

April 5, 2023 – WEDNESDAY - 7:00 P.M.

TOWN OF HAMILTON ZONING BOARD OF APPEALS MEETING

AMENDED AGENDA –ORIGINAL RECEIVED BY TOWN CLERK: 3/1/23 @ 2:12 PM

In person at 577 Bay Road in the 1st floor Memorial Room or via Zoom

Join Zoom Webinar: <https://us02web.zoom.us/j/83303866676>

Webinar ID: 833 0386 6676

One tap mobile: US: +13052241968, 88550685593#

Or Telephone: US: +1 305 224 1968

PUBLIC HEARING: Special Permit Application for the property owned by Nicole Gray & K. William Miller, located at 255 Woodbury Street, Assessor's Map 58, lot 20. Applicant is seeking approval to construct an accessory apartment - Zoning Bylaw 3.6: Accessory Apartment.

PUBLIC HEARING: For the property located at 505 Bay Road, Assessor's Map 57, Lot 111, owner Harrigan's Hamilton Prop LLC. Applicant is appealing the Town of Hamilton Building Inspector's Decision regarding permitted signs.

PUBLIC HEARING: Special Permit Application for the property owned by Paul Thober, located at 438 Asbury Street, Assessor's Map 37, lot 43. Applicant is seeking approval to construct an apartment - Zoning Bylaw 3.6: Accessory Apartment.

PUBLIC HEARING: For the property owned by Sara & Douglas Cook, located at 11 Rust Street, Assessor's Map 55, Lot 168. Applicant is seeking a Finding under Bylaw 5.3.4.5 in order to create a full second floor of living area, add a front porch and a bay window.

REGULAR BUSINESS

- Meeting Minutes
- Updates from the Chair

Items may be heard out of the listed order. The agenda items listed are those items which were reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed on the agenda may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Meeting dates, time, and location are subject to change as allowed by the Open Meeting Law. Please refer to the Town web page: hamiltonma.gov for details regarding a specific agenda. The Zoning Board of Appeals typically meets the first Wednesday of the month.

BUILDING INSPECTOR'S REPORT



Memorandum

To: ZBA Members & Patrick Reffett

From: Richard Maloney

RM

Date: APRIL 5, 2023

Re: ZONING CASES – APRIL 5, 2023

255 Woodbury Street – Special Permit – The applicant is seeking a Special Permit under section 3.6 for an Accessory Apartment that has existed since the house was built in 1976. There was a fire at the property last summer, we inspected the property after the fire. There is a residential unit on each floor. We advised the owner to seek the Special Permit during reconstruction.

505 Bay Road – Appeal – The applicant is appealing the building inspector's decision regarding the window signage (see enforcement letter dated 1/31/2023). This office received a complaint from an abutter, research of the issue determined that the Zoning Board allowed 3 signs on the building in 1999 and also granted an A-frame sign in 2021. No other signage has been approved. Signage in the building but legible from the outside counts as signage (section 6.3.3.d). The property is non-conforming use & structure.

438 Asbury Street – Special Permit – The applicant has requested a continuance.

11 Rust Street – Finding – The applicant is seeking a Finding under section 5.3.4.5 to add a second floor, the lot and structure are both non-conforming. The relief is for the left and right side set-backs, the front set-back is not an issue as the average of the abutting structures on each side is 10.5'

