



Town of Hamilton  
Zoning Board of Appeals  
Meeting Minutes of September 3, 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 (ZBA) members, a meeting of the Hamilton ZBA was posted for September 3, 2025 at 7pm. This meeting was held at the Hamilton Wenham Public Library at 14 Union St.

**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, Andrea Philip, Steven Derocher. Not present: David Perinchief, Michael Madden (alternates). Others Present: Mark Connors, Director of Planning.

**PUBLIC HEARING: The application is for the property located at 505 Bay Road owned by Harrigan's Hamilton Property LLC. Applicant is seeking to amend a 2002 Site Plan Review and Extension or Alteration of a Non-Conforming Use Decision to remove a condition that the dwelling unit be owner-occupied.**

Attorney Philip Lake, of Lake Legal LLC, presented the application on behalf of the property owner. This is a proposal to alter an approval from 23 years ago for the home attached to the back of the liquor store to be occupied by the owner. The expectation was that the owner of Harrigan's would live there, but over time that has changed. The most recent tenant moved out after the current owner bought the property, and the owner would like to have that requirement removed. The tenant situation has worked out well in terms of having someone on site. The housing market has changed significantly in the last 20 years, and this housing is accessory to the primary use as a retail space. The likelihood it would be sold to someone who will live there is low. Attorney Lake noted there are comments presented from neighbors, and accepting their provisions would make the neighbors the enforcement body in his opinion. The property owner lives in Newburyport and bought three stores, including this one in Hamilton. It is not possible for him to live there, but the housing would stay as a rental unit.

- **Jim Dooley, Bay Rd,** stated that he would like to clarify the condition in question was put in 20 years ago was so that the property couldn't become more detrimental to the neighborhood. It protects the neighborhood to have owner oversight of the property. He noted there were issues with the lighting being on 24 hours a day, and they came before the ZBA because of that. He believes it is an absentee owner and removing the owner-occupied requirement weakens the position and slips towards the commercialization of the neighborhood. He advocated a temporary condition to allow rental for two years and then return to the ZBA for further approval. He saw no rush to make a permanent change.

Chair Gingrich acknowledged a lot has changed over in 20 years and this is a good place for a residence. He did not believe there has been any problems with this setup the past 20 years, other than the lighting, which was promptly corrected. The other conditions would remain in place, including rules about dumpsters, storage, restrictions on further expansion of the structure or business use, parking, and plantings. He did not see a problem with the unit being rented out, particularly given the lack of complaints over the 20 years.

- **Griffin Elldrin, Crescent Rd.,** asked what sort of precedent this sets where ADUs have to be owner occupied in the primary residence. He was concerned this moves the neighborhood towards multi-family and non-owner occupied housing.

Mark Connors, Director of Planning, clarified the State recently changed the law to prohibit towns from requiring owner occupancy of an ADU. However, this is not an ADU situation, and there is no requirement for owner occupancy.

Chair Gingrich stated he is not worried about a precedent being set by this situation.

- **Francis Hughes, Bay Rd,** noted everyone is focused on the "housing issue", and the abutters are focused on keeping the business in check, which was the purpose of it being owner occupied. The requirement was to keep the neighborhood intact. He also noted the past issue with the lights and advocated for the two-year rental.

Chair Gingrich noted there is no precedent for any other apartment buildings to come back for review after two years.

**Vote:** *The Board voted unanimously by roll call to approve the amendment of the 2002 site plan review and extension or alteration of a non-conforming use to remove the condition that the unit be owner occupied.*

**CONTINUATION OF A PUBLIC HEARING:** The application is for the property owned by William Eggleston & the Applicant is Attorney Charles Clapp representing Jonathan Collins. The property is located at 42 Maple Street, Assessor's Map 57, Lot 111, Zoning District R1A. Applicant is seeking a Special Permit under Section 5.5.1.3 of the Zoning Bylaw to demolish a single-family dwelling and build a new single-family dwelling which will exceed the current footprint but comply with setback requirements.

