septic system, which has been approved by DEP for other projects. Ms. Mann noted that, in addition to the conventional plan, a 40B proposal would be another development option for the property which would be less preferable than the senior housing option. Ms. Mann added that the proposal preserved nine acres of farmland and 40 acres of open space.

Jill Mann noted the project was outside the required .5-mile distance from existing senior housing developments. Density was discussed. There was 66 acres on the site, of which 16 were wetland, leaving 50 developable acres. Ms. Mann asserted that the GPOD did not apply, but even if it did, the base density would be 50. The entire development was not in the GPOD even though Patton Ridge and Canterbrook were entirely within the GPOD. In the R-1B district, two units were allowed for every developable acre. If the GPOD were applied, 50 units would be allowed, if not, 88 to 100 units would be allowed, according to Ms. Mann. The Senior Housing Bylaw limited allowable units to 50. Ms. Mann added that the farmland would be part of the Conservation Restriction in the event that farming no longer occurred.

Marnie Crouch questioned the 15% or 2500 sf (whichever is greater) of non-impervious surface within any lot provision of the GOPD (Section 9.1.9). Jeff Merritt and Brent Cole (Granite Engineering) reported that the project would render impervious 9.4% of the lot, which was under the 15% threshold. Ms. Crouch referenced calculations based on 80,000 square feet would only allow 36 units as set forth in a memo to the Board from Dave Thompson. Dave Thompson was present to discuss how he derived 36 units and the applicability of Title 5 parameters of two-bedroom senior housing units. According to Mr. Thompson two-bedroom units would have a flow of 150 gallons per day (gpd) with 50 units producing 7,500 gpd. Compared to 36 units with 3 bedrooms producing 110 gpd per bedroom which would result in 11,500 gpd being produced. Mr. Thompson said having senior housing with two bedrooms met the intention of the GPOD as it reduced the effluent per acre.

Dave Thompson was more concerned that the area was a recharge area for Beck Pond. Mr. Thompson was concerned that the proposed septic disposal system would dump 7,500 gpd into the Town's recharge area and Manchester's drinking water supply. Mr. Thompson wanted the applicant to determine if the area was a recharge area. Monitoring wells and monitoring programs would determine impacts.

Inclusionary Zoning was discussed. Jill Mann noted that affordable housing could not be provided onsite, leaving the applicant with the option of donating land, which could be accomplished by creating a 40B development on the farmland lot, or giving the Town an equivalent fee in lieu of units. The determination of the fee was discussed. The Department of Housing and Urban Development determined median family income for one, two, three, and four person households. Jill Mann said the project was for two person households. In her view, the

Bylaw required using \$80,850 and multiplying the income level by three and then by six, the number of required units to create a donation of \$1,455,300 to the Affordable Housing Trust. Payments would start when the 15th building permit was issued.

Marnie Crouch said the units would cost more to build than the donation. Jill Mann responded that the Bylaw said the applicant needed to provide three times the median income and not the cost to construct units.

Ms. Crouch said a member of the Affordable Housing Trust had calculated the number of units in a different manner than the applicant had done so that the number of units was seven, not six. The Affordable Housing Trust had voted to request the Planning Board have Town Counsel opine on the computation methodology under Section 8.3.3 of the Inclusionary Housing Bylaw. The Board did not entertain a motion to refer the computation of the number of required units under Section 8.3.3 to Town Counsel.

The Board discussed the computation of the fee in lieu of units under 8.3.4.3 of the Inclusionary Housing Bylaw and the reference to the income limit for a two-person household instead of a four-person household that was used in the prior version of the bylaw. Jill Mann asserted that the Bylaw did not provide for what the unit would cost. Rick Mitchell said the Planning Board had previously applied this formula for the Patton Ridge and Canterbrook developments.

Members discussed whether Town Counsel should opine on how the computation of the “fee in lieu” under Section 8.3.4.3 of the Inclusionary Housing Bylaw. Jill Mann asserted that the Board could not defer to Town Counsel to make an interpretation as the Planning Board was the opining/discretionary board.

Motion made by Rick Mitchell to accept the interpretation of the applicant, subject to having Town Counsel review the decision and determine if in fact it is a valid and legally defensible interpretation.

Richard Boroff seconded.

Roll Call Vote: Marnie Crouch – aye, Bill Wheaton - aye, Jonathan Poore - aye, and Richard Boroff – aye. Unanimous in favor.

The project’s applicability to the GPOD was discussed. Jill Mann said the point was moot as 50 units were still allowed. Jonathan Poore noted that the language of the GOPD was unambiguous as the applicability of the GOPD if one-third or more of the lot was within the GOPD in view of the definition of a “lot” in Section 11 of the Bylaw. Ms. Mann said the farmland could be carved out, which would make Section 9.1.5 inapplicable. The division would result in approximately 57 acres of which 13 would be wetland, leaving 43.8 acres. Members agreed that dividing the farm lot from the existing single lot via an Approval Not Required application would resolve any issues regarding the applicability of the GPOD.

