

ZONING BOARD OF APPEALS  
Hamilton, MA

Re: ZBA Meeting Notes  
Date: June 18, 2002

Present/ZBA: William Bowler, Chairman  
Beth Ganister  
Winifred Whitman  
David Sullivan, Alternate member

7:00 Petition of Michael Gebauer for Extension or Alteration of a Non-conforming Use for the property at 1 Norris Roat, Hamilton, MA.

The Gebauers want to extend an existing deck on their house. The deck was part of the original plans and building permit in 1988, but was never built. The house (and proposed deck) is 60' feet from the lake. There is a small existing deck on the lake side of the house. After discussion, it was determined that the proposed steps and walkway at the front of the house would require a variance for approval, and the Board would not be favorably inclined to grant this variance in the future. It was agreed that the deck would be confined only to the L-shaped portion of the house and approved with the following conditions:

1. The deck may not extend past the east side of the existing house.
2. The new deck must be flush/parallel to the rear of the existing deck on the lake side of the house.

All in favor

7:15 Petition of Garu R. amd Debranne Jensen for Extension or Alteration of a Non-conforming Use for the property at 21 Lincoln Street, Hamilton, MA.

The Jensens plan to build a 6' single story addition on the west side of their house. The proposed addition will be 16.5' at the closest point to the side yard lot line. Their septic system is between the house and the garage. The neighbors present had no objections. The addition was approved with the following conditions:

1. The addition cannot extend past the front of the house on Lincoln Avenue.
2. It will be necessary to maintain a minimum 15' side yard setback on the southwest side of the house.

All in favor

7:30 Petition of John A. and Mildred A. Cashman for Extension or Alteration of a Non-conforming Use for the property at 156 Lake Drive, Hamilton, MA.

Proposal was to raise pitch of the roof to create a front porch space (an 8' extension) and move the bedrooms to the second floor. Discussion focused on necessary setbacks from Hemlock Drive (marked unconstructed on the plan) which appears to be a paper road.

It was decided to ask Steve Kenney about the status of Hemlock Drive for the next meeting. Hearing continued to July 9 at 7:00.

7:45 Petition of Peter B. and Suzanne Crocker for Extension or Alteration of a Non-conforming Use for the property at 12 Hatfield Road Hamilton, MA.

The Crockers proposed to replace their single car detached garage with a new attached garage. The driveway is also moving 2 1/2' to align with the garage doors. The project meets all setbacks. The garage was approved with the following condition:

1. Meet all required setbacks on the side (15') and front (25')
- All in favor

8:30 Petition of Lawrence R. Chase for Site Plan Review for the property at 505 Bay Road, Hamilton, MA.

Doug Trees, architect, presented Mr. Chase's plan to attach a 1314 square foot residence and two car garage to the existing 1774 square foot Harrigan's Package Store. The following information was discussed:

1. Move the ice machines and equipment to the north side of the building. The condensers and recycle containers will be screened by a fence and will not be seen from Bay Road.
2. Most other lots in the neighborhood are 10,000 sq. ft. This lot is 20,000 sq. ft. with plenty of frontage.
3. Larry Chase plans to live in the residence. It is hoped that having the owner live there will enhance the safety and security of the Package Store.
4. The septic system will be at the rear of the property. Not many trees will need to be removed. The trees on the south side of the property would remain.

Chairman Bowler summarized the memo from the Planning Board.

There were two questions from the audience and discussion afterwards:

1. Would there be a direct connection from the business into the house?
2. Could the whole structure become commercial or be subdivided into two units in the future?

Beth Ganister stated that the commercial use could never expand further than what exists now. The entire structure could revert to residential space, however.

David Sullivan wanted to make sure that the neighbors knew the use is non-conforming – the structure conforms to all setbacks.

Discussion followed on the following topics:

1. Unloading from trucks at the front of the building
2. Hours of operation

3. If the business needed to be owner or manager occupied or could it be turned into a rental property.
4. Toning down the lights on both sides of the building.

Several neighbors expressed strong opposition to the project.

Bill Bowler stated that the property would not be able to be subdivided in the future, and the store will not be allowed to increase in size.

A site walk was arranged for Monday, June 24 at 5:00

The meeting was continued to July 9 at 7:30.

ZONING BOARD OF APPEALS  
Hamilton, MA

Re: ZBA Meeting Notes  
Date: July 9, 2002

Present/ZBA: William Bowler, Chairman  
Beth Ganister  
Winifred Whitman  
David Sullivan, Alternate member

7:00 Continuation of the hearing for the Petition of John A. and Mildred A. Cashman for Extension or Alteration of a Non-conforming Use for the property at 156 Lake Drive, Hamilton, MA.

Proposal was to raise pitch of the roof to create a front porch space (an 8' extension) and move the bedrooms to the second floor.

Bill Bowler said he had talked to Debbie from the Building Inspector's office and Steve Kenney of the DPW about Hemlock Drive. He read the letter Steve Kenney had written about the status of Hemlock Drive as an unconstructed road abutting the Cashman's property.

