



Town of Hamilton
 Planning Board (Joint Select Board)
 Meeting Minutes of January 21, 2025

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Planning Board members, a meeting of the Hamilton Planning Board was posted for January 21, 2025 at 6:15pm. This meeting was held at the Hamilton Wenham Library at 14 Union Street.

The Planning Board has seven members elected to three-year terms with one, two, or three seats up for election each year. The Planning Board typically meets the first and third Tuesday evening at 7:00 p.m. Planning Board members: Marnie Crouch, Chair, 2026, Emil Dahlquist, Clerk, 2025, William Wheaton, 2025, Beth Herr, 2025, Patrick Norton, 2026, Jonathan Poore, 2027, Darcy Dale (2027), Matt Hamel (associate) 2026, Jeff Austin (associate) 2027.

Joint meeting with the Select Board:

Select Board call to order: *With a quorum present, Chair Beaulieu called the Select Board meeting to order at 6:20PM, identified the meeting was being recorded and those present:* C. Beaulieu (zoom), Chair, B.Wilson(zoom), Vice-Chair, R.Kennedy (zoom), W. Olsen (zoom), T.Myers, Clerk (zoom).

Planning Board call to order: *With a quorum present, Chair Crouch called the Planning Board meeting to order at 6:20 PM, identified the meeting was being recorded and those present:* Marnie Crouch, Jonathon Poore, Emil Dahlquist, Matthew Hamel, Beth Herr, Darcy Dale, Jeff Austin, Patrick Norton, William Wheaton (arrived late). Others present: Mark Connors, Director of Planning.

Joint Meeting Agenda: Review of the Supreme Judicial Court decision in the Attorney General v Milton – Presentation by KP Law.

Town Counsel, Attorney Amy Kwesell, KP Law began by stating on January 8th, the Massachusetts Supreme Judicial Court (SJC) issued their decision in the Milton case that section 3A, as mandated by the state, is constitutional and can be enforced by the Attorney General (AG). The SJC held that in addition to withholding grant funding, the AG also has the authority to enforce under Chapter 12 § 10 General Enforcement Powers. The SJC determined the guidelines from the Executive Office of Housing and Livable Communities (EOHLC) are not enforceable and are invalid because the guidelines were not properly promulgated. The following week, the EOHLC issued emergency regulations that mimic the guidelines except for the deadlines that have to be met. The specific emergency is the housing crisis, which is a public health crisis for the state. A non-compliant municipality is required to submit an action plan by February 13th, and required to enact 3A compliant zoning by July 14, 2025. For non-compliant towns, it means 3A has to be considered in the spring Town Meeting cycle. EOHLC also indicated they will be issuing final regulations with a public comment period, but it is unlikely much will change. The final regulations are due to take effect within 90 days. The grants subject to being withheld are listed in the regulations, and grants outside of that group are also subject to being withheld, as they are subjective awards. The SJC made it clear the guidelines are not enforceable because they were not enacted properly, but otherwise the content of the guidelines was not an issue.

D.Dale opined there are bills winding their way through the Mass House of Representatives seeking to repeal and challenge 3A, and she asserted Hamilton should do nothing until the court cases have seen clear to the resolution on constitutionality. Attorney Kwesell clarified this is a ruling by the SJC, this is the final answer and final decision. There is no Federal question here and it will not go to the US Supreme Court. Attorney Kwesell also stated she is very concerned about timing as Hamilton has not brought forward a plan yet, and the Town is pressed for time. The Town needs to focus on 3A Zoning as this is mandatory and the Attorney General can enforce it.

R.Kennedy opined the Town does not have the infrastructure to support a 3A plan and it will break the back of the community to do this. She questioned what the options are legally to prevent this from happening. She asked about other ways to address this, since she believes the regulations are untenable. B.Herr recommended going to the Office of the State Auditor and asking for a determination on whether this is an unfunded mandate, which, in her opinion, would require the state to step up and provide some of the costs, and she would like the Select Board to do this. P.Norton asked what timing the state is looking at to finalize the regulations. Attorney Kwesell stated it is not certain, but it is likely to occur within 90 days.

T.Myers questioned whether there could be enforcement from the Attorney General's office to impose the zoning. Attorney Kwesell stated the SJC made it clear the AG has general enforcement power and on July 14th a suit could be filed against a town, that is non-compliant, and order a town to enact a zone. If the zoning is not enacted, the town would be held in contempt, which

comes with significant fines. Another option for the AG would be to appoint a special master to determine the zoning and have the court order that the zoning be held, and the AG could come in and ask the court to rezone certain areas to comply with 3A.

Select Board Adjournment: *The Select Board voted unanimously by roll call to adjourn their meeting at approximately 6:45PM.*

Planning Board Regular Agenda:

1. REVIEW & VOTE ON DRAFT MINUTES FROM PREVIOUS MEETINGS: a. December 3, 2024

Vote: *The Board voted unanimously by roll call to approve the minutes with minor edits as noted.*

2. LAND USE APPLICATIONS:

a. SITE PLAN REVIEW: Town of Hamilton, owner, Hamilton Recreation Department, Applicant – Request for Site Plan Review of a proposed open air, wood-framed pavilion at the Patton Homestead property at 650 Asbury Street (Assessors Tax Map 19, Parcel 1) Hamilton, MA 01936. The applicant and property owner is the Town of Hamilton. The proposed use of the structure is for cultural, social, and civic programming. Chair Crouch announced that the application would be continued to the Planning Board's February 4, 2025 meeting at the request of the applicant.

