

TOWN OF HAMILTON ZONING BOARD OF APPEALS MEETING

OCTOBER 5, 2022 – WEDNESDAY - 7:00 P.M.

In person at 577 Bay Road in the 1st floor Memorial Room or via Zoom

Join Zoom Meeting:

<https://us02web.zoom.us/j/89759082173?pwd=WDc0Vzd5OTZ1U1JLY3pzYmgrMHdKZz09>

Meeting ID: 897 5908 2173

Passcode: 282979

Phone Number 1-929-205-6099 US (New York)

PUBLIC HEARING: Application is for the property owned by Don Sudbay Jr., Applicant is Scott Burnham, Gloucester MA, for the property located at 29 Tally Ho Drive, Assessor's Map 62, Lot 45, Zoning District R1A. The Special Permit Application is to demolish the existing dwelling and construct a new single family dwelling with an attached 2 bay garage under Zoning Bylaw 5.5.1.3.

PUBLIC HEARING: Application is for the property owned by Matthew & Erin Curtin, Applicant is Ford Properties LLC of Ipswich MA, for the property located at 550 Bay Road, Assessor's Map 49, Lot 63, Zoning District R1B. Application is requesting a Variance seeking relief for the proposed front yard setback for a new single family dwelling under Zoning Bylaw Section 4.0 Dimensional and Density Regulations.

CONTINUATION OF A PUBLIC HEARING: For the property located at 3 Beech Street, Assessor's Map 66, Lot 3AA, owner Eric Mimmo. Applicant is asking approval to amend a 2021 ZBA Decision which approved an extension or alteration of a non-conforming use to construct an addition at the rear of the existing single family dwelling so that two additional stories may be constructed on the addition and to appeal the Town of Hamilton Building Inspector's Decision which issued a Cease and Desist Order.

CONTINUATION OF A PUBLIC HEARING FOR A COMPREHENSIVE PERMIT: The Application was submitted by Harborlight Community Partners, for a Comprehensive Permit pursuant to MGL Ch. 40B for the construction of a 45 unit multifamily housing. The property is located at 466 Highland Street, Lot 1, Zoning District RA, and is owned by the Britton Family Trust, LLC.

CONTINUATION OF A PUBLIC HEARING: Application is for the property owned by Gordon-Conwell Theological Seminary, Inc., located at 130 Essex Street, Zoning Districts R1B & R1A, Assessor's Map 64, Lot 5. Applicant is Harborlight Community Partners, Inc., 283 Elliott Street, Beverly. Applicant is seeking a Variance from the lot area requirements in Zoning Bylaw Section 4.1 in order to create 3 lots, pursuant to ZB Section 5.3.2.1 and Findings of Fact under ZB Section 5.2 for a Change of Use from student housing to multi-family dwelling, and under ZB Section 5.3.1.2 in order to construct three additions to the existing multi-family dwellings which have historically been used for student housing.

REGULAR BUSINESS

- Meeting Minutes
- Updates from the Chair

Items may be heard out of the listed order. The agenda items listed are those items which were reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed on the agenda may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Meeting dates, time, and location are subject to change as allowed by the Open Meeting Law. Please refer to the Town web page: hamiltonma.gov for details regarding a specific agenda. The Zoning Board of Appeals typically meets the first Wednesday of the month.

DRAFT
HAMILTON ZONING BOARD OF APPEALS
MINUTES OF MEETING
September 7, 2022
7:00 p.m.
Hybrid Zoom Meeting ID 885 2175 3459
Passcode 738164
Hamilton Town Hall
577 Bay Road, Hamilton, MA

Members Present: Bill Bowler (Chairman), Steven Derocher (Associate), Bruce Gingrich, David Perinchief, and Andie Philip (Associate via Zoom).

Others Present: Patrick Reffett and others as noted in the meeting.

This meeting was called to order at 7:00 pm with a quorum established.

PUBLIC HEARINGS:

Amend 2021 ZBA Decision/Appeal Town of Hamilton Building Inspector's Decision to issue a Cease and Desist Order. 3 Beech St. Eric Mimmo Applicant. Proposal to build an addition at the rear of the existing single family dwelling so that two additional stories may be constructed.

The ZBA had previously approved a one story addition for the existing house. The applicant was requesting a Finding to erect a second and third floor onto the structure. The existing septic system was approved for a four bedroom home but the third floor featured an unlabeled room, which could be considered a bedroom according to Erin Kirschner (Essex Board of Health Agent who was replacing Gregory Bernard, who recused himself due to a previous relationship with the applicant). The five bedroom total exceeded the septic capacity, according to Ms. Kirschner.

Eric Mimmo was present to recall that he had met with an architect who changed the proposal from a single to a two story addition to accommodate the roof/ceiling lines. The final home would still be a four bedroom home, according to Mr. Mimmo, who added that he would be willing to upgrade the septic whenever he decided to sell the home. The third floor was added due to the set back from and opportunity for a view of Chebacco Lake.

Members discussed the original drawings from October and compared them to the drawings submitted for the issuance of the Building Permit. It was noted that the Building Inspector had erroneously issued the Building Permit. The ZBA had approved a one story addition and the applicant was never told to return to the ZBA for an increase in the proposal. The increase also triggered a need for the Board of Health to approve a fifth bedroom due to the open space on the third floor. Bill Bowler indicated that approving the project without Board of Health approval would not be possible and that legally, the applicant did not have an approved plan.

The ZBA might be able to provide some relief but the Cease and Desist would stand for the present time as there was no basis to overturn it.