The following statements about Hemlock Drive were made in the letter:

1. little reasonable chance of being developed
2. not needed to access any existing properties
3. runs through wetlands
4. most of the drainage from the surrounding properties and road surfaces drain into it

Chairman Bowler had driven to the site and said Hemlock Drive was grassy, with standing water in parts, and a drop off of ten feet on the Lake Drive side. The Cashmans use Hemlock Drive to access their own property. There was discussion of what Mr. Cashman called an unbuildable lot fronting on Lake Drive and Hemlock. BB stated he was confident it would never be buildable.

**Finding of Fact:**

Hemlock Drive is abandoned and non-developable due to both wetlands on the road and extreme change in elevation.

Discussion followed regarding the side setback if Mr. Cashman owned property from the center of Hemlock (15 feet).

**The following condition was imposed:**

1. The porch can be built no closer than 9 feet to the side lot line as proposed on the plan.

All in favor

Paul Johnson's application was continued to Tuesday, July 23 at 7:00

7:30 Petition of Lawrence R. Chase for Site Plan Review for the property at 505 Bay Road, Hamilton, MA.

Mr. Chase's plans to attach a 1314 square foot residence and two car garage to the existing 1774 square foot Harrigan's Package Store.

Bill Bowler, Beth Ganister and Winifred Whitman, with Doug Trees representing Larry Chase, conducted a site walk on the property on Monday, June 24 at 5:00.

Chairman Bowler said the lot was 20,398 sq. feet and the entire completed structure would be 3088 sq. feet, which represented 15.13% of the buildable area.

David Sullivan expressed concern that the Board consider whether the combined use would be more detrimental to the neighborhood. He said the structure would be the largest in the neighborhood, twice as big as it is now, with two uses (currently one), and would negatively impact the neighborhood.

Beth Ganister wanted to make sure the residence was owner-occupied and never a rental property.

Denise Pendleton, the closest abutter, questioned whether the new structure met the 15 foot side yard setback and the width constraints (100 feet) of the Town's Zoning By-Laws. It was determined that it would meet the side setbacks, and lot coverage was not an issue because the lot itself was not new.

Doug Trees, responding to David Sullivan's comments on the large size of the completed building, said there were many large houses across the street. He also stated that the lot (20,000 sq. ft.) is much bigger than most others in the surrounding neighborhood, and Larry Chase would be willing to accept restricted rights to the commercial use on the corner piece of the property.

David Sullivan said that it was his assumption that the business could not be enlarged in terms of an addition to the existing building which houses Harrigan's Package Store, and that the business is not grandfathered in order to make the parking lot larger.

Bill Bowler said he did not think the addition would have an adverse effect on the neighborhood, and an owner-occupied property would also have its advantages.

Beth Ganister gave suggestions for several conditions she thought were important to include in the final decision. (They were incorporated in the final Conditions.) She also said she thought a 1500 sq. foot residence with a 500 sq. ft. garage was not a large residence.

A neighbor expressed concern about safety issues with 18-wheeler delivery truck.

Chairman Bowler told the neighbors present that he had read the file on the property. After the fire Larry Chase was only required to file an Abbreviated Notice of Intent, which was posted and no notice in the newspapers was necessary. There were no Findings of Fact or Conditions regarding loading/unloading, or the use of the loading dock.

#### **Findings of Fact:**

The property at 505 Bay Road will not be able to be subdivided in the future.

#### **Conditions:**

1. The building must be owner-occupied
2. The area above the garage will be used only for personal residential storage, not as a bedroom.
3. The existing trees along the Pendleton property line will be maintained and care should be taken during construction so that they are not impacted by the foundation or patio.
4. Prior to the issuance of the Occupancy Permit, six - 10 to 12 foot evergreens will be planted along the Pendleton property line as a buffer.
5. The sketch, dated 6/11/02, showing the compressors, ice machines, recycling bins, evergreens and a fence will be used for reference in placing these items. Care should be taken so that the evergreens sufficiently screen the machinery and bins.
6. No dumpster will be allowed on the property except during construction of the residence.
7. The structure must meet all setbacks.
8. The residence must remain single family.
9. No further expansion on the site - the footprint of the building will remain the same.
10. The business will not expand further.
11. The new construction will be for residential use only - no business storage.
12. In the future the entire structure may be turned into a single family residence.
13. The grassy area on the corner of Bay Road and Margaret Road will remain as open space with similar planting, with no additional business parking allowed.
14. All exterior lighting, on or around the structure, will be turned off when the business is closed.
15. Remove the two existing uplights illuminating the Harrigan's Package Store signs on the sides of the existing building. If desired, replace with one low-wattage downlight on each side of the building.
16. The deck drawn on the plan on the Pendleton side of the property will not be allowed. A patio at ground level, with the same dimensions as the deck, may be substituted.

All in favor

End of minutes