

**TOWN OF HAMILTON  
ZONING BOARD OF APPEALS**

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

Date Submitted: June 6, 2022

Applicant Name: Harborlight Community Partners, Inc. Phone: 978-922-1305

Applicant Address: 283 Elliott Street, Beverly, MA 01915

Applicant respectfully petitions the Board of Appeal for the following:

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

- Variance: (State Type) Dimensional variance from minimum lot area/dwelling**
- 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:**

Address of Property if different from Applicant Address above: 130 Essex Street, Hamilton, MA

Owner of property if different from Applicant noted above: Gordon Conwell Theological Seminary, Inc.

**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: R-1B; R-1A; Groundwater Protection Overlay District  
Existing Lot Size: +/- 102 acres

State Briefly what structures are on the property: See attached Addendum.

State in detail what the petitioner desires to do at said subject property: See attached Addendum.

State whether any petition as to the said premises has been submitted to this Board within the last five years. If so, give details: None.

State if any Building Permit has been granted to said premises within the past two years. If yes, give details: None.

Harborlight Community Partners, Inc.

Signed: *By its attorney,  
Michael P. Senosko*

Address: 283 Elliott St.

Beverly, MA

Phone: 978-922-1305



TOWN OF HAMILTON  
ZONING BOARD OF APPEALS

REQUEST FOR FINDINGS OF FACT  
EXTENSION OR ALTERATION OF A NON-CONFORMING USE

Date Submitted: June 6, 2022

Applicant Name: Harborlight Community Partners, Inc.

Non-Conforming Property Located at: 130 Essex Street, Hamilton, MA (Map 64, Lot 5)

Note the Existing Non-Conformity (check all that apply):

- Lot Size
- Front Yard Setback
- Side Yard Setback
- Rear Yard Setback
- Lot Coverage
- Property/Building Use - see Addendum for additional details
- Other: \_\_\_\_\_

Will the proposed extension or alteration meet current zoning requirements:

- Yes
- No: State non-compliance of extension/alteration **The existing use is for multi-family, graduate student housing, a use that is not allowed in the R1-B District, but for the Dover Amendment protection afforded to educational uses. The existing buildings do not comply with the minimum lot area of 40,000 SF/dwelling under Section 4.1.2 of the Bylaw.**

Will the proposed extension or alteration further encroach on the existing non-conformity

- Yes: State further encroachment  
**The proposed ANR lot configuration will intensify the nonconforming minimum lot area for the buildings; please see accompanying variance application.**
- No

Applicant shall state that the extension or alteration reflects the nature and purpose of the previous use (or) that the extension or alteration is no different in kind in its effect on the neighborhood as compared with the previous use, for the following reasons:

**Please see attached Addendum.**

Applicant shall state that the extension or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure for the following reasons:

**Please see attached Addendum.**

Harborlight Community Partners, Inc.

Signed: by its attorney, *Muana P. Senolcu*

Address: 283 Elliott Street

Beverly, MA 01915

Phone: 978-922-3305

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)

**Section 4.1.2 - Table of Dimensional Regulations**

**Variance Requested. Check all that apply.**

- Lot coverage
- Side yard setback
- Front yard setback
- Rear yard setback
- Frontage
- Parking
- Other. Specify. **Minimum Lot Area per Dwelling Unit (Section 4.1.2)**

**State hardship for which relief is sought:**

- Soil conditions
- Shape of the land
- Topography of the land
- x **Existing Structures**

**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



TOWN OF HAMILTON  
ZONING BOARD OF APPEALS

REQUEST FOR FINDINGS OF FACT  
VARIANCE

Date Submitted: June 6, 2022

Applicant Name: Harborlight Community Partners, Inc.

Property Located at: 130 Essex Street, Hamilton, MA

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:

**As described in the accompanying Addendum, the subject Buildings are pre-existing nonconforming structures already used as apartments and not currently meeting the minimum lot area requirements. Without relief, there would be no possible configuration of lot lines to allow the Seminary to sell the Buildings as independent parcels, rendering the current apartment structures unusable and causing significant financial hardship to the institution. This condition is unique to the current property based upon the size of the parcel, the existing apartment buildings, and the property's historic use for educational purposes.**

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

**The variance may be granted without substantial detriment because the structures are already existing and granting the variance will not result in any material changes to the presently built condition (except for the connector additions which do not impact the minimum lot area requirement). If relief is granted, the proposed rental project would be an adaptive reuse of existing buildings that would provide a mix of housing types in the Town to "accommodate changing needs for smaller housing units, accessible units, as well as rental options to attract new residents and retain existing residents of all ages and abilities." (Goal #2 of Hamilton Housing Production Plan).**

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:

**Owing to the unique status of the Seminary property and the fact that these are existing buildings which will continue to be used for apartments, the variance can be granted without substantially nullifying or derogating from the intent or purpose of the By-Law.**

Harborlight Community Partners, Inc.