255 WOODBURY STREET – UPDATE ON INFORMATION & PLAN

Fw: 255 Woodbury Street

Greg Bernard <gbernard@hamiltonma.gov>

Wed 4/5/2023 3:46 PM

To: Mary Ellen Feener <permitting@hamiltonma.gov>

From: Greg Bernard

Sent: Wednesday, April 5, 2023 1:36 PM

To: Richard Maloney <rmaloney@hamiltonma.gov>

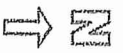
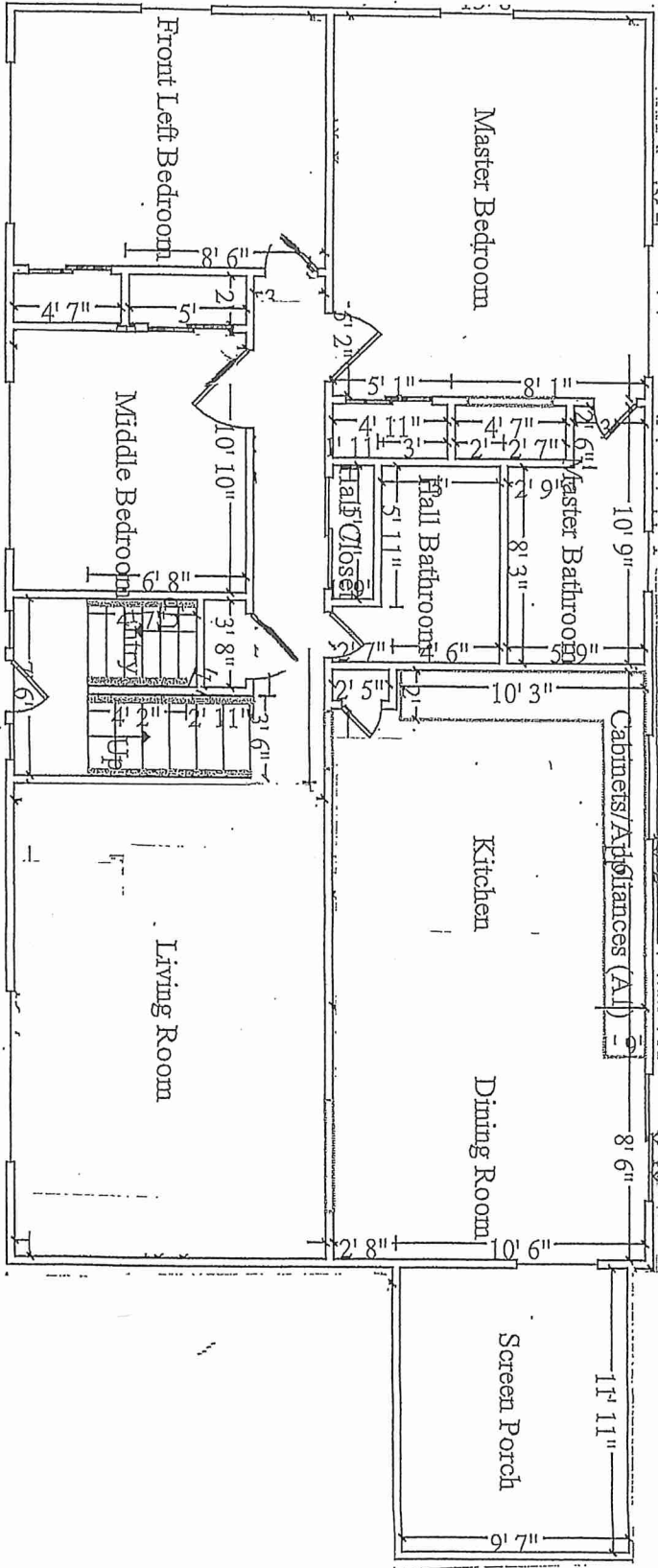
Subject: 255 Woodbury Street

Rich,

The Board of Health records show the dwelling at 255 Woodbury Street has a 5 bedroom septic system. The system, approved in 1976, was oversized to handle 1000 gallons/day.