Members agreed that they would not vote to approve a third story as it had been changed without ZBA approval.

Bill Sheehan was present to represent Denise Kelly (2 Beech St.). Attorney Sheehan distributed a table that compared the proposed home to local homes. Attorney Sheehan noted the home was grossly disproportionately large, adding that the structure would block sun and air. In addition to privacy concerns, Attorney Sheehan found the proposed structure would be detrimental to the neighborhood. Attorney Sheehan noted that the minutes clearly indicated a single story addition was proposed and issued concern regarding the near 4,000 sf home in a neighborhood of smaller homes. Attorney Sheehan submitted a copy of the building permit/permit card with a notation attached.

Rich Maloney (Hamilton Building Inspector) was present. Mr. Maloney noted that elevations were not shown on the Zoning application and the Decision referred to plans that were not explicit. Mr. Maloney was not an employee of the Town until July 1, 2022 and had only been assisting the Town in the absence of a Building Inspector. Bill Sheehan responded that the minutes of January 6, 2021 indicated that the proposal was for a one story addition.

Eric Mimmo responded that homes in the neighborhood were larger than the submitted list indicated and that the lakefront homes across the street would not be affected by the addition. Mr. Mimmo offered to limit the addition to only two stories, which would match the existing 25' ridgeline. Members agreed that they needed more time to consider the Board of Health requirements and impacts to the neighborhood.

Motion made by David Perinchief to continue the hearing until October 5, 2022 at 7:00 pm.
Bruce Gingrich seconded.
Vote: Unanimous in favor.

Continuation of Public Hearing. 466 Highland St. Property owned by the Britton Family Trust. Application by Harborlight Community Partners. Application for a Comprehensive Permit to construct 45 units of multifamily housing.

David Perinchief attested that he had watched the video of the August 3, 2022 meeting, the only meeting that he had missed. Mr. Perinchief would submit the Mullin Rule form so that he would be able to vote on the issue.

Andrew DeFranza (Harborlight), Charlie Wear (Hancock Engineering) and Ben Timmons (Attorney for Harborlight) were present. Miranda Seimasko (Harborlight attorney) was present via Zoom.

Dan Hill (Attorney for Canterbrook abutters) was present to state that he had issued a memo regarding the Conservation Restriction. The issue was that the septic needed to be on the

abutting property, which was held by Essex County Greenbelt. Ben Timmons argued that the restriction explicitly allowed the septic field to be located on the property as was noted in the letter, dated June 15, 2021 from Essex County Greenbelt granting permission for the use. The 1993 restriction was recorded in which the grantor, Ruth Patton Totton and her successor of interest, Bea Britton gave the Conservation Restriction to Essex County Greenbelt. Reserved rights for a septic system were allowed as long as the septic system was on the restricted land and served an adjoining unrestricted parcel. The parcel being developed by Harborlight would be the unrestricted parcel and the leaching field would be installed on the restricted parcel. Attorney Hill noted that the language was confusing because the restriction allowed for the transmission of sewage, such as a pipe but the leaching field would not transmit sewage, rather it would infiltrate 9,900 gallons per day (gpd) of effluent into the ground. Town Counsel did not have an opportunity to review the issue but thought the applicant would have a right to install a system based on the Greenbelt letter. Attorney Pucci cautioned the Board that they had the power to waive local regulations but not delve into property rights.

George Pucci noted that the three member Board only needed a majority and not a super majority to approve an application. Each member was only allowed to miss one meeting if they listened to the video or read the minutes of the meeting before signing the Mullin form.

Miranda Seimasko shared her screen to review the site plan. The impervious surface was 60,525 sf. The building created 23,050 sf. of impervious surface. The total impervious surface was 28% of the site. Title 5 required 110 gpd per bedroom. Preliminary testing for the leaching and reserve fields found sandy soils. GM2 (Peer Reviewers) had reviewed the plans and found separation between the fields needed to be incorporated. The design would be submitted to the Board of Health after official testing had occurred. The septic system would not meet the requirements for the Groundwater Protection Overlay District (GPOD) or Zone II. The 19 acres to the side of the parcel would be used for an aggregate plan. An adjustment would be needed to insure the parcels were adjacent. The 19 acres would also need to be downgradient.

Charlie Wear explained that the water line ran along the property line, up to Asbury St., running over the Canterbrook property before connecting to the water line along the Asbury St. right of way. Mr. Wear recalled that fire flows at Canterbrook were adequate and thought they would be similar for this project. Mr. Wear said stormwater would be collected from the rooftop and parking lot before being directed to the surface infiltration system and the subsurface infiltration system. The Stormwater Report had been submitted to the peer reviewers, who raised septic and drainage issues that could be addressed.

Charlie Wear recalled that projects with more than 15% of impervious surface in the GPOD needed a special permit. Projects over 15% impervious surface were required to have an infiltration system to recharge uncontaminated water into the ground. MA DEP Stormwater Regulations offered specific provisions on how to design projects in Zone II to meet the requirements. Members of the Board agreed that the GPOD Special Permit was under the purview of the ZBA but George Pucci suggested the Board focus on the performance standards.