Signed: *by its attorney*  
*Michael P. Stuchlik*

Address: 283 Elliott Street

Beverly, MA 01915

Phone: 978-922-1305

*Addendum to ZBA Applications for Finding and Variance  
130 Essex Street | Harborlight Community Partners, Inc.*

***I. Summary of Requested Relief***

Harborlight Community Partners, Inc. (“Harborlight”) seeks the following relief in order to purchase and convert six (6) existing apartment-style dormitory buildings containing 210 apartments, situated on the campus of Gordon-Conwell Theological Seminary, Inc. (the “Seminary”), to 210 units of multi-family housing, and to building three (3) connector additions between the buildings to provide improved resident amenities:

- i. A finding under Chapter 40A, Section 6 (“Section 6”) and Section 5.2 of the Hamilton Zoning Bylaw, that the proposed change in use to 210 units of nonconforming multi-family housing is not substantially more detrimental to the neighborhood than the existing 210 units of nonconforming student apartments;
- ii. A finding under Section 6 and Section 5.3 of the Bylaw that the proposed “connector” additions shown on the accompanying Permit Plan will not be substantially more detrimental to the neighborhood than the existing nonconforming buildings;
- iii. A variance from the lot area requirements set forth in Section 4.1.2 of the Bylaw to authorize an intensification of the existing nonconforming minimum lot area/dwelling, in order to create three (3) separate lots for the respective buildings, as shown on the Permit Plan; and
- iv. Such other relief that may be required to authorize the proposed change in use.

***II. Description of Project***

The Seminary, a non-profit educational corporation, has been reviewing its utilization of its 102-acre campus located at 130 Essex Street. As part of that process, the Seminary granted Harborlight an option to purchase up to six (6) existing campus buildings (the “Buildings”) used for graduate student and family housing. During their history, the Buildings have often been occupied by families with children of all ages. Harborlight proposes to convert the Buildings to multi-family rental use.

The Buildings are shown as Buildings A, B, C, D, E and F on the accompanying Permit Plan. Each of the Buildings are presently used for apartment-style housing and include an aggregate of 210 fully equipped apartments. Harborlight’s phased acquisition will also include approximately 14 acres of land and will involve three (3) separate acquisition parcels shown on the Permit Plan as Lots “AB” “CD” and “EF” (each a “Lot” and collectively the “Lots”). Each Lot will include the parking areas and other site improvements serving the associated Buildings. Lot CD, which does not have any independent frontage, will be approved for conveyance on the condition that it is to be merged with Lot AB and is not otherwise a separate buildable lot.

As the Lots and Buildings are acquired, Harborlight intends to renovate the existing apartments and common areas to enhance accessibility and provide customary resident amenities. As shown on the accompanying Permit Plan, Harborlight also proposes to construct connector additions to each pair of Buildings in order to provide additional resident amenity space. The unit count will remain constant at 210 apartments in total.

Harborlight has reserved the right to purchase the property in up to three phases. Phase I would consist of Lot AB, consisting of roughly 2.75 acres with frontage on Woodbury Street, and including 60 units.

Phase II would include Lot CD with another 4.35 acres of land. Phase III would consist of Lot EF, being 5.32 acres with 110 units.

The following summarizes the proposed unit count and parking for each Phase:

	Lot	Units	Required Parking	Proposed Parking
Phase I	Lot AB	60	60	65
Phase II	Lot CD	40	40	70+/- <sup>1</sup>
Phase III	Lot EF	110	110	182

The Seminary will provide access easements to the Lots that will allow for all vehicular access to and from the Buildings consistent with current access and not requiring any new curbcuts. Sewage treatment will continue to be furnished and treated through the Seminary’s private wastewater treatment plant through a shared use agreement between the Seminary and Harborlight.