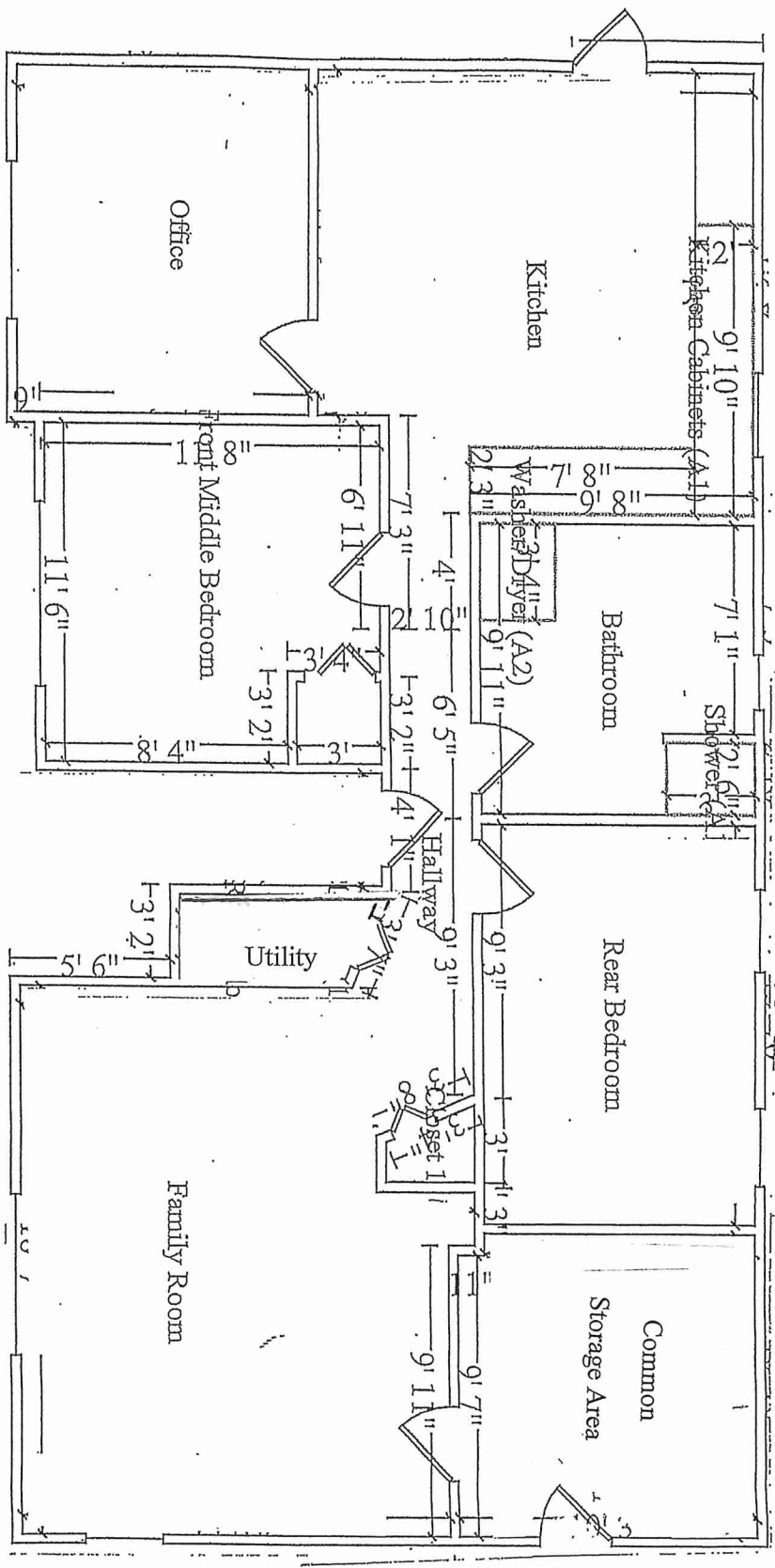
Greg Bernard
Hamilton Septic Inspector

255 WOODBURY STREET
 EXISTING CONDITIONS



Main Level

255 WOODBURY STREET
 EXISTING CONDITIONS

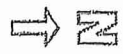


ACCESSORY APARTMENT

LIVING AREA

860 SF

Lower Level



438 ASBURY STREET – UPDATE

April 4, 2023

Town of Hamilton Zoning Board of Appeals
Town Hall
577 Bay Road
P.O. Box 429
Hamilton, MA 01936

**Re: Paul Thober, Application for Special Permit to Allow
Two-Family Residence at 438 Asbury Street, Hamilton**

Dear Chairperson:

Please be advised that this firm represents Mr. Paul Thober with respect to the above referenced special permit application. Mr. Thober is respectfully requesting that the Board continue the hearing on his application from April 5, 2023 to the next Board meeting in May 2023.

Your anticipated cooperation is much appreciated. Thank you.

Sincerely,


Orestes G. Brown

OGB:sem

cc: Paul Thober

MEETING MINUTES

DRAFT
HAMILTON ZONING BOARD OF APPEALS
MINUTES OF MEETING
March 1, 2023
7:00 p.m.
Hybrid/Zoom Meeting 891 8231 4319

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

PUBLIC HEARINGS:

16 Blueberry Lane. Special Permit for an Accessory Apartment in an existing barn. Andrew Ray, owner and Adam Williamson, applicant

Adam Williamson was present to discuss the proposal. Bill Bowler announced that the Board had received a memo from the Building Inspector indicating that he had reviewed the plan to find that they had met the conditions of the By-law. The existing barn was constructed with the original home, about 30 years ago. Members did not have questions. Jane Roundy (26 Blueberry Lane) asked about parking. It was determined that the apartment would use the existing parking area, which could accommodate five or six cars. The applicant added that the unit would be used by the mother in law after construction and by one of the children in the future. Attorney Bowler added that a rental unit would be allowable under the By-law.

Motion made by David Perinchief to grant the Special Permit without special conditions. Bruce Gingrich seconded.

Vote: Unanimous in favor.

Board Deliberations and Vote for a Comprehensive Permit for a 45 unit multifamily housing project at 440 Asbury St./466 Highland St. The Britton Family Trust, LLC (owners) and Harborlight Community Partners (applicant).

Bill Bowler noted that the Draft Decision had been circulated to the Board and that several issues would be discussed.

The first issue was in regard to installing a berm on the east side lot line. Patrick Reffett, a registