

HAMILTON PLANNING BOARD
MINUTES OF MEETING
July 25, 2017

Members Present: Richard Boroff, Peter Clark, Ed Howard, Rick Mitchell, Bill Olson, and Brian Stein (Acting Chair)

Others Present: Patrick Reffett, Police Chief Stevens

The meeting was called to order by Brian Stein at 7:00 pm. in the Memorial Room.

Marijuana B-law Proposal

Russ Stevens described the Zoning By-law, which would prohibit the sale of marijuana in the Town of Hamilton. Twenty-nine states had legalized marijuana. Hamilton and other towns had voted no, while Beverly and Essex voted yes. In MA, 260 towns voted yes with 91 voting no. Opposite to Colorado, the state legalized marijuana and towns needed to opt out of it rather than opting in to sell it. The Town of Hamilton had a moratorium that extended into 2018. After that point, the will of the people would decide what the Town would do. Even if the Town prevented the sale of marijuana, a person would be allowed to possess one ounce of marijuana and have 10 ounces of marijuana at home. Two adults would be allowed to cultivate 12 plants, six per adult.

Chief Stevens talked about the gray market of cannabis sales in Colorado. Colorado was the number one state for marijuana use, which was 20% since legalization even when rates had declined nationally. According to Chief Stevens, the 2% local tax would do little in Hamilton. There was a Green Mile of marijuana stores that had developed in Denver, which might occur along Route 1 in Peabody.

In Colorado, a 28% increase in emergency room visits was experienced due to the high potency of edibles. Chief Stevens was worried about edibles due to children and added that if the people in town wanted it, he would support it and if they didn't, he would support that decision as well. Chief Stevens wondered where the sale location would be sited. Data indicated that 43% of drivers in fatal crashes had drugs of some kind in their system, compared to 33%, which showed alcohol above the limits.

The H3 38-38 bill was passed amending the process to prohibit the sale establishment. If a town voted yes, but wanted to ban the sale of marijuana, the Town would need to go to a ballot vote, but if the town, such as Hamilton, voted no, all it needed to do would be to go to Town Meeting to vote yay or nay. The Selectmen, ZBA, Planning Board, or Citizen's Petition could initiate a By-law amendment.

Donna Brewer had already crafted the language for the prohibition of sale of marijuana. Chief Stevens asked the Planning Board if they wanted to put it on the Fall Town Meeting Warrant.

Rick Mitchell asked if marijuana could be gifted, to which Chief Stevens responded yes. Bill Olson recalled situations when a person bought something else and marijuana was gifted with the sale. Richard Boroff asked for the difference between the sale of alcohol and marijuana. Chief Stevens said the social norm was alcohol and eventually it would be marijuana, but he was concerned about edibles and the young children in town. Chief Stevens asked which department in Town would monitor the tax. It was noted that there was a State alcoholic bureau which monitored the sale of alcohol to minors, but Chief Stevens responded that in the eight years, he had not seen them in the town once, to which Mr. Boroff responded that at least one time someone was caught.

Motion made by Rick Mitchell to forward the prohibition on the sale and distribution of recreational marijuana as the proposal article by Police Chief Stevens for future consideration. Seconded by Richard Boroff.

Vote: Unanimous in favor.

Abbreviated Site Plan Review 15 Walnut. Waiting Area and Exterior Improvements.

Jeff Calla presented the concept to close the existing front door, keep the exit door, and install a trellis on the outside as well as a vestibule in the middle of the restaurant as the main front door. A trellis on the outside would take up one parking space with a couple of benches inside the trellis. Planters, lighting, and signage would be on the face of the canopy. The restaurant might lose two to three parking spaces with the trellis. Mr. Calla noted that the restaurant was one of the few establishment open past 5:00 pm.

This proposal replaced the original proposal and there would be no service outside. The existing front door and food pick up area was a cold zone. The new entrance was an airlock and was mimicking the look of Hale Street. Snow and wind loads were conducted by engineers. According to Jeff Calla, the Building Inspector, Fire Inspector, and landlord were all in favor.

Patrick Reffett said the lease had a limitation on the number of seats on the inside of the restaurant and because of that, they were unable to do the outdoor seating, but the proposal became more pedestrian and welcoming. A different color would be added for the face. The existing black signs, would be altered to fit the trellis. The corner tree would be well lit.

Rick Mitchell made motion to approve the applicant's request for design alterations at 15 Walnut.

Richard Boroff seconded.

Vote: Unanimous in favor.

Pre-Application for Subdivision 260 Bay Road.

Tom Ford and Rick Salvo (Engineering Alliance) presented the two lot proposal with a private driveway in addition to an existing home. There was a 40' right of way with a 16' common driveway. The original house was part of the subdivision in order to make the circle test work.

All three lots were conforming in area and frontage with the exception of the original house, which was never conforming as it was short on area, but acceptable on frontage.

The Historic District Commission would go through Historic District Review. The neighborhood was consistently single family detached homes. The Fire Department had not been contacted. Patrick Reffett noted that south of the existing dwelling, a small portion of land would be conveyed to 560 Bay Road to make it zoning compliant, but Tom Ford responded that even with the conveyance, the lot would be shy of conformity with area. Two feet would be added to increase the frontage to 175'. Land area would increase from 31,154sf to 34,199 sf.

Tom Ford said MA DOT gave a permit for the two lots and the perc rates were fine. Rick Mitchell asked if a traffic engineer had looked at the site lines. Rick Salvo said the plan purposefully lined up across from Bridge St. The plan proposed lighting on the driveway. The drainage was designed to pitch to a French drain infiltration system, which was sustainable. Each house would have a dry well. The list of waivers was relative to the width of the roadway. There would be, no water main, just a water service. There was no granite curbing. There were no sidewalks and a 32' road was being waive requested as it was not needed to go to two houses. The cul de sac would not be built out but would only exist on paper. The topography was flat so there was no high velocity to lead water to Bay Road. The low property would be graded to pitch away from Bay Road.

