

HAMILTON PLANNING BOARD
MINUTES OF MEETING
October 17, 2017

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

Associate Members: Janel Curry

Others Present: Patrick Reffett

The meeting was called to order by Brian Stein at 7:07 pm. in the Memorial Room.

Public Hearing (Continued). Cottage Housing By-law

The Board discussed driveway and street widths as they pertain to cottage housing. It was agreed that one way drives would be 10' and two way drives would be 20' wide. The minimum common open space per cottage would be 1,000 sf with a minimum per site requirement set at 5,000 sf. Minimum private open space per cottage would be 400 sf. The maximum size of the cottage would be 1,500 with the main level being restricted to 1,000 sf. There would be a maximum of one bedroom on the first floor with a total maximum of two bedrooms per unit. There would be 10' between cottages. There would be 10' side yard set back, 15' rear set back, and a 25' set back from the street.

Bill Olson explained the changes to the proposed By-law. The By-law would be applicable to sites in the R1a and R1b districts. Peter Clark suggested indicating size limits of 800sf to 1,500 sf. There would be no more than 36 units and there would be a requirement that there would be at least 1/3 mile between developments. Height limitations included 25' to the highest peak with 1.5 stories. The main roof pitch would be 6/12. 80 sf porches (minimum) would be oriented to the open space. Garages, parking spaces, and attached garages were discussed. There would be two parking spaces per cottage and 15% of the total for guest spaces. Parking space groupings would be 1,100 sf and would be separate by 20'. Carports would be prohibited.

The inclusionary housing requirements would be triggered after 11 units were proposed. Design standards needed to be incorporated. Brian Stein suggested the guidelines be similar to Downtown Guidelines rather than being a part of the By-law. The guidelines would be referenced in the By-law.

Ed Howard said he had a hard time warming up to the document as it didn't define terms such as open space. Mr. Howard noted the struggles of other towns with situations such as hanging clothes outside. Mr. Howard described the problems associated with the Patton Ridge development, which had issues with the Homestead's future. While Mr. Howard wanted to define issue related to open space, Richard Boroff responded that those problems could be

defined during the Special Permit process. Bill Olson said landscaping would be part of the Design Guidelines. Brian Stein wondered how to define open space without over-regulating the process. Mr. Boroff said each site would be different. Rick Mitchell recalled that open space definitions were not part of the Senior Housing By-law. Mr. Boroff said the private sector would hire someone to design something to look nice for a saleable project. The Board decided that Downtown Design Guidelines would be amended to fit the Cottage By-law and reference would be made in Section V.

Patrick Reffett suggested that a condition would be imposed as part of the Special Permit that the covenants be created for dog houses, clotheslines, and sheds, etc.. Mr. Reffett would recommend to a developer to hire a landscape architect to present a project that would make the project work. Septic was under the purview of the Board of Health.

Ed Howard wanted to have the development compatible with the town. Peter Clark worried that the community would not accept the By-law without Design Guidelines. Brian Stein said he thought having pictures would help to show what Cottage Housing could be. Claudia Woods did not support the By-law, but the Board as a whole supported it.

Motion made by Rick Mitchell to close the public hearing.

Seconded by Bill Olson.

Vote: Unanimous in favor.

Peter Clark wanted to have the design standards written before Town Meeting. Brian Stein did not think the Guidelines needed to be complete by Town Meeting if images were available, but design guidelines would be adopted to create housing that looked like the image.

Motion made by Bill Olson to present the Cottage Housing By-law as proposed with amendments at Town Meeting, dated November 4, 2017.

Seconded Rick Mitchell.

Vote: Majority (5:2) in favor with Ed Howard and Claudia Woods opposed.

Public Hearing (Continued). Estate Overlay District By-law.

The public hearing had been closed at the previous meeting. Rick Mitchell wanted one minor change, which might need to be done at Town Meeting. Mr. Mitchell wanted to add the term “non-motorized” to commercial recreation.

Rick Mitchell made motion that the Planning Board support the presentation of the Estate Overlay District By-law as finalized at the next Town Meeting.

Seconded by Richard Boroff.

Vote: Unanimous in favor.

Other Board Business/Discussions. Review and Vote Regarding Minutes.

Motion to approve the minutes of October 3, 2017 with a minor change made by Richard Boroff.
Seconded by Bill Olson.

Vote: Unanimous in favor.

Ed Howard recalled the Historic District Commission meeting where the Commission discussed the Demolition Delay By-law. The delay was being proposed for one year for buildings that were constructed before 1940. The proposal would be brought forth for Spring Town Meeting. Mr. Howard noted that a large majority of towns in MA had a Demolition Delay By-law.

It was announced that the Pingree School Site Plan Decision was being appealed. The trail placement needed to be adjusted, but the Decision had allowed for some change. It was recalled that it did not matter what time games were finished as long as the lights were off by 9:00 pm. Other schools could use the fields four times a week at a maximum.

Regarding the 577 Bay Road cell tower suite brought by Varsity Wireless against the Hamilton Planning Board, Patrick Reffett stated that Town Counsel Donna Brewer had received a call from Attorney Dan Hill who had been contacted on behalf of three Board members. Town Counsel advised Attorney Hill that he was not going to be representing a majority of the Board or the Town. Attorney Hill had been advised that the Board of Selectmen would not advance resources for the Planning Board to have that representation. Mr. Reffett contacted Attorney Hill and explained that a majority of the Board had not opposed the project and that the Board of Selectmen would be the entity that would make the decisions relative to legal proceedings and lawsuits of the Town. Mr. Reffett explained that the Board of Selectmen would not extend resources to the Planning Board for the suit.

Peter Clark said that the three members who represented the minority wanted to be represented. Mr. Clark, Ed Howard and Claudia Woods wanted a voice in the proceedings. Rick Mitchell responded that Planning Board members were elected town officials who could not have a voice at the table. Mr. Mitchell said Mr. Clark could not do this because he was a member of a Board and the majority of that Board along with the Selectmen disagreed. Mr. Mitchell added that Mr. Clark and the other two members didn't get to break off and pursue their own strategy. Mr. Mitchell said the public would be alerted to the three renegade members. Ed Howard did not appreciate being called a renegade.

Brian Stein said the Planning Board was a board of seven in which decisions happened. Mr. Stein said he took offense that the three opponents took it upon themselves to represent the Board. Mr. Stein explained that they were a portion of the Board. Mr. Stein said a full Board decision was made not to defend the Decision. Mr. Stein added that even if it was a minority, it was still a part of the Board, which he had a problem with their actions. A judge may strike it down, but the perception was that a portion of the Board was going against the whole Board's vote and wishes. Rick Mitchell said the opponents didn't know how to play as members of a Board and had gone off to pursue a challenge to the majority of the Board and the Selectmen.

Mr. Mitchell thought the action was divisive and showed little regard or respect to process. Mr. Mitchell added the opponents were making fools of themselves in a public fashion.

Claudia Woods declared that she was surprised that the Town didn't support the Decision that the supermajority was not established. According to Ms. Woods, the members acted in good faith that the cell tower proposal did not uphold the By-law and the idea that the Town did not support them was appalling. Ms. Woods questioned the purpose of needing a supermajority. Ms. Woods said Varsity did not respect the By-law. Ms. Woods said there were holes in the application and she voted in good conscience. The fact was that the minority did not support the Decision despite the fact that the Town wanted it. Rick Mitchell responded that the minority were disrespectful and immature. Claudia Woods responded that Mr. Mitchell had said enough denigrating things to her in the last two weeks, to which Mr. Mitchell said it was well deserved. Brian Stein said he would not disagree with Mr. Mitchell's premise and recalled that the Board voted to not defend the suit. Janel Curry wondered if there was a lack of a supermajority wasn't that the Decision of the Board, but Mr. Stein disagreed. Ms. Woods asked what the point of a supermajority was. Mr. Stein said a supermajority would not be the Town suing the Town or a Federal case protected by Federal statute. Bill Olson said the majority of the Board decided not to defend the supermajority decision.

Mary Green (Bay Road) asked if a development didn't pass by a supermajority, what would be the Decision of the Board. Ms. Green asserted that if the minority didn't agree with a development Decision and didn't win by supermajority wouldn't that remain the Decision of the Board. Brian Stein agreed but said it was odd how it worked. Richard Boroff recalled that the simple majority voted not to defend the Decision. Mary Green asked if it was odd not to defend the Decision of the Board. Rick Mitchell responded that three people could derail the will of the entire Board in such a case. Ms. Green noted the questionable unity of the Board and asked why the Board would not defend their own Decision. The response was that the majority of the board did not want to defend it and the Board of Selectmen decided not to pay for the Planning Board defense.

The Town was the property owner and Varsity Wireless was the developer and accordingly they were both legally joint applicants, added Patrick Reffett.

Adjournment

Motion to adjourn made by Ed Howard.

Seconded by Rick Mitchell.

Vote: Unanimous to adjourn at 9:28 pm.

Prepared by:

Marcie Ricker

Attest

Date