

DRAFT Two
HAMILTON ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 6, 2022
7:00 p.m.
Hybrid/Zoom Meeting
82963043130
Passcode 278365
Hamilton Town Hall
299 Bay Road, Hamilton, MA

Members Present: Bill Bowler (Chairman), Steven Derocher (Associate), Bruce Gingrich, and David Perinchief (via Zoom).

Others Present: Patrick Reffett.

This meeting was called to order at 7:00 pm with a quorum established.

PUBLIC HEARINGS:

156 Gregory Island Road. Warren Brown – owner. Finding to allow an expansion of living space and the addition of a garage

Bill Bowler recalled that the Building Inspector had requested that the Board refer to Sections 5.3.5. and 5.5.1.3 of the Zoning By-law, regarding the raising and construction of a structure.

Brian Stein (BDS Design) was present to discuss the application. The owner reportedly wanted to raise the structure due to the condition and size of the structure and old foundation. The proposal was for a 32' x 40' structure plus deck in the back with a single car garage. Mr. Stein described the 1.5 story cottage as having a deck in the back toward the water. Mr. Stein was trying to keep the southern side of house in line with the existing structure. The septic system was adjacent to the south side of the house. The proposed structure was non-conforming toward the north side set back with an increase from 30' to 32'. The 1.5 stories would be increased to three stories with a small third floor on the east corner. The sloping roof would accommodate solar panels for the net zero home. The mean height of the roof would be 28.5'. Mr. Stein said everything except the side yard setback was conforming. The application would need to go to the Conservation Commission for review. Bill Bowler requested a letter from the Board of Health be placed on file.

The existing dwelling was 10' from the north side lot line and the application proposed the building be constructed 9.6' from the north side lot line. Bill Bowler noted that the application was filed and noticed as a Special Permit for an extension of a non-conforming use, but due to the decrease in side yard setback, the application should be approved as a Variance. Mr. Bowler did not think the application could be approved procedurally as submitted. Brian Stein responded that it was a Special Permit under the Rule of 2019. The Board of Health would be contacted to determine if the encroachment into the septic area was acceptable and if so, the

building would be relocated to the south to meet the side yard setback. There had been no input from the neighbors including concern about the height increase.

Brian Stein agreed to continue the public hearing until May 5, 2022 at 7:00 pm after he had met with the Board of Health and the Conservation Commission.

18 Berrywood Lane. Marianne Skellett – owner. Special Permit for an Accessory Apartment.

Bill Nolan presented the plans, elevations, and photos for the apartment proposal, which would be built to the north of the existing structure. The structure would be a single story from the front but due to the topography, would have a walk out basement or two stories in the back. The existing structure was a four bedroom home and the proposal was for a one bedroom accessory apartment. The existing planter would be removed to allow the extension of the farmer's porch and an entry door on the side of the structure. The bedroom would be in the front left corner with a bathroom, kitchenette, and living space within the unit. The roof line blended into the existing house. The basement would be left unfinished and only accessible through the existing house. The deck in the back of the existing house would be extended to allow access for the new unit to the backyard.

Discussion ensued regarding the murphy bookcase that connected the two units. David Perinchief read Section 3.6.4.part 3 of the Zoning By-law that indicated: "The apartment will be a complete separate housekeeping unit from the function as it separates the unit from the principal dwelling." Members discussed that the murphy bookcase would allow a pass-through, which would not allow for the creation of a separate unit from the principal dwelling. Bill Nolan agreed to remove the feature. Members discussed the crushed-stone parking space for the unit to ultimately agree the proposed location, which was close to the lot line, was the best of others considered.

Bill Bowler noted that the letter from the Board of Health, verifying the capacity of the septic system was included in the application package. Mr. Bowler also noted two letters from the neighbors approving of the proposal. Bill Bowler reviewed the requirements of Section 3.6.4. of the Zoning By-law to determine that all had been met.

Motion made by Bruce Gingrich to grant the Special Permit with the one condition that the murphy bookcase be removed from the design.

Seconded by David Perinchief.

Roll Call Vote: David Perinchief – aye, Bruce Gingrich – aye, and Bill Bowler – aye. Unanimous in favor.

466 Highland St. Harborlight Community Partners – applicant. Britton Family Trust LLC – owner. Comprehensive Permit (40B) for the construction of a 45 unit multifamily housing project.

Bill Bowler announced that Andie Philip (ZBA member), who was not able to attend, would be watching the recording to allow her to participate under the Mullin Rule.

George Pucci, (KP Law) offered an overview of the 40B process, noting that the ZBA had six months to complete the review. Attorney Pucci referred to Statutes 20 to 23 as well as the Regulations. Attorney Pucci said the ZBA would be conditioning this project consistent with local needs (health, safety, site design concerns) and if those needs could not be met, the project could be denied. The ZBA would examine the waivers that would enable the applicant to build the project, hear evidence, and determine if the waivers could be granted with conditions. Local boards and committees could offer comments, which would be taken into consideration by the ZBA. Peer review would be conducted at the applicant's expense on any issues such as site engineering or traffic.

