

**HAMILTON ZONING BOARD OF APPEALS
MINUTES OF MEETING
October 5, 2022
7:00 p.m.
Hybrid Zoom Meeting 897 5908 2173
Passcode 282979
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:

Special Permit to demolish the existing dwelling and construct a new single family dwelling with an attached 2 door, 3 bay garage. 29 Tally Ho Drive. Don Sudbay Jr., owner. Scott Burnham, applicant.

Scott Burnham was present. The current non-conformity was due to a lack of frontage, which was 118'. The house would not be constructed on the existing footprint. The square footage was proposed to be 2,700 sf while the existing house was 1,200 sf. Lot coverage would be 21%. The proposed house would meet all setbacks and would not be taller than 32'.

Motion made by Bruce Gingrich to grant the special permit to demolish the existing dwelling and construct the proposed new single family dwelling.

David Perinchief seconded.

Vote: Unanimous in favor.

Variance for proposed front yard setbacks for a new single family dwelling. 550 Bay Road. Mathew and Erin Curtin, owner. Ford Properties, applicant.

Tim Ford was present to request an exception to the front yard setback from a paper cul de sac due to the steepness at the rear of the property. According to Mr. Ford, the Planning Board approved the paper cul de sac for frontage purpose in the development of the private way subdivision.

The septic system, which was on the southwest corner of the lot, was not shown on the plan. Tim Ford explained that the garage doors were not intended to face Bay Road, which would require a 30' setback from the house and an 8' to 9' cut in topography. Patrick Reffett said that under Subdivision Control, the way used to establish frontage did not need to be paved but did need to be accessible. Mr. Reffett said it was preferable that the way be passable and maintainable. Mr. Reffett recalled that the Planning Board did not want excessive asphalt on the site.

No foundation had been broken. Members discussed that a site walk would be beneficial and discussed potential alternatives. The hearing was continued until November 2, 2022.

Continuation of Public Hearing. 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.

Eric Mimmo was present to show design changes made since the previous hearing. Mr. Mimmo presented a letter of septic approval and four bedroom deed restriction. Mr. Mimmo continued to present a third floor addition and noted the only changes were on the first floor.

Eric Mimmo discussed other homes in the neighborhood that were similar to this application, noting that his proposed home would not be the largest in the neighborhood and that one neighbor was closer to the property line and another neighbor was able to build up to 35'. The proposed addition would be 2,300 sf with a total building of 3,500 sf. Bill Bowler responded that none of the neighborhood properties had third stories and did not believe the Board would approve a third story addition given that none others existed in the neighborhood. The Board previously approved a one-story addition, then Mr. Mimmo expanded the request for a second and then third story addition. Mr. Mimmo responded that three story homes surrounded the lake. Attorney Bowler recalled that at the previous meeting, the Board had indicated that they would not approve a three story addition as it did not fit into the neighborhood.

The proposal included a 24' deep house with an additional 46' wall that was within the setback. David Perinchief said if the wall met the setback, the applicant could build whatever he wanted. The Board previously approved a one story 47' one story addition with a basement. Mr. Mimmo said the additional stories did not obstruct anyone.

An abutter on Zoom said the neighbors were concerned with three stories.

Bill Sheehan (Attorney for abutter, Denise Kelly) was present to note that Mr. Mimmo created the problem as the Board only approved a one story addition. Attorney Sheehan said the applicant tripled the non-conformity and that if originally proposed, the current proposal would have been denied. Attorney Sheehan said the proposal was grossly disproportional and therefore detrimental to homes in the neighborhood and would block light and air. Attorney Sheehan noted that the Board had not reviewed an entire set of plans and questioned the number of bedrooms being counted. Attorney Sheehan requested that the application for the special permit be denied, adding that the cease and desist was rightly issued and should be affirmed.

Members noted that in accordance with Section 5.33 of the Zoning By-law, a non-conforming single lot addition should not be more than 100%. Bill Bowler would check with Town Counsel about the provision as the application was not noticed as exceeding the provision. Members discussed the size and height of bedrooms and the bedroom in the basement.