Finally, all of the units will be restricted affordable units that are qualified for listing on the Chapter 40B Subsidized Housing Inventory.

### **III. Nonconforming Status of Buildings**

Town records reveal that the Seminary constructed and/or renovated each of the Buildings for use as graduate student apartments between approximately 1975 and 2003. All of the Buildings are situated in the R-1B Zoning District, which does not permit multi-family use.

Section 3.1.3.A(3) of the Bylaw provides that educational uses on land owned or leased by a non-profit educational corporation are allowed in all zoning districts in the Town, essentially codifying the protected status of educational uses afforded by Massachusetts General Laws, Chapter 40A, Section 3, commonly known as the “Dover Amendment”.<sup>2</sup> As a result, the Buildings are essentially exempt from underlying use and dimensional requirements under the Dover Amendment but upon the sale of the Buildings to Harborlight the Buildings will no longer be associated with an educational use and will become pre-existing nonconforming uses and structures under Section 6 and Section 5.0 of the Bylaw. See *Gund v. Planning Board of Cambridge*, 91 Mass. App. Ct. 813 (2017), rev. denied 478 Mass. 1102 (2017) (loss of statutory immunity for former courthouse rendered it nonconforming structure and use which could be properly be converted to nonconforming multi-family use by Section 6 finding); *Durkin v. Board of Appeals of Falmouth*, 21 Mass. App. Ct. 450, 453 (1986) (proposed commercial use of a decommissioned post office in a zoning district that was now strictly residential was properly authorized as a change to a preexisting nonconforming use by way of a Section 6 finding). Based on this analysis, the ZBA may authorize the proposed change in use from graduate student dwellings to apartment dwellings by way of a Section 6 finding.

<sup>1</sup> Note that there would be a total of 83 parking spaces available except that the building connector proposed for Lot CD will overlap with the existing parking layout and this figure anticipates a slightly smaller parking lot when that work is complete.

<sup>2</sup> The Dover Amendment provides educational institutions with broad protections from municipal zoning regulations. With some delineated exceptions, the Dover Amendment provides that “[n]o zoning ordinance or by-law shall . . . regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned . . . by a nonprofit educational corporation.”

#### ***IV. Dimensional Regulations***

As noted on the Permit Plan each of the Lots and respective Buildings will satisfy the minimum frontage and other dimensional requirements set forth in Section 4.1.2 of the Bylaw, with the exception of the minimum lot area requirement which is based on single-family zoning at 40,000 SF per dwelling unit. The lot area nonconformity is a pre-existing nonconforming condition: under present conditions the Seminary property consists of approximately 102 acres of land, compared to the roughly 193 acres required to satisfy the minimum lot area requirement for 210 apartments. The proposed reconfiguration of the Lots and Buildings will intensify this existing nonconformity and thus requires a variance to permit the proposed minimum lot areas set forth in the following chart:

	Units	Required Minimum Lot Area (40,000 SF per dwelling)	Proposed Lot Area
Lot AB	60	2,400,000 SF	119,846 SF
Lot AB/CD*	100	4,000,000 SF	309,367 SF
Lot EF	110	4,400,000 SF	232,115 SF

\*Lots AB and CD will be merged in Phase II for the purpose of computing lot area requirements.

#### ***V. Request for Section 6 Findings for Change in Nonconforming Use and Structures***

As described above, the subject Buildings and Lots are nonconforming as to use and minimum lot area per dwelling unit.

Harborlight's proposed apartment rental use represents a change in use that is consistent with the nature and purpose of the present apartment housing for graduate students and their families. The Buildings will continue to be used for apartment-style multi-family housing, with the only difference being that they will be leased to income-qualified households instead of Seminary students. With the exception of this change in residents, the Buildings will continue to operate the same as they presently do, with improved amenity space.

This Project represents an adaptive reuse of existing buildings and infrastructure that is fully consistent with Town's Housing Production Plan and will go far to satisfying the Town's stated affordability goals. Significantly, the conversion of existing buildings can be accomplished without the need for new municipal infrastructure and without disturbing existing open space or otherwise changing the rural character of the neighborhood.

For the foregoing reasons, Harborlight respectfully requests that the Board find that the proposed change in use, together with the connector additions to the Buildings, will not be substantially more detrimental to the neighborhood than the existing Buildings and graduate student housing.

*See also accompanying Applications for Variance and Finding.*