Steven Sawyer (GM2 Peer Reviewer) was present via Zoom and agreed with the Stormwater design but questioned the soil testing within the area of the rear underground infiltration system, which should be within the footprint rather than nearby. Mr. Sawyer requested an infiltration mounding analysis but found the drainage system was appropriate for the scale and size of the development. Mr. Sawyer said septic fields had a maximum size of 5,000 gpd and the proposed field should be split into a primary and secondary field with a 10' separation. While most test pits were comprised of sandy soils, one pit had sandy loam. If pits had a perc rate less than five minutes, the field would need to expand. Some perc rates on the site had 50 minutes per inch, which would cause the size of the field to grow significantly. Mr. Sawyer said the land did not look adjacent on the aggregate plan and that the applicant would need to provide a Mass Analysis Land Credit for the area downgradient. A plan of how the land interacted would need to be provided. Charlie Wear indicated that soil testing had been done in the spring before the pandemic when soils were very wet and the one test pit had been an outlier. The Board of Health would be the entity to request a Mass Balance Analysis in accordance with Title 5. The Board of Health would be given a plan for approval before the ZBA made a decision.

Dan Hill stated that test pits dug during a drought would make it difficult to determine seasonal high ground water because mottling would not be present in sandy soils. Attorney Hill said the applicant needed to prove there was no degradation in the GPOD and Zone II areas either via a Mass Balance Analysis or a Pollutant Transport Model. Attorney Hill recalled that the size of Canterbrook was minimized based on the same issue. According to Attorney Hill, having more than 440 gpd per acre was not permitted. The project had 1,800 gpd per acre based on 4.89 acres. It was noted 40,000 sf was used for acre under Title 5. The project had more than 400% of the maximum allowed under Title 5. Using the land adjacent could be approved with conditions by the Board of Health. Bill Bowler noted that Canterbrook also exceeded the limit as a similar property that met the standard. A clear image of the Facility Aggregation Plan should be provided. Attorney Hill added that wetlands could not be used as credit land and agricultural uses were not allowed under Title 5 as nitrogen would leach into the ground. Groundwater flow data should be provided, according to Attorney Hill.

Scott Horsley (Hydrologist) was present via Zoom. Mr. Horsley submitted a letter regarding the impacts to the wetlands, neighboring single family homes, and the Ipswich River Wildlife Sanctuary. According to Mr. Horsley more data needed to be provided to determine the impacts and that two test pits were needed per infiltration system. Mr. Horsley said the United States Geological Survey long term seasonal high water data should be used due to the current drought and that groundwater mounding analysis should include wastewater and stormwater systems' cumulative impacts. A table showing the drinking water supply impacts plan and evidence that the credit land was downgradient would be needed. A 10 mg of nitrogen downgradient limit should be considered. Charlie Wear responded that Canterbrook implemented a 550 gpd bioclear system, which was approved and that a Mass Balance Analysis was not necessary.

Ben Timmons said the Board of Health would oversee Title 5 and that the GPOD standards did not appear more restrictive than the State standards. The ZBA could condition the Comprehensive Permit upon Board of Health approval, which would cover the issues raised.

Bill Bowler said the ZBA would follow the Board of Health's decision regarding Title 5 and make its own decision regarding the GPOD. The Board would revisit the issue of water and sewer after an exchange of information between parties had occurred over the next month. An architectural presentation would occur on October 5, 2022.

Motion made by Bruce Gingrich to continue the hearing until October 5, 2022 at 7:00 pm.

David Perinchief seconded.

Vote: Unanimous in favor.

Variance. 130 Essex St. Property owned by Gordon Conwell Theological Seminary Theological Seminary. Applicant is Harborlight Community Partners. Lot area requirements /Findings of Fact for Change of Use from student housing to multifamily housing to construct three additions to the existing multi-family dwellings which have been historically used for student housing.

David Perinchief attested that he had watched the video of the August 3, 2022 meeting, the only meeting that he had missed. Mr. Perinchief would submit the Mullin Rule form so that he would be able to vote on the issue.

Bill Bowler announced that a letter/petition from the Brownfield Development Neighbors had been received. The applicant had requested a straw poll regarding the viability of the project but a vote would not be possible until a complete project had been submitted. Andrew DeFranza (Harborlight) was present but did not have new information. Miranda Seimasko was present via Zoom. Attorney Bowler recalled that the parameters (affordability and residential population) of the project had changed since the initial application and that a vote would be after other Town Boards had a chance to offer their opinion. Attorney Bowler wanted a confirmation that the units would qualify for the Subsidized Housing Inventory. Andie Philip requested an in-depth definition of the hardship for the requested Variance.

Miranda Seimasko stated that the hardship was based on the six existing structures (including 210 apartments) that were incapable of being used in any fashion under the existing Zoning By-law in absence of relief even though the Variance would intensify the nonconformity. Attorney Seimasko said based on 210 apartments, the area requirement (40,000 sf for each unit) needed to comply with zoning, would be 193 acres. The entire parcel had 102 acres. Bill Bowler announced that a Warrant Article for Special Town Meeting would appropriate funds for an overall study of the best use of the property. Andrew DeFranza said Harborlight did not control the entire site and would not voluntarily participate between the Town and the Seminary. Mr. DeFranza said Harborlight had control until the third week in September and would request its deposit be returned if the path to development was not clear.

Martin Zee (37 Miles River Road) was present via Zoom to offer his concern about the project and lack of planning. Mr. Zee said it was spot zoning and the developer was creating their own hardship. Houses could be constructed on the rest of the property in the future. Hardship defined in the Zoning By-law (10.3.3.4), was created by the land or circumstances surrounding it. Mr. Zee asserted that hardship was not meant for spot zoning. The Variance would be appealed if granted.

Rick Mitchell (36 Rock Maple Ave.) was present to state the proposal was a massive project being considered without consideration for the entire parcel. Mr. Mitchell said he had met with Shawn Farrell (Hamilton Selectman), Scott Sunquist (Gordon Conwell), Joe Domelowicz (Town Manager), Ken Barnes (Gordon Conwell), and Myrian Walters (Gordon Conwell Attorney) when an agreement to share the costs of engaging a consultant to do a strategic plan to identify the highest and best use of the land was settled. Mr. Mitchell asserted that carving off 210 units would complicate the potential use of the property. According to Mr. Mitchell, the entire piece of land would be planned.

Rudolf Pizzano (Essex St.) was present via Zoom to state that there was no basis to claim a hardship as the State gave the applicant a way around any hardship via affordable housing applications. Mr. Pizzano was concerned that a change of ownership would affect the previous decision.

Myrian Walters was present via Zoom to respond that the sale of the apartment buildings would give the Seminary flexibility to work with the Town with respect to the rest of the property. Attorney Walters added that a change in ownership would not cause a change in use because the apartments were already there.

Valerie Peck (37 Miles River Road) was present via Zoom. Ms. Peck said the density of the existing apartments on 102 acres fell short of the dimensional table. Ms. Peck said it was inappropriate to disregard the density just because the buildings were already there and was concerned of the potential density of the remaining acres after the land had been subdivided.

Andie Philip suggested pulling the application and allowing the planning between the Town and Seminary to begin. Ms. Philip questioned if the application met the Variance requirement. Bill Bowler responded that there were two issues: change of use and the Variance. Attorney Bowler's opinion was to allow the change of use as it was only a change of use on paper. There were 210 units constructed no matter who owned them. Attorney Bowler found the Variance more problematic as the standard was so high. Bruce Gingrich and David Perinchief agreed, citing impacts to the Town and septic as well as the hardship issue.

Miranda Seimasko questioned the Board's reasoning. Bill Bowler responded that if the property required a Variance in the first place under the dimensional requirements, or if Harborlight were purchasing the entire property, it might be possible because the Variance would not be intensified. It was agreed that there might be a hardship but it was questioned if

Harborlight was the entity creating the hardship. The straw poll indicated that no members would vote to approve the Variance request in its present form.

Nancy Dashkind was present via Zoom and offered her concern that the buildings were not up to code and the septic was a concern. Ms. Dashkind hoped the Town would be given the chance to plan for the entire site.

Motion made by David Perinchief to continue the hearing until October 5, 2022 at 7:00 pm.
Seconded by Bruce Gingrich.
Vote: Unanimous in favor.

REGULAR BUSINESS

Minutes – August 3, 2022

Motion made by Andie Philip to approve the minutes of August 3, 2022.
Seconded by Bruce Gingrich.
Vote: Unanimous in favor.

DOCUMENTS REVIEWED

3 Beech St. Original and revised plans/drawings.
3 Beech St. Memo dated 8/30/22 from the Building Inspector.
3 Beech St. Cease and Desist, dated 7/2/22.
3 Beech St. Memo from the Conservation Commission
3 Beech St. Memo from the Board of Health.
3 Beech St. Permit card.
466 Highland St. Memo, dated September 5, 2022 from Dan Hill.
466 Highland St. Letter, dated June 15, 2021 from Essex County Greenbelt.
466 Highland St. Site Plan
466 Highland St. Letter, dated September 6, 2022 from Scott Horsley.
466 Highland St. 1993 Conservation Restriction.
466 Highland St. Stormwater Report.
466 Highland St. Facility Aggregation Plan.
130 Essex St. Letter/Petition from Brownfield Development Neighbors.

ADJOURNMENT

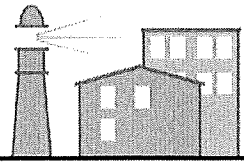
Motion made by David Perinchief to adjourn at 9:50 pm.
Seconded by Bruce Gingrich.
Vote: Unanimous in favor.

Respectfully submitted as approved at the _____ meeting.

Bill Bowler

130 ESSEX STREET

**Harborlight
Community
Partners**



Building Homes. Strengthening Communities. Changing Lives.

September 16, 2022

Hamilton Zoning Board of Appeals
C/O Mr. William Bowler, Esq. Chairman
577 Bay Road
Hamilton MA 01936

RE: 130 Essex Street Application

Mr. Bowler,

To support the Town's efforts to work with Gordon Conwell Seminary on a 4–6 month planning process to create a mutually beneficial concept for the campus located at 130 Essex Street Harborlight would like to withdraw our current application to the Zoning Board of Appeals.

We are hopeful that the good faith and common goals will result in an effective process and a strong set of outcomes for the interest of the Town of Hamilton and Gordon Conwell Seminary. We will remain open and present to supporting the housing goals of the Town and community as the parties see fit.

Please feel free to contact me should you have any questions.

Best Regards,

Andrew DeFranza
Executive Director

Cc: Hamilton Board of Selectmen, Affordable Housing Trust, Community Preservation Committee

Harborlight Community Partners is a 501(c)(3) non profit organization

P. O. Box 507, Beverly, MA 01915 | 978-922-1305 | www.harborlightcp.org

Tax ID # 04-2313571

550 BAY ROAD

Notice of Public Hearing

Town of Hamilton Zoning Board of Appeals

A Public Hearing will be held on Wednesday, October 5, 2022, at 577 Bay Road, Hamilton, MA, Town Hall, Memorial Room, and via Zoom, to commence at 7:00 PM. Application is for the property owned by Matthew & Erin Curtin, Applicant is Ford Properties LLC of Ipswich MA, for the property located at 550 Bay Road, Assessor's Map 49, Lot 63, Zoning District R1B. Application is requesting a Variance seeking relief for the proposed front yard setback for a new single family dwelling under Zoning Bylaw Section 4.0 Dimensional and Density Regulations. A copy of the complete application is available for review in the Building Department during the regular hours of operation of the Town Hall.