George Pucci suggested that the Board hear from the applicant then allow for public comment at other hearing sessions. After peer review, the Board would deliberate on specific topics set for specific meetings. The ultimate permit would be subject to State Regulations with local Regulations being subject to the granting of a waiver or condition.

Andrew DeFranza (Harborlight Community Partners) introduced himself and the mission of his non-profit corporation. Mr. DeFranza said the proposal was to build 45 units (one, two, and three bedrooms) on the 41.5 acre lot adjacent to Canterbrook. The affordable units would be mixed income with tier 30 (under \$40,000 for a family of four) being combined with tier 60 (\$40,000 to \$80,000 for a family of four). As all the units would be affordable, there would be a 100% subsidized housing credit counted toward the housing production plan.

Andrew DeFranza said he had met with various departments, neighbors, and the Planning Board. After plans had been reviewed, changes were made. The three storied building was now proposed as a two story building with some of the units in the basement. The building was rotated away from the lot line from Canterbrook, which moved the entrance to the left. Mr. DeFranza noted the septic area, the playground, and the garden areas. There would be landscaping between the parking area and the street and between the development and Canterbrook. Feedback from the Police, Fire, Water Department, and Conscom were included in the application packet. Mr. DeFranza said he was happy to address the concerns. The only waiver request was for use because multifamily zoning was not allowed in town.

According to Andrew DeFranza, the building would be 27' tall, below the 35' height limit with setbacks of 135' in the front and 88' from the side lot line. The closest houses were 158' and 175' away. The landscape proposal was in the packet and the site would be dark sky compliant, as requested by the Conscom. A photometric plan would be provided. There would be sustainability features on site and compliance with Ipswich River Watershed Association recommendations (native drought resistant plants, no irrigation post set up, and water efficient fixtures such as faucets and toilets). Electric heat pumps would be used and solar would be installed on the building. Control over a larger parcel of land for a wastewater system to handle 90 bedrooms had been achieved. Mr. DeFranza said he understood the need for a peer review and intended to be supportive.

Patrick Reffett offered a summary of the peer review process and recalled that the Planning Board had met with Andrew DeFranza, who made changes based on comments made from Planning Board members, neighbors, and Canterbrook residents. GM Two Associates, Inc. in Glastonbury, CT had been chosen as the peer reviewer.

Motion made by Bruce Gingrich to appoint GM Two Associates, Inc. as the peer reviewer for the project.

David Perinchief seconded.

Roll Call vote: David Perinchief - aye, Bruce Gingrich – aye, and Bill Bowler aye. Unanimous in favor.

Daniel Hill (attorney representing the Canterbrook neighborhood) asked if safe harbor would apply, noting that the ZBA only had two weeks to assert safe harbor. The Town of Hamilton would need to have approved 14 affordable units in the last 12 months to achieve safe harbor. Patrick Reffett responded that the ZBA had permitted a ten unit project on December 9, 2020. Mr. Hill noted that the permit for the Willow St. project had been issued and the nine affordable units at Willow St. should be added to the ten units approved in December. Mr. Hill added that even though the nine were not approved through a 40B process, the affordable units should still count toward the threshold. George Pucci said he was unaware the Town was close to safe harbor status but even if the declaration was made, the applicant could proceed with the hearing or appeal the declaration when another procedure would apply. Attorney Pouchee said another hearing should be scheduled and a declaration made before the two week period lapsed. The matter would be investigated with DHCD. Attorney Pucci said the ZBA could continue to hear the application even if the Town was in safe harbor and that the application did not need to be denied the night of safe harbor declaration.

Motion made by Bruce Gingrich to continue the hearing on the proposed 40B project at 466 Asbury St. until 7:00 pm on April 12, 2022 for the purpose of considering the safe harbor issue and presumptively then continue until May 5, 2022 at which time, we will have all reviewed the filing and will start with general questions for the peer reviewer and develop a schedule for dealing with the matter overall.

David Perinchief seconded.

Roll Call Vote: David Perinchief – aye, Bruce Gingrich – aye, and Bill Bowler – aye. Unanimous in favor.

REGULAR BUSINESS

Minutes

Motion made by Bruce Gingrich to approve the minutes of March 2, 2022.

Seconded by David Perinchief.

Roll Call Vote: David Perinchief – aye, Bruce Gingrich - aye, and Bill Bowler – aye. Unanimous in favor.

DOCUMENTS REVIEWED.

Plans for 156 Gregory Island Road.

Application Package (plans, photos, elevations and letter from Board of Health) for 18 Berrywood Lane.

Application Package for 466 Highland St. Comprehensive Permit

ADJOURNMENT

Motion made by Bruce Gingrich to adjourn at 8:14 pm.

Seconded by David Perinchief.

Roll Call Vote: David Perinchief – aye, Bruce Gingrich – aye, and Bill Bowler – aye. Unanimous in favor.

Respectfully submitted as approved at the _____ meeting.

Bill Bowler