

DRAFT

Approved

**HAMILTON ZONING BOARD OF APPEALS
MINUTES OF MEETING
July 6, 2022
7:00 p.m.
Hybrid Zoom Meeting ID 836 6531 670
Passcode 594674
Hamilton Town Hall
299 Bay Road, Hamilton, MA**

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

Others Present: Patrick Reffett and others as noted in the meeting.

This meeting was called to order at 7:00 pm with a quorum established. Bill Bowler announced that hearings held at the June meeting were considered deficient due to lack of Zoom access. Therefore, individual items would be re-voted at this meeting.

PUBLIC HEARINGS:

Variance. 139 Cutler Road. Property owned by Marenglen Zepaj and Flaminio Lanzillo.

Reconstruction after Catastrophe or Demolition to construct a new dwelling at the site where a single dwelling was demolished.

The proposal had been presented at the June meeting. No public input was received. Motion made by David Perinchief to grant the relief requested based on the record from the June 6, 2022 meeting. Seconded by Bruce Gingrich. Vote: Unanimous in favor.

Special Permit. 145 Cutler Road. Property owned by Marenglen Zepaj and Flaminio Lanzillo.

Reconstruction after catastrophe or demolition to construct a single family dwelling.

Flaminio Lanzillo was present to describe the proposal. The proposed house would be more conforming than the existing structure and would meet the structural setbacks. The septic design had been approved by the Board of Health and the Conservation Commission. The Building Inspector indicated the lot was nonconforming due to area deficiencies. The lot lines had not been defined and there was a discrepancy as to whether the lot had 10,000, or 22,800 sf. The lot was in the RA district. A Zoning map change was pending. Motion made by Bruce Gingrich to grant the special permit. Seconded by David Perinchief. Vote: Unanimous in favor.

Special Permit and Variance. 12 Honeysuckle Road. Property owned by Jeffrey and Krystin Sartorelli. Construct an attached garage and accessory apartment. Density and Side Yard Setback.

The proposal had been presented at the June meeting. The variance was withdrawn and the plans were redrawn. The applicant was no longer seeking a variance.

Motion made by David Perinchief to revote to grant the special permit without conditions for an accessory apartment based on the record from the May 2022 and June 2022 meetings.

Bruce Gingrich seconded.

Vote: Unanimous in favor.

Finding of Fact for Extension or Alteration of a Non-Conforming Use. 116 Gregory Island Road. Property owned by Lawrence Katz.

The application had been previously heard at the June 2022 meeting. No one offered questions or comments.

Motion made by David Perinchief to grant the relief requested for the property at 116 Gregory Island Road based on the record at the June 2022 meeting with one condition: that the screen porch could not be enclosed.

Bruce Gingrich seconded.

Vote: Unanimous in favor.

Special Permit. 8 Villa Road. Property owned by Silas and Ashley Nary. Construct a garage with more than four spaces.

The application had been discussed at the June 2022 meeting. Silas Nary was present to discuss the proposal for a 30' x 45' barn. The barn had two bays but due to the formulaic approach of having two parking spaces under the existing home, the applicant needed to seek a special permit. The draft decision, which was based on the June 2022 discussion, was read.

Heather Ford (609 Bay Road) was present to offer her concern about access to the trail easement on the property. Ms. Ford said trees had been removed, a "private drive" sign had been installed, 5" stones had been put in place, and the first 100' of the entrance had been covered by the owners' activities.

The ZBA has not seen the easement, which was beyond their purview. If the valid easement would be physically changed due to the proposal, that would be within the ZBA's jurisdiction for the purpose of the hearing. Heather Ford said the trail did not look like a public accessible trail any longer. Bill Bowler did not believe it was the ZBA's purview to opine on pathway signage. Silas Nary responded that the 5" stone was temporary and that he installed the sign after numerous people drove up and were stuck. The easement was for a 10' non-motorized path. Mr. Nary agreed to speak with Ms. Ford separately regarding accessibility of the path.

Members of the Board agreed to the language in the Draft Finding of Fact Decision without further changes. The signage issue would be handled by the Town department that was responsible for trails.

Motion made by David Perinchief to grant the Decision for a special permit relief from the Use Regulations based on the record of the June 1, 2022 and July 6, 2022 meetings.

Bruce Gingrich seconded.

Vote: Unanimous in favor.

Special Permit. 71 Fox Run Road. Property owned by Patrick and Eileen Livermore. Demolish an existing attached garage and build a new two car garage and mudroom with living space.

Patrick Livermore was present to discuss the proposal to allow construction with existing nonconforming front and side yard setbacks. Bill Bowler noted that the front yard setback conformed but the side yard setback was closer than 15'. The proposal was for 14.7'. No questions or comments from the Board or public were heard.

Motion made by Bruce Gingrich to grant the special permit as filed.