William Bowler, Chair

TOWN OF HAMILTON
ZONING BOARD OF APPEALS

paid
paid \$75

APPLICATION FOR ZONING BOARD OF APPEALS HEARING
To be completed by all Applicants

Date Submitted: August 29, 2022

Applicant Name: Ford Properties Inc. Phone: (978)356-9333

Applicant Address: 10 Locust Street Ipswich, MA 01938

Applicant respectfully petitions the Board of Appeal for the following:

That he/she is seeking (check all that apply):

- Variance: (State Type)** Front yard setback
- Extension or Alteration of a Non-Conforming Use, Structure, or Lot**
- Site Plan Review**
- Abbreviated Site Plan Review**
- Special Permit: (State Type)**
- Appeal of Decision of the Building Inspector**
- Conversion for Temporary Living Area**
- Comprehensive Permit**
- Other:**

RECEIVED
TOWN CLERK
HAMILTON, MA
2022 AUG 29 AM 10:36

Address of Property if different from Applicant Address above:
550 Bay Road

Owner of property if different from Applicant noted above: Matthew & Erin Curtin

Note: If not the owner of the property, applicant must provide proof they are either the holder of a written option to purchase the property (or) verification they have authority to act on behalf of the owner of the property.

Attached

Zoning District: R1-b

Existing Lot Size: 40,390 sq.ft.

State Briefly what structures are on the property:

Vacant lot

State in detail what the petitioner desires to do at said subject property:

Construction of a new single family residence

State whether any petition as to the said premises has been submitted to this Board within the last five years. If so, give details:

No prior submission

State if any Building Permit has been granted to said premises within the past two years. If yes, give details:

No prior building permit

Signed: Tamir Hal PRES

Address: 10 Locust ST
Ipswich, MA 01938

Phone: (978)356-9333



**TOWN OF HAMILTON
ZONING BOARD OF APPEALS**

**REQUEST FOR FINDINGS OF FACT
VARIANCE**

Date Submitted: August 25, 2022

Applicant Name: Ford Properties Inc.

Property Located at:
550 Bay Road

That literal enforcement of the Zoning By-Law would impose a substantial hardship on the petitioner due to circumstances relating to the soil conditions, shape or topography of the land or structures especially affecting the subject property but not affecting generally the area in which it is located, for the following reasons:

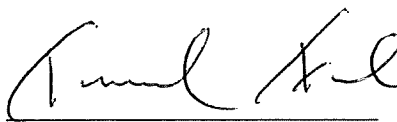
The lot is located on a common drive off of Bay Road. Severe sloping along the rear lot line mandates pushing the proposed residence forward on the lot. The front yard setback is measured from the common drive.

That no substantial detriment to the public good would exist were the variance granted, for the following reasons:

If the variance is granted the structure will appear to be setback over 60 ft from the common drive and in excess of 300 ft from Bay Rd.

That no nullification or substantial derogation from the intent or purpose of the Zoning By-Law would exist were the variance granted, for the following reasons:

Setbacks in the general vicinity of the site along Bay Rd. vary from 5ft. (560 Bay Rd) to several hundred feet. (568 Bay Road)

Signed: 

Address: 10 Locust St.

Ipswich, MA 01938

Phone: (978) 356-9333

APPLICATION CHECK SHEET
HAMILTON ZONING BOARD OF APPEALS

VARIANCE

8 copies of all Materials. Refer to Instruction Sheet.
Section of the Zoning By-Law covering desired Board action(s)

Variance Requested. Check all that apply.

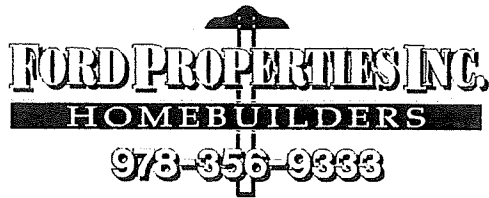
- Lot coverage
- Side yard setback
- Front yard setback
- Rear yard setback
- Frontage
- Parking
- Other. Specify. _____

State hardship for which relief is sought:

- Soil conditions
- Shape of the land
- Topography of the land


Visual Materials Required - Scaled drawings showing at a minimum the following

1. Site Plan: Include at a minimum:
 - Plan showing total parcel of land
 - Title block with Date
 - Scale
 - North Arrow
 - All property lot lines with dimensions
 - Area of parcel of land
 - All building locations with dimensions of structures and dimensions to lot lines
 - Location and use of all adjacent structures with dimensions to lot lines if applicant is seeking relief to construct within 20 feet of another building
 - Zoning District including Watershed Protection areas and Historic District areas. If property falls within more than one district, plan shall show all district lines.
 - Location of wetlands protected areas.
2. Exterior Elevations of the Building
3. Scaled floor plan of both new and existing structure



August 15, 2022

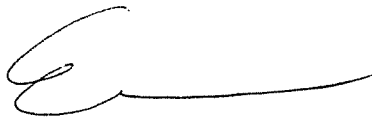
We, Matthew and Erin Curtin of 7 Settlers Lane, Wenham, MA and owners of a certain parcel of land located at 550 Bay Rd. Hamilton, MA (See our Deed – South Essex Registry of Deeds Bk. 41069, Page 044) hereby appoint Timothy Ford of Ford Properties, Inc. to represent our interest, complete and file all documents with the Town of Hamilton related to the filing of a variance application for the front yard setback and issuance of a building permit from the Town of Hamilton.