Vote: *The Board voted unanimously by roll call to continue the site plan review application of the Town of Hamilton to February 4, 2025.*

There was general discussion regarding the upcoming meeting schedule and the timelines and deadlines for various actions on the Planning Board's agenda.

3. DISCUSSION of COMPREHENSIVE PLAN FOR DOWNTOWN and IMPLEMENTATION of EOHLC EMERGENCY MBTA COMMUNITIES REGULATIONS

This discussion was deferred to a future meeting, pending a meeting with the Select Board. Chair Crouch noted 3A is now a mandate and has been upheld by the Supreme Judicial Court, and she believes the Board should focus on affecting the substance of the guidelines at the public hearings that will be held by the State, and specifically try to affect the guidelines by adjusting the metrics applied to small towns. There will be a discussion with the Select Board going forward.

- **Tosh Blake, Sagamore St** advocated calling the State's bluff by not complying, as they are acting like bullies and jerks. He believes complying makes the town complicit in its own degradation. He also believes that almost no one in Town is in favor of 3A. His position is that the town should certainly not vote on anything and the standpoint should be that no, we are not complying with anything to do with 3A.
- **Brian Stein, Willow St**, noted that he is not in favor of the Section 3A law, however he felt there was a reasonable path to reach compliance. He noted multi-family zoning in place downtown that would meet the requirement for a half mile surrounding the train station, and then the Town would just need to zone another 10 acres. Why not find another zone, perhaps at the town dump, or Gordon Conwell, and just comply with the law. He noted that Manchester-by-the-Sea proposed something similar and it overwhelmingly passed in a Special Town Meeting last year. He noted that multi-family zoning has been in place for seven years in the Hamilton downtown area and only one building has been built.

Chair Crouch noted this discussion will continue at a later meeting.

4. DISCUSSION REGARDING POTENTIAL AMENDMENTS TO THE ZONING BYLAW & ZONING MAP:

a. Discussion of proposed amendments to Accessory Apartments regulations (Section 3.6 of the Zoning Bylaw) necessitated by the passage of the Affordable Homes Act and draft Accessory Dwelling Units (ADU) regulations promulgated by the Executive Office of Housing & Livable Communities

Chair Crouch explained this was a draft memo to the Select Board in a format recommended by Town Counsel Robin Stein. The proposed warrant article includes the necessary amendments to the Table of Uses. It was discovered the zoning bylaw on the town webpage is an error, as it did not reflect the zoning bylaw approved in 2016. The new warrant article has been corrected and is the right version. There is a section for ADUs; large ADUs would be by special permit. She noted other sections are being updated or deleted. ADUs in the historic district would have to undergo review by the Historic District Commission. There was discussion regarding utilities and whether they would be shared or separable, and the potential ways to address septic constraints. The Board also discussed that an accessory dwelling unit is not the same as an accessory structure, the appropriate height restrictions, as well as definition of the front yard and the setbacks. The Board proceeded to work their way through the sections, editing or deleting various parts of the text, addressing contradictory sections, and clarifying the language. M.Connors will make the edits discussed this evening and forward it to Town Counsel Robin Stein for review.

Vote: *The Board voted unanimously by roll call to approve the memo and send to Robin Stein.*

b. Discussion of comprehensive overhaul to Site Plan Regulations (Section 10.6 of the Zoning Bylaw), including potential Design Review Regulations.

The Board reviewed a draft memorandum dated January 15, 2025 on site plan review, section 10.6, as drafted by Chair Crouch following the format provided by Town Counsel Robin Stein. M.Connors created a redline version taking out what should be in the regulations rather than in the bylaw itself. There is more time to address the regulations since they do not have to be approved at Town Meeting. A pre-application conference was added to the process as a non-binding conversation to discuss a project and try to come to some agreements and understandings and to aid property owners in preparing for an application. Discussion continued on specific line edits and adjustments to the language of the section. M.Connors will compile the comments and edits from this evening into a new draft of section 10.6, Chair Crouch will update the memorandum for the next meeting.

Section 4/Table of Dimensional Regulations: The Board reviewed suggested changes to section 4 received from the Town Building Inspector Rich Maloney. Some definitional work was still required, and will be finalized for the next meeting.

The next meeting is scheduled for January 21, 2025, and will be on Zoom.

Adjournment:

Vote: *The Board voted unanimously by roll call to adjourn the meeting at approximately 8:50 pm.*

Documents:

- [January 21, 2025 Joint Planning Board-Select Board Agenda \(6:15 pm\)](#)
- [January 21, 2025 Planning Board Meeting Agenda \(7:00 pm\)](#)
- [Draft December 3, 2024 Planning Board Minutes for review/approval](#)
- [Draft Accessory Dwelling Unit Bylaw amendments with Select Board memo](#)
- [Zoning Bylaw amendments recommended by Building Commissioner with Select Board memo](#)
- [Working Draft Section 10.6 Site Plan Review Bylaw amendments](#)

Respectfully submitted by D. Pierotti, Recording Secretary, 1/25/25.

The minutes were prepared from video.