Tom Catalano did not want to see a garage door in the Historic District. Patrick Reffett said there were many waivers and if the applicant attempted to comply with the requirements, there would not be a lot of land left. Rick Salvo added the driveway was designed to be 30 mph which was in response to the width of the roadway. Mr. Reffett said the Police Chief would be alerted to the Bridge St. intersection, which he believed was the right place to have the intersection. There was a waiver request for the requirement that there be 125' between intersections.

Willow Street Overlay District By-law (WSOD).

The text had been modified over a four or five month period with the last element making sure added floor to area ratio was included. Brian Stein provided the information regarding typical FAR's. In Hamilton .35 was a proxy number. Mr. Stein put together various buildings via the assessor's information based on existing FAR's. Willowdale's FAR was .33 without the basement and .44 with the basement. Welch and Lamson was .68. Willowdale condos were .38. The Railroad Avenue block (Timeless Interiors) was just over 1. When considering the future use of the Welch and Lamson and Dodge Tree sites, .6 was too much. Mr. Stein wanted to allow flexibility in case the Town wanted to allow extra height for the other two pieces of property with perhaps a .5 as a limitation. Rick Mitchell said the Railroad Avenue block's FAR was 1 and did not seem out of scale. Mr. Mitchell wanted to know why FAR was a useful tool as every parcel was different.

Anything in the WSOD would have parking on site. Patrick Reffett said that as a special permit, the Board had the ability to make a developer create a building that appeared to fit the site, even if it had the square footage allowed. Rick Mitchell would not recommend adopting this concept as it was not applicable in a Special Permit process. Bill Olson recommended .7 as a limit.

Motion made by Bill Olson to amend the Willow Street Overlay District to include a .7 FAR and resequencing per Richard Boroff's recommendation.

Seconded by Richard Boroff.

Vote: Unanimous in favor.

Estate Overlay District By-law

Patrick updated the Board regarding the remaining items as to who handled the determination of open space location and use. The Board agreed that they did not understand why the additional square footage for New Floor Area was removed. The Board recalled that three times the square footage was excessive, but twice would be fine. Any office use was removed as were permitted uses 4, 5, 6, and 7. Rick Mitchell wanted to have museums. Brian Stein suggested removing long term care and leaving all other uses in. The Board considered uses, 1, 2, and 3, as commercial uses deemed appropriate by the Planning Board.

New Floor Area 9.4.18 on page 5 was discussed. There were two methods to obtain New Floor Area including historic rehabilitation of the original estate house, which allowed for three times the rehabilitated area in New Floor Space. Rehabilitation to non historic standards allowed for one times New Floor Space. At the previous meeting, some abutters and estate owners had an issue with the three times number but twice would be acceptable. Brian Stein thought the Board would be fine delineating open space. Section .4.23 required information 3 provision for landscape and buffering needed the word plans. .5 water supply and issue need the word plans and 9.4.12 certification needed to be added.

Bill Olson made motion that the Board recommend the Estate Overlay District text be amended by changing the conditional Floor space from 3 x to 2 x for the first option of historical renovation and forward that to Town Counsel for recommendation.

Rick Mitchell seconded.

Vote: Unanimous in favor.

Cottage Housing By-law.

Peter Clark thought there were design standards but Bill Olson said the Planning Board needed to set ratios. Rick Mitchell wanted to come to a conclusion and just put something together, see how it worked, and then adjust it. The Board should create concentric circles of where the Board wanted cottage housing and designate where they wanted to see it as opposed to any zone. Ed Howard said he loved the concept but did not see it happening in Hamilton.

Minutes and Other Board Business.

Motion to accept the minutes from April 25, 2017 made by Bill Olson.
Ed Howard seconded.
Vote: Unanimous in favor.

Brian Stein made motion to accept the minutes from May 2, 2017 as amended.
Ed Howard seconded.
Vote: Unanimous in favor with Bill Olson abstaining due to his absence from the meeting.

The Board discussed the siting of cell towers in the Historic District. Peter Clark suggested the cemetery but Patrick Reffett responded that it was in the Historic District. Bill Olson said it was legally defined. Ed Howard added that the Historic District included things that could be seen from the district. Richard Boroff said the By-law said to seriously consider if there was a visual effect into the Historic District, but that the By-law did not give the Historic District Commission the ability to deny the project. .

The Federal Telecommunication Act and case law supported that if a telecommunication provider identified a zoned district where there was poor coverage, the local authority could not use local zoning to deny a permit. Ed Howard said Rosemary Kennedy opined that the Board did not have purview over the case and that the Board could not vote on it.

Patrick Reffett discussed the Conservation Commission's approval process, where the Commission was the last Board to approve a project. There was a proposal to change the process to allow for a determination to be made before a project came to the Planning Board. Brian Stein responded that currently, wetlands could be delineated first.

Richard Boroff described the Dark Sky By-law in front of the Open Space Committee. The By-law would require dark sky compliant lighting that would be enforced by the Building Inspector, but did not apply to residential uses. It was noted that commercial uses would come before the Planning Board. Mr. Boroff suggest that it be part of the Zoning By-law rather than a separate By-law. Dark sky lighting was not the same as trespass lighting. Peter Clark recalled that downlights were not installed at the middle school.

Motion to adjourn made by Ed Howard.
Seconded by Rick Mitchell.
Vote: Unanimous to adjourn at 9:14.

Prepared by:

Marcie Ricker

Attest

Date