Motion made by Jonathan Poore to close this point of discussion as the Planning Board supported the applicant's presentation relative to the applicability of the GPOD, subject to the subdivision of the farmland property with meets and bounds to create two separate lots.

Bill Wheaton seconded.

Roll Call Vote: Marnie Crouch - aye, Bill Wheaton - aye, Jonathan Poore - aye, Richard Boroff - aye, and Rick Mitchell - aye. Unanimous in favor.

Elizabeth Ransom submitted information to the Planning Board on the date of the hearing and was present. Ms. Ransom said the project needed to be improved to limit groundwater impacts for Hamilton and Manchester. Jill Mann responded that the Town of Manchester had no issues as the development was far away from their well. Ms. Mann noted that the peer reviewer discussed monitoring wells, and the applicant would do due diligence with the regulations.

Deborah Eliason was present and voiced her concern that the Planning Board voted on topics without public discourse. Ms. Eliason noted that the "moderately priced" units would be sold for \$800,000, while the median house price in Hamilton was \$682,000. Ms. Eliason requested hydrological and hydrogeological studies.

Lewis Brown and Larry Smith, were present but did not comment. John Cole and Heather Ensworth wanted to ensure public input.

Nancy Peterson asked why the property could not be conserved. Jill Mann noted that the property was currently under agreement with the proposed developer. The property was privately owned and the owner was entitled to develop it. It could have been conserved if a conservation group had been willing to pay the equivalent price, which had not happened. Deborah Eliason said the conventional plan of 32 units would require 32 separate septic systems and questioned if those systems would all be approved. Ms. Mann responded that subdivision control law would allow for the systems and the land would be developed one way or another.

Cathy Rich (owner of 133 Essex St.) said she wanted to honor her parents' wishes to develop the property. Her parents wanted assisted living but the current vision was perfect. Ms. Rich and her brothers supported the project.

Questions posed on the webinar platform were asked and answered by the Board. Questions will be reflected in the recording.

Topics for the next meeting were suggested and included density, location of septic, groundwater (geological information presented), the entrance point 3-D view, and loop trails on site with connection points. Jonathan Poore wanted clarifications of site sections that came up through the entry drive, including revised proposed plantings. Mr. Poore also requested a view of the top of embankments and the limit of disturbance. Members agreed that topics should be more limited to facilitate decision making. Those topics included density, potential consideration of a report

from Town Counsel regarding the affordable housing formula, the 3-D rendering and cross section, the view-space, and the septic with interrelated monitoring system and information regarding its contamination of the groundwater. Geological information regarding blasting and changes of topography would be considered later although it was recognized that many topics are interrelated.

Motion made by Richard Boroff to continue the hearing until October 5, 2021.

Seconded by Bill Wheaton.

Roll Call Vote: Richard Boroff – aye, Jonathan Poore – aye, Bill Wheaton – aye, Marnie Crouch – aye, and Rick Mitchell – aye.

Board Business.

Members discussed that because the name, “Board of Selectmen,” would be changed to the “Selectboard,” there was a need to amend numerous sections of the Zoning By-law to reflect the new designation.

Motion made by Marnie Crouch to approve the minutes of September 7, 2021.

Seconded by Richard Boroff.

Roll Call Vote: Marnie Crouch – aye, Bill Wheaton – abstain due to absence, Jonathan Poore – aye, Richard Boroff – aye, and Rick Mitchell – aye. Unanimous in favor of voting members.

Adjournment.

Motion made by Richard Boroff to adjourn at 10:19 pm.

Seconded by Marnie Crouch.

Vote: Unanimous in favor.

September 21, 2021 Documents discussed.

Powerpoint presentation by Jill Mann.

- Village at Chebacco Hill Meeting Outline, dated, September 21, 2021.

- Senior Housing By-law. Section. 8.2.

- Conventional plan of Chebacco Hill.

- Property Overview.

- Eligibility and Compliance.

- Density

- Site Plan showing 9.4 acres of farmland.

- Inclusionary Zoning By-law

- Inclusionary Zoning Analysis

- Inclusionary Zoning Requirements.

- Inclusionary Zoning Income Limits

- GPOD Applicability

- Special District Regulations Section 9.0 of the Zoning By-law.

Site Section – top of bank.

Revised landscape plan.

Dave Thompson memo (June) to the Board.

Affordable Housing Trust alternate computation for Inclusionary methodology to determine number of affordable units.

Manchester Water Department letter in original application.

Letter from Deborah Eliason. September 20, 2021

Groundwater, civil engineering, and blasting comment letter from the peer reviewer.

Minutes September 7, 2021.

Respectfully submitted by Marcie Ricker