



**TOWN OF HAMILTON
PLANNING DEPARTMENT**

STAFF MEMORANDUM

TO: ZBA members
FROM: Mark Connors, Planning Director
RE: Asbury Common 40B Comprehensive Permit – Request for
Determination of Insubstantial Changes
FOR: November 5, 2025 ZBA Meeting

The Zoning Board of Appeals approved the Comprehensive Permit application for Asbury Common, a 45-unit affordable multi-family housing development at 461 Asbury Street on March 1, 2023, formalized in a written decision signed on March 21, 2023. As ZBA members are aware, the State's 40B Regulations (760 CMR 56.07(4)(c)) do not require that plans associated with Comprehensive Permit application be in final form - the plans may be preliminary in nature - during the ZBA review process.

When the plans are finalized and fully engineered, the Applicant may make changes to the details of the proposal. The ZBA must review the proposed changes and determine, within 20 days, if the changes are substantial or insubstantial in nature. If the ZBA determines the changes are insubstantial, the Comprehensive Permit shall be deemed modified to incorporate the change. If the ZBA determines the changes to be substantial, the Board must hold a public hearing and make a decision related to the proposed changes within 30 days.

The applicant is proposing to make a series of minor changes to the approved plans. The proposed changes do not affect the number of housing units proposed, the footprint, height, and architectural style of the proposed structure and associated parking/driveway. The proposed changes are described in the applicant's letter dated October 29, 2025 and briefly described below:

Landscaping: The applicant proposes to remove some landscaping previously proposed along the rear property line. Because the site abuts open fields to the rear under a conservation restriction, staff takes no objection to the change. The applicant is proposing additional landscaping along the south property line including the addition of 20 evergreen trees, consistent with the ZBA's condition of approval, to screen views of the property from the abutting senior housing development.

Rear Terrace: The applicant is proposing to remove a proposed rear terrace area. This area would be converted to a grassy lawn area and would still be available for resident use, though in a less formalized manner, and the

project will still include a formal courtyard in the front of the building. The applicant notes property management and flood plain considerations for this design change.

Walking Paths

There are some changes to walking paths in the final plans. For the front walking path, the applicant is proposing to change the trail material from concrete to stabilized aggregate. The applicant is also proposing to remove a formal path that would traverse the rear and south sides of the development (along its border with the Canter Brook development). Residents would still be able to circulate around the building on foot though not through formal paths. The final design maintains pedestrian paths along the front of the site, in the front courtyard, and paths linking the building and front path with the garden and playground areas.

GUIDANCE:

The State Regulations governing Comprehensive Permit applications (760 CMR 56.07(4)(c)) provides guidance to the Board to help determine if changes are substantial or insubstantial in nature. That section of the regulations is annotated below:

The following matters generally will be substantial changes:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

(d) The following matters generally will not be substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

The proposed changes do not alter the general and fundamental nature of the project, including to the number of units and bedrooms, the style and type of housing proposed, and to the footprint and architectural style of the building. As the proposed changes are minor, staff would recommend that the Zoning Board issue a determination that the proposed changes, to the landscaping, rear terrace, and walking paths are insubstantial in nature.