Matthew Curtin

8/15/22

Date



Erin Curtin

8/15/22

Date

29 TALLY HO DRIVE

TOWN OF HAMILTON
ZONING BOARD OF APPEALS

APPLICATION FOR ZONING BOARD OF APPEALS HEARING
To be completed by all Applicants

Date Submitted:

Applicant Name: SCOTT BURNHAM Phone: 978-423-2015

Applicant Address: 29 TALLY HO DRIVE

Applicant respectfully petitions the Board of Appeal for the following:

That he/she is seeking (check all that apply):

- Variance: (State Type)
- Extension or Alteration of a Non-Conforming Use, Structure, or Lot
- Site Plan Review
- Abbreviated Site Plan Review
- Special Permit: (State Type) RESECTION 5,3,3
- Appeal of Decision of the Building Inspector
- Conversion for Temporary Living Area
- Comprehensive Permit
- Other:

Address of Property if different from Applicant Address above:

Owner of property if different from Applicant noted above:

Note: If not the owner of the property, applicant must provide proof they are either the holder of a written option to purchase the property (or) verification they have authority to act on behalf of the owner of the property.

Zoning District: RIA
Existing Lot Size: 20,000 SF

State Briefly what structures are on the property:

SINGLE FAMILY HOUSE w/ ATTACHED 2 CAR GARAGE

State in detail what the petitioner desires to do at said subject property:

RAZE EXISTING HOUSE & GARAGE
BUILD NEW HOUSE WITH ATTACHED GARAGE WITHIN SETBACKS

State whether any petition as to the said premises has been submitted to this Board within the last five years. If so, give details:

NO

State if any Building Permit has been granted to said premises within the past two years. If yes, give details: NO

Signed: 

Address: 36 GRAPEVINE RD

CHARLESTON MA 01930

Phone: 978-423-2015

Sburnham@burnhamconstruction.com

2. The extension of an exterior wall at or along the same nonconforming distance within a required yard.

5.3.3 Nonconforming Single and Two Family Residential Structures. Nonconforming Single and Two Family Dwelling Structures may be changed only upon a Determination by the Building Commissioner that such proposed change does not increase the nonconforming nature of said structure by more than one hundred (100) percent of the Residential Gross Floor Area.

5.3.4. Eligible Changes. The following circumstances shall not be deemed to increase the nonconforming nature of Nonconforming Single and Two Family Dwelling Structures and the Building Commissioner may issue a Building Permit:

1. The existing structure is on a conforming lot but is nonconforming because it encroaches on a setback and the proposed alteration or extension will not change the setback which fails to conform, and the entire structure meets all other requirements of this Bylaw including but not limited to height and lot coverage.
2. The existing structure is nonconforming solely because it is located on a lot which is nonconforming as to size and/or lot frontage as the result of a zoning change, and the existing structure and proposed alteration or extension meets all other current requirements of the Bylaw including but not limited to setbacks, height and lot coverage.
3. The existing structure is a residence in a district where residences are permitted,
4. The structure is situated on a nonconforming lot or has nonconforming yards, and the proposed alteration or extension is a reconstruction or repair which does not change the lot size or yards which fail to conform. For the purposes of this subsection only, the term "reconstruction" shall not include the voluntary demolition of such structure and its rebuilding. See Section 5.5.
5. If the Building Commissioner determines that proposed change exceeds one (1) or more of the criteria set forth above, the Zoning Board of Appeals may, by Finding, allow such change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.4 ABANDONMENT OR NON-USE. A nonconforming use or structure which has been abandoned or not used for a period of two (2) years shall lose its protected status and be subject to all of the provisions of this Bylaw.

5.5 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION. Any nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:

5.5.1 Procedures.

1. Reconstruction of said premises shall commence within two (2) years after such catastrophe or demolition, with the reconstruction completed and the structure occupied within a reasonable time thereafter.
2. Building(s) reconstructed as of right shall be located on the same footprint as the original nonconforming structure and shall be only as great in volume or area as the original nonconforming structure.



TOWN OF HAMILTON
ZONING BOARD OF APPEALS

REQUEST FOR FINDINGS OF FACT
PERMIT OR SPECIAL PERMIT

Date Submitted:

Applicant Name:

Scott Burnham

Applicant Address:

29 TALLY HO DRIVE

State nature of and location for which Permit or Special Permit is sought:

29 TALLY HO DRIVE

LAZE EXISTING HOUSE W/ 2 CAR GARAGE

BUILD NEW HOUSE W/ ATTACHE GARAGE

State how or why the proposed use would be in harmony with the general purpose and intent of the Zoning By-Law:

NEW HOUSE WILL MEET ZONING SET BACKS
AND LOT COVERAGE

State how or why the specific site is an appropriate location for such use:

RESIDENTIAL NEIGHBORHOOD

State whether the specific site has adequate public sewerage and water facilities or suitable soil for an on lot sewerage and water systems:

BOTH APPROVED SEPTIC PLAN BY GATEWAY CONSULTANTS
TOWN WATER TO EXISTING HOUSE WILL BE REUSED

State how or why the use as developed will not adversely affect the neighborhood:


NEW SINGLE FAMILY HOME AND WILL CONFIRM TO
SET BACKS AND LOT COVERAGE

State why there will not be a nuisance or serious hazard to vehicles or pedestrians using the following streets for the purpose of this permit:

Streets: TALLY HO, ELM, CHESTNUT, FOX RUN

TYPICAL CONSTRUCTION VEHICLES AND VANS
CONSTRUCTION SUPERVISOR WILL BE ON SITE DAILY
TO MONITOR TRAFFIC

State how and what adequate and appropriate facilities will be provided for the proposed use:

Signed:  _____

Address: 36 Grapevine Rd
Granster, MA 01930

Phone: 978-423-2015

THE SALEM NEWS

REQUEST FOR LEGAL NOTICE

I understand that by signing this form, I am agreeing to the cost of the legal notice to be published in the newspaper.

Payment is required at the time of the legal notice being received by the city and before it is published in the newspaper.

Please make checks payable to **THE SALEM NEWS** and mail to:

**The Salem News
Attn: Legal Notice
300 Rosewood Drive
Suite 107
Danvers, MA 01923**

978-675-2710

snlegals@northofboston.com

Prepaid cost required to run: \$260 per day *X2* ^{*K*} *820*

***Important: Average legal notice costs are estimated; customer will be refunded if the legal is less than the deposit amount.

Check # _____ (attach check)

Credit Card – please call our legal notice clerk at 978-338-2512.

If payment is not received, the legal notice will be cancelled.



Signed Applicant/Authorized Agent

Print Name: SCOTT BURNHAM

Address: 36 GRAPVINE Rd
GLoucester, MA 01930

Phone: 978-423-2015

Date: 9/6/22

Return to:



SO.ESSEX #254 Bk:41072 Pg:232
07/18/2022 12:26 PM DEED Pg 1/3
eRecorded

(SPACE ABOVE THIS LINE RESERVED FOR REGISTRY OF DEEDS USE)

FIDUCIARY DEED

MASSACHUSETTS EXCISE TAX
Southern Essex District ROD
Date: 07/18/2022 12:26 PM
ID: 1537785 Doc# 20220718002540
Fee: \$3,242.16 Cons: \$711,000.00

I, **STEPHANIE B. QUINN**, Personal Representative of the Estate of **Hilda K. Burnett**, late of Hamilton, Essex County, Massachusetts, Essex County Probate Court Docket No. E22P1327EA, by the power conferred under said Will and every other power

for consideration paid and in full consideration of Seven Hundred Eleven Thousand and 00/100 Dollars (\$711,000.00)

grant to **DONALD E. SUDBAY, JR. and JEANNE M. SUDBAY**, husband and wife as tenants by the entirety, of , of 3 Doctor's Run, Rockport, Essex County, Massachusetts 01966

the land with the buildings thereon known as and numbered 29 Tally-Ho Drive in the Town of Hamilton in said Essex County, bounded and described as follows:

- WESTERLY By Tally-Ho Drive one hundred eighteen (118) feet;
- NORTHERLY By Lot 13 on plan hereinafter referred to one hundred sixty-nine and 34/100 (169.34) feet;
- EASTERLY By Lots 19, 18, and 17 on said plan one hundred eighteen (118) feet; and
- SOUTHERLY By the remainder of Lot 14 on said plan one hundred sixty-nine and 66/100 (169.66) feet.

Containing 20,000 square feet of land and being the greater portion of Lot 14 and nine (9) feet on the Southerly side of Lot 13 as shown on plan entitled "Huntswood: Section A" recorded with Essex South District Registry of Deeds, Plan Book 84, Plan 79.

The foregoing premises are conveyed subject to an easement granted to Essex County Electric Company and New England Telephone and Telegraph Company by instrument recorded in said Registry of Deeds in Book 4091, Page 409.

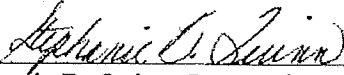
Premises: 29 Tally Ho Drive, Hamilton, MA 01982

Being the same premises conveyed to Grantor by Deed from Russell W. Sawyer and Helen A. Sawyer dated April 16, 1974 and recorded with said Registry of Deeds in Book 6058, Page 716.

I, Stephanie B. Quinn, the Personal Representative of the Estate of Hilda K. Burnett, under the pains and penalties of perjury, hereby irrevocably release and terminate any and all homestead rights which I may have in the premises, however acquired, which may benefit either myself or any other persons entitled to the benefit of such homestead rights and declare that no other person is entitled to homestead rights.

(Signature appears on the following page)

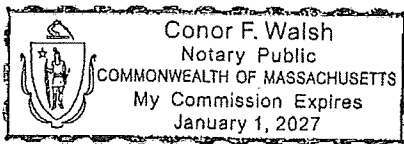
Executed under seal this 13 day of July 2022.

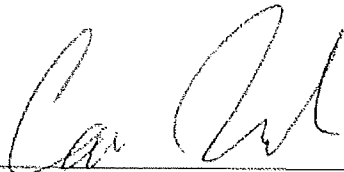

Stephanie B. Quinn, Personal Representative
of the Estate of Hilda K. Burnett

COMMONWEALTH OF MASSACHUSETTS

Essex, ss:

On this 13 day of July, 2022, before me, the undersigned notary public, personally appeared Stephanie B. Quinn, Personal Representative of the Estate of Hilda K. Burnett, proved to me through satisfactory evidence of identification, by showing me a copy of her identification, which was a Massachusetts Driver's License, or personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily as her free act and deed, for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.




Notary Public
My Commission Expires: 1/1/2027

Hamilton Zoning Board of Appeals
557 Bay Road
Hamilton, MA 01936

September 7, 2022

RE: 29 Tally Ho Drive, Hamilton

This will serve as authorization to let Scott Burnham act as my Authorized Agent for any Hamilton Zoning Board of Appeals issues and/or applications.

If you have any question of require additional information, please call.

A handwritten signature in cursive script, appearing to read "Donald Sudbay Jr.", with a horizontal line extending to the right.

Donald Sudbay Jr.
3 Doctors Run
Rockport, MA 01966

3 BEECH STREET

Town of Hamilton



BOARD OF HEALTH
577 Bay Rd., P.O. Box 429
Hamilton, MA 01936

Tel: 978-626-5245

Fax: 978-468-5582

September 16, 2022

Eric Mimmo
3 Beech St.
S. Hamilton, MA 01982

Dear Mr. Mimmo,

It is the opinion of two experts contracted by the Town of Hamilton, conducting 2 independent plan reviews of your proposed project, that a septic system upgrade is required prior to further progress of your project. Your septic system is not adequate for the proposed number of bedrooms as planned. Therefore, the Health Dept. cannot approve your proposed plans until the aforementioned upgrades are completed. It is your prerogative, if you wish, to appeal this decision to the Board of Health by adding this issue to the agenda of their next monthly meeting on October 11, 2022.

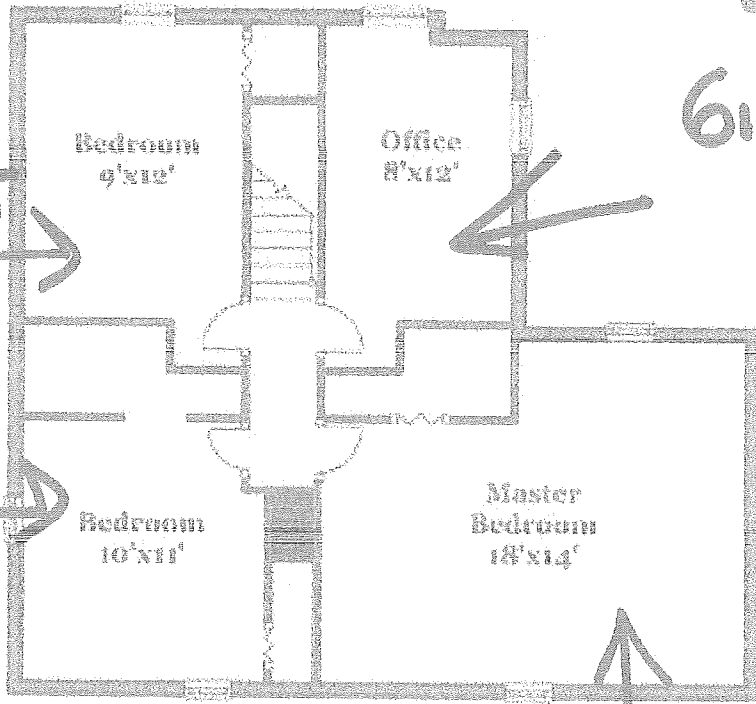
Sincerely,

Dennis Palazzo,
Director of Health
Town of Hamilton
(978) 417-6118

2nd Floor 6ft 5in Ceiling Height

14 of 15

6'5" Height

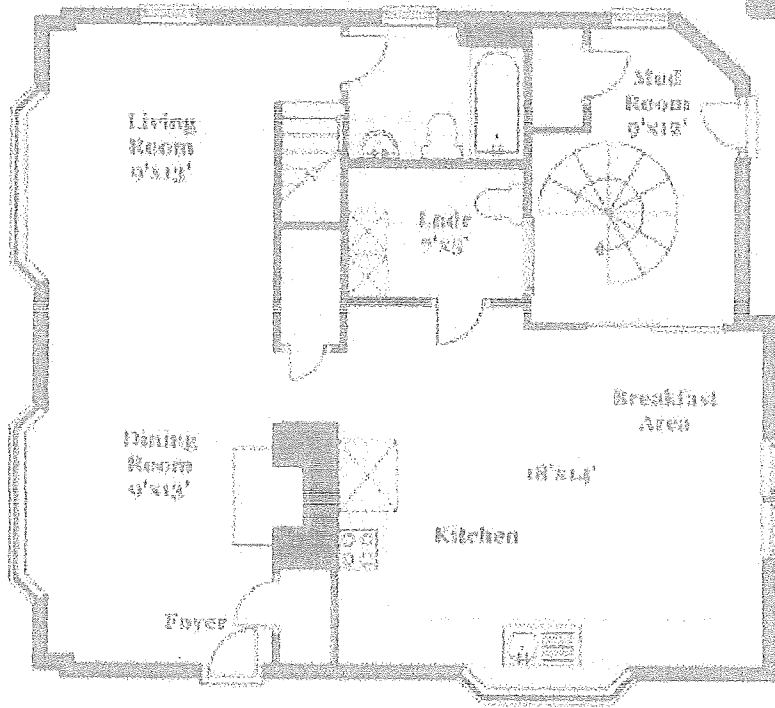


Don't Meet
Bedroom
Height
Requirement
By Board
of Health

Master Has Vaulted Ceiling
But Has Low Dormer Eave's
AND Part Has 6'5" Height

1st Floor 7ft Ceiling

13 of 15



Basement

15 of 15