Charles Clapp presented the project and noted a lot of concerns were "hashed out" at the prior meeting, such as finalizing the plans and resubmitting them. The Board should have received a memo from the building inspector the rear setback of the bulkhead is non-conforming, but based on the full-sized site plan it does comply. The patio was not listed on the site plan by the inspector, it will be a paved patio, not a deck, and therefore (he believed) it did not need to comply with any zoning. He believed all of the concerns previously raised were addressed with the new plans. Chair Gingrich questioned whether the front door portico was too close to the setback. C.Clapp responded the building plans will be in compliance, they are not seeking any dimensional relief. If they need to shrink the portico, they will do that.

➤ **Kim Myer, Arlington St.,** observed these are proposed plans just like last month and what is the process for ensuring everything will be in compliance.

Chair Gingrich explained that the Board can limit the size, and the building has to meet all zoning setbacks. The specific plans will need to be approved by the town. If they violate the zoning in any way, they would have to return to the Board.

***Vote:*** The Board voted unanimously by roll call to approve the special permit under section 5513 of the zoning bylaw to demolish a single-family home to build a new single-family home dwelling which will exceed the current footprint but comply with setback requirements and will be no bigger in terms of lot coverage than the proposed drawings in front of the Board, for 42 Maple St.

**PUBLIC HEARING:** The applicants are Louis & Nancy Levesque. The property is located at 62 Pine Tree Drive, Assessor's Map 54, Lot 9, Zoning District R1A. Applicants are seeking a Finding under Zoning Bylaw Sec. 5.3.4 for Dimensional Relief for side yard set-backs in order to construct a second-floor addition to the existing structure.

Lou Levesque stated they are looking to add a second floor, but not mirroring the entire first floor, but just a portion. They are seeking approval to proceed with the project. The house was built in 1959. Chair Gingrich noted there is a letter from the health department regarding the bedrooms. L.Levesque stated the third room is his office, and they are seeking to add a third bedroom at this time on the second floor.

***Vote:*** The Board voted unanimously by roll call to approve the finding under zoning bylaw 5.3.4 for dimensional relief for side yard setbacks as seen in the plans provided in order to construct a second-floor addition to the existing structure at 62 Pine Tree Drive.

## REGULAR BUSINESS:

### • Meeting Minutes – May 7, 2025, August 6, 2025

***Vote:*** The Board voted unanimously by roll call to approve the May 7, 2025 minutes.

***Vote:*** The Board voted unanimously by roll call to approve the August 6, 2025 minutes.

### • Updates from the Chair

The next meeting will be Wednesday, October 1, 2025.

**Adjournment:** ***Vote:*** The Zoning Board of Appeals voted unanimously by roll call to adjourn at approximately 8:00PM.

## Documents:

- [09-03-2025 Amended Agenda](#)
- [Building Inspector's Memo 09-03-2025](#)
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- [505 Bay Road Application](#)
- [505 Bay Road – Copy of 2002 Construction Plans](#)
- [505 Bay – No issue comment from the Board of Health Agent](#)
- [505 Bay Road – copies of approved 2002 Meeting Minutes for the past Public Hearing-Decision](#)
- [505 Bay Road – Letter from abutters located at 522 & 514 Bay Rd](#)

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- [42 Maple Street Application](#)
- [42 Maple Street Site Plan](#)
- [42 Maple – Revised Site Plan – Received 8-19-25](#)
- [42 Maple – Revised Construction Plan – Received 8-19-2025](#)
- [42 Maple Street – Septic Design Plan](#)
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- [62 Pine Street Application](#)
- [62 Pine Tree Drive Updated Layout Plans – Received 8-28-25](#)
- [62 Pine Tree Drive Updated Site Plan – Received 8-28-25](#)
- [62 Pine Tree Drive – Comments from Board of Health Agent](#)
- [62 Pine Tree Drive List of Abutters](#)
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- [Draft Meeting Minutes May 7, 2025](#)
- [Draft Meeting Minutes August 6, 2025](#)

*Respectfully submitted by D. Pierotti, Recording Secretary, 8/7/25.  
The minutes were prepared from video.*