



Town of Hamilton
Zoning Board of Appeals
Meeting Minutes of May 7, 2025

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Zoning Board of Appeals members, a meeting of the Hamilton Zoning Board of Appeals was posted for May 7, 2025 at 7pm. This meeting was held at the Hamilton Wenham Library, 14 Union St, Hamilton.

Call to order: *With a quorum present, Chair Gingrich called the Zoning Board of Appeals meeting to order at 7:00 PM, identified the meeting was being recorded and those present:* Bruce Gingrich (Chair), Steven Derocher, Michael Madden (alternate). Not present: David Perinchief, Andrea Philip, Others Present: Mark Connors, Director of Planning.

PUBLIC HEARING:

Applicant Dan Kowalski is seeking a Dimensional Variance under Section 4.0 Dimensional and Density Regulations of the Hamilton Zoning Bylaw in order to construct a new single-family residence that partially encroaches into the side setback (Minimum Side Yard) area at 186 Echo Cove Road (Assessor's Map 60, Lot 21) owned by Mary Monahan.

D.Kowalski appeared representing the homeowner, who is his mother, and himself, although he noted he has retained a zoning attorney. He is looking to get a variance to take down the existing structure and build a new house. He displayed a site plan and explained there is a 20 foot public way/easement for the public on the property. He has met with the Building Commissioner who advised him to survey the public way and present it to the Planning Board to confirm he owns half of the public way. He expressed frustration at what he perceives as a lack of clarity on the Town's part to explain the process he should follow on addressing ownership of the public way. He mentioned there are boats and pallets stored in the public way, as well as foliage having been cut by abutters, and he removed the pallets because he believes he is liable for how people use the public way.

He then showed a plan for his house, and noted that neighbors have been questioning his plans. He believes he could go to the building department and submit plans to build a house and be within the bylaws, and that he made a good effort with the design by pulling the house into the no build zone, but out of the no disturb zone. He also made design considerations, and believed he complied with all the setbacks and requirements of the Town, and the placement of the house will help preserve the view for some of the neighboring properties; he opined the proposed design fixes the non-conformity of the lot as well. He reiterated his claim for hardship is the lot size and added he is being overburdened by neighbors' use of the public way and asserted he owns half of the public way, giving him 10 feet of land to apply to the required 15-foot setback for placing the house on the lot.

The Board questioned the proposed kayak shed location, which is near the street, and Chair Gingrich explained an accessory building cannot be within 25 feet of the street.

- **Wayne Michalski & Jerry Zullo**, 187 Echo Cove Rd, noted they moved in 6 years ago, and had a lot of questions about the walkway in question. They were told by the Town the public way is owned by the department of waterworks because of the drainage, and it is public property, not owned by any individuals. He noted the walkway has been marked, although the abutters have placed sheds and fences and other things in the public way. There was a pre-existing dock at the edge of the water, and it was removed by an abutter who said he didn't want to deal with it. W.Michalski explained the current proposal to move structures closer to the street will add to the congestion of this portion of the street. They reiterated the road narrows and it is a congested and difficult portion of the street to place a house so close to the street. Their concern is also over continued access to the public way, which they believe is not owned by the applicant, and may be constrained by virtue of a house placed 5 feet from the public way.
- **Kelly Faulkner**, 175 Echo Cove Rd, said she submitted a letter of concern to the ZBA and explained her concern a building is being proposed within 5 feet of the public way and is concerned the neighborhood will have

to continue arguing for access to the public way. She is also concerned the proposed structure is excessive for the size of the lot. She believes it will be huge on the lot and it will alter the character of the neighborhood substantially, for generations to come.

- D.Kowalski reiterated there is not a public way, rather a privately owned land with public access. He stated if he wanted to, he could put an accessory dwelling unit on the lot also, but he is not doing that.

S.Desrocher summarized the application before them is requesting a variance to allow a 5.5 foot setback for the lot, and other issues raised are not germane to the application. He questioned if there are sufficient hardships to qualify for a variance under the bylaws, and stated he has not heard any arguments, thus far, regarding what the hardship could be. Chair Gingrich agreed he does not see a hardship, as the proposal is to demolish the current structure and build a new one. He noted the applicant is banking on the public way being his, but as far as the deed goes, that does not appear to be the case. He understood the public way is there for people to have access to the lake. M.Madden agreed he did not see where the hardship was. Chair Gingrich stated the request for the 10 feet of variance is too much, particularly in the absence of a hardship.

D.Kowalski expressed he doesn't understand why Town Counsel has not issued an opinion on this issue, and that the Town's counsel, hey should do their job.

The Board concurred to seek an opinion from Town Counsel and schedule a site walk to view the property.

Vote: *The Board voted unanimously by roll call to continue the application to the next meeting on June 4, 2025.*

REGULAR BUSINESS:

- **Review/Approval of April 9, 2025 meeting minutes**

Vote: *The Zoning Board of Appeals voted unanimously by roll call to approve the minutes of April 9, 2025.*

Adjournment: **Vote:** *The Zoning Board of Appeals voted unanimously by roll call to adjourn at approximately 8:24PM.*

Documents:

- April 9, 2025 Draft Minutes
- 186 Echo Cove Road, notice of Public Hearing

Respectfully submitted by D. Pierotti, Recording Secretary, 5/18/25.

The minutes were prepared from video.