Seconded by David Perinchief.

Vote: Unanimous in favor.

Special permit. 156 Gregory Island Road. Property owned by Warren Brown. Request to construct an accessory apartment.

Brian Stein was present to represent the applicant. According to Mr. Stein, reconstruction of a nonconforming home was approved a few months prior. The owner was now requesting an accessory apartment in the basement. The Board of Health had tentatively approved the septic system. The apartment was proposed to be 900 sf with an outside entry door on the south side, which would not change the appearance of the home from the street. There were four parking spaces on the property. No questions from the public or the Board were heard.

Motion made by David Perinchief to grant the special permit for accessory apartment 156 Gregory Island Road.

Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

Continuation of Public hearing. 466 Highland St. Property owned by the Britton Family Trust. Application by Harborlight Community Partners. Application for a Comprehensive Permit to construct 45 units of multifamily housing.

Bill Bowler offered a history of the proposal with the first hearing being held in April. The Town applied for Safe Harbor but was denied by the State. The Board determined not to appeal the State's decision.

Patrick Reffett shared the proposed schedule of the presentations regarding the project and described the importance of understanding the 40B elements, lottery management, local preference, Subsidized Housing Inventory (SHI) eligibility, project components, scale, size, and design process. The proposal had incorporated neighbors' concerns, based on the Planning Board hearings three to fourth months prior. Material relative to traffic would be peer reviewed for the August 3, 2022 hearing. Site engineering would be discussed in September. Architectural and site design elements would be reviewed in October. The applicant would pay \$20,000 to hire a civil engineering firm to review the project. It was unclear if the special legislation for remote participation during the pandemic would be extended past the July 15, 2022 deadline. Meetings would be in person if the deadline was not extended.

Kristin Carlsen (Harborlight Community Partners) was present to give an overview of the project. All 45 units would be SHI eligible, which would bring Hamilton up to a 5.6% affordable rate. Residents would be selected by lottery process with a waitlist. Harborlight was open to discussion regarding local preference. No questions were heard from the Board.

Martin Zee (37 Miles River Road) asked about the process but thought the project being discussed was at Gordon Conwell.

John Desmond (Woodbury St.) was concerned that suddenly two projects at Gordon Conwell and Asbury St. would convert the town into something other than what is was intended to be. Bill Bowler responded that affordable projects had been in discussion for 15 years.

Daniel Hill (via Zoom) was present to represent the Canterbrook neighbors, who were concerned about impacts. Attorney Hill noted there were only two waivers requested, which was unusual for a 40B application. Attorney Hill noted the Town's Groundwater Protection District, Zone II for wells, and the nearby Ipswich River.

George Pucci (KP Law) was present and available.

Ellen (resident) questioned if there was a plan of the number of units in the Town. Bill Bowler responded that there was a Housing Production Plan to meet the 10%, which would require 200 units be built. Over five years, 14 units would be built per year.

Amy Clark (via Zoom) was present and wondered about the timeline for approval and the financial performance from the developer. Bill Bowler responded the ZBA had 180 days to approve and that financial performance standards were not a requirement of the statute.

Ben Timing (Harborlight's attorney) was present to announce that the 180 day approval time period had been paused for 40 days due to the appeal. The Decision would be due in mid to late October. Attorney Hill requested that the traffic study be posted on the website. Motion made by David Perinchief to continue the hearing on the Asbury Commons 40B project to August 3, 2020.

Bruce Gingrich seconded.

Vote: Unanimous in favor.

Variance. 130 Essex St. Property owned by Gordon Conwell Theological Seminary Theological Seminary. Applicant is Harborlight Community Partners. Lot area requirements /Findings of Fact for Change of Use from student housing to multifamily housing to construct three additions to the existing multi-family dwellings which have been historically used for student housing.

Robin Stein (KP Law via Zoom), Miranda Siemasko, (Glovsky and Glovsky) Kristin Carlsen (Harborlight via Zoom) Thad Seimasko (Seimasko and Verbridge Architects), and Rebecca Brown (Traffic Consultant via Zoom) were present.

A Supplemental traffic letter had been submitted the day of the hearing. The peer review process had not yet begun as the Town was awaiting funding for the review from the applicant. A proposal from a multi-disciplinary engineering company had been received.

The 102 acre site was described with existing student housing buildings being carved into separate lots to be conveyed to Harborlight, who would convert the student housing to rental apartments. Buildings would be purchased in separate phases, updated, then offered for rent. 25% would be affordable but the entire 210 units would be eligible for the SHI. The Town needed 200 to reach its 10% goal. The project would increase a diversity in housing stock, use existing buildings, and put non-taxable buildings onto the tax rolls. The project would leave the campus intact. Lot A/B would have frontage on Woodbury St. Lot C/D did not have frontage but would be approved as a lot as combined with common ownership with Lot A/B. Lot E/F had frontage on Woodbury St. Lots would acquire easements and use the existing access and egress roads. There would no change in how cars entered or exited the site. The campus had 102 acres of land and the required minimum per unit would be 193 acres. The existing educational units were constructed under the Dover Amendment.

Harborlight would build additions between the existing buildings (in sets of two), which would serve as connectors with amenity space. The new construction required Site Plan Review from the Planning Board but the applicant needed a Section 6 Finding from the ZBA to allow for the construction of additions to nonconforming buildings once they were no longer used for educational purposes. Thad Siemasko showed existing photos. An elevator would be added to the connector/amenity spaces to be constructed between existing buildings. Floor plans and elevations were shown.

Rebecca Brown discussed the initial traffic study with an updated trip generation assessment. Ms. Brown said there would be one additional vehicle trip every five minutes. There were only three accidents from 2015 until 2019, which were predominately weather related. Site lines exceeded safety operations. Ms. Brown did not think the increased traffic would create a safety issue.

The applicant decided not to pursue a 40B approval as it would take years. Gordon Conwell was not willing to wait that long. The hardship being considered was due to existing structures not being usable after an educational use was no long applicable.

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Nancy Dashkin (215 Woodbury St.) was present to issue her concern about traffic, sidewalks, the septic, and the future of the old building and library. Bill Bowler responded that the Planning Board was responsible for Site Plan Review. All Boards could place conditions and concerns going forward. Miranda Seimasko clarified that the egress to Woodbury St. would not change. The sewage treatment plant would be a separate legal entity with joint ownership.

Rick Mitchell (36 Rock Maple Ave. member of Planning Board, Chair of Hamilton Development Corporation, and member of the Gordon Conwell Task Force) was present to speak as a citizen. Mr. Mitchell wanted to discuss a comprehensive plan but found Gordon Conwell offered little

communication with the Town regarding their plans to rectify their financial situation. Their solution appeared to Mr. Mitchell to be piecemeal by selling off pieces of the seminary with no comprehensive plan with the Town. Mr. Mitchell said the variance request lacked details on who would occupy the buildings, the timing of the development, the sources of financing, and the impacts on the Town. Mr. Mitchell added that the 210 multifamily units in a rural setting would be the largest development in the Town's history. Mr. Mitchell noted that an Approval Not Required (ANR) did not allow for the Planning Board to analyze any impacts. Mr. Mitchell noted the School's President or Chief Financial Officer were not even present. Mr. Mitchell questioned Harborlight's ability to develop this project, the Asbury St. project, the Beverly project, and the Wenham project. Mr. Mitchell said he would rather see a coherent plan of the entire site and encourage the School to work with the Town Boards (FinCom, ZBA, Planning Board, and Selectmen) to find the highest and best use for themselves and the Town.

Jake Fumerela (139 Essex St.) was present to note the high bar required to prove a hardship. The proposal would allow for one unit per 3,000 sf. Mr. Fumerela thought the proposal was premature.

Fred Vinn (131 Essex St.) was present and said he had sent a letter, which was published on the website. Mr. Vinn felt it was premature to allow a project of this size and wanted a comprehensive plan from the School. Mr. Vinn said it was a unique opportunity to consider alternatives.

Marnie Crouch (145 Woodland Meade, Chair of the Affordable Housing Trust, and Chair of the Planning Board) thought the site would be further developed and a traffic study would not include the repurpose of other buildings on site, which would generate more traffic and impact on the septic system. Attorney Crouch said the Town would be making a mistake for potential revenue without a comprehensive plan. It was noted that the Seminary reserved the right to retain buildings E/F.

Jake Fumerela asked if the School could develop more buildings under the Dover Amendment after they had sold these. Bill Bowler responded that technically they could construct more buildings ancillary to educational use but he did not think, considering their financial situation that would be part of their comprehensive plan.

Miranda Seimasko said the comments were in regard to what happens for the campus as a whole and not regarding the application before the Board.

A resident expressed their concern that adding 210 units would alter the feel of a rural suburban town.

The hearing would be continued until August 3, 2022 at 7:00 pm. and may not be on Zoom. The Town and the applicant would work out the details of the peer review. If the peer review did not happen, the hearing would be continued until after the project was reviewed.

DOCUMENTS REVIEWED

130 Essex St. Gordon Conwell – Supplemental traffic letter.

130 Essex St. Gordon Conwell - Lot layout plan, floorplans, and elevations.

130 Essex St. Gordon Conwell – Updated traffic study.

130 Essex St. Gordon Conwell - Letter from Fred Vinn.

ADJOURNMENT

Motion made by Bruce Gingrich to adjourn at 9:44 pm.

Seconded by David Perinchief.

Vote: Unanimous in favor.

Respectfully submitted as approved at the 08.03.2022 meeting.

Bill Bowler /mf