Members discussed if the two story addition had been proposed originally, would it have been considered detrimental to the neighborhood or approved. Andie Philip said she believed the applicant had created the hardship and asked to see an overlay of what existed and what was being proposed in one clean packet. The applicant would need to prove the addition would not be detrimental to the community. Bill Bowler agreed that the Board needed a concise and complete set of plans, including exterior elevations and floor plans to review. Eric Mimmo requested a continuance until the next meeting and gave permission for members of the Board to walk the site.

The hearing was continued to November 2, 2022. Mr. Sheehan requested a set of plans.

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.

The applicant had request an extension of time until the November meeting for the Board to make a decision.

Andrew DeFranza (Harborlight Homes) and Thad Seimasko (architect) were present. An architectural and landscape presentation was given. A buffer between Canterbrook and the site was shown. The building had three stories on the front and two in the rear. The C-shaped proposed would hide the mass of the building. The courtyard, trash area, and fire access were shown. A pedestrian path would weave throughout the trees. Units facing the rear would have patio pads and a BBQ area with picnic tables. There would be 68 parking spaces for the 45 (6 accessible) units. There would be ten one-bedroom, 25 two-bedroom and ten three-bedroom units in total.

The lower level would have two-bedroom units, a common toilet, laundry, and trash. There would be no dumpsters on site. There would be a resident service office, common space, and storage rooms as well. The first floor would have one, two, and three-bedroom units, a leasing office, mail area, and common room. The second floor would have a study area with computers. Laundry rooms would be on each floor.

Elevations showed double gabled roofs, 22' high in the front and 36' high in the rear. Clapboard, shingles and board and batten would be used to reduce the perceived height, which was similar to the height of the Canterbrook buildings. Lighting, paving, and planting plans were explained. The site would include Victory garden planters, bike racks, light fixtures, and a fenced play area, which would be improved with benches.

Patrick Reffett said the Planning Board had encouraged the project to be pushed away from Canterbrook to try to make the building less imposing and encouraged maximizing the buffer between the properties. Entries were punctuated with architectural entry details to guide people to the doors. Members discussed a need to have the roofline broken up to relieve the long horizontal ridgeline in an effort to break up the mass. Thad Seimasko said the design

offered serenity and cleanliness of line and that gables had been added to break up the back of the building but shed roofs could be added between the gables.

The roof was solar ready. Low flow toilets and heat pumps would be used. Ipswich River Water Association had supplied a punch list of needed efficiencies. Gray water would need to be used, which would be considered. Lighting was discussed, which was all dark sky compliant. A lighting plan could be generated. A trash compactor would be used on site with composting, recycling, and garbage being sorted.

Kathy Ingemi (14 Canterbrook Lane) was present to note that privacy would be minimal in winter and ask about the location of the path and playground.

Ben Timons (Counsel for Harborlight) had requested via email a continuance to take additional time to respond to septic and drainage.

Motion made by David Perinchief to extend the hearing until November 2, 2022.

Seconded by Bruce Gingrich.

Vote: Unanimous favor.

Motion made by Bruce Gingrich to continue the hearing until November 2, 2022.

David Perinchief seconded.

Vote: Unanimous in favor.

Continuation of hearing for a 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.

The applicant filed to withdraw the petition for Application.

Motion made by Bruce Gingrich to allow the withdrawal of the application for 130 Essex St. for Harborlight Community Partners.

David Perinchief seconded.

Vote: Unanimous in favor.

REGULAR BUSINESS

Minutes – September 7, 2022

Motion made by David Perinchief to approve the minutes of September 7, 2022.

Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

DOCUMENTS REVIEWED

550 Bay Road. Plan of Land.

550 Bay Road. Subdivision Plan.

3 Beech St. Original floorplan and revised plans/drawings.

3 Beech St. Septic approval and deed restriction.

466 Highland St. Presentation including: building plans, unit plans, elevations, estimated site sections, cross sections of buildings, landscape plan, and civil engineering plan.

466 Highland St. Email from Ben Timons requesting a continuance.

ADJOURNMENT

Motion made by David Perinchief to adjourn at 9:05 pm.

Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

Respectfully submitted as approved at the November 2, 2022 meeting.

Bill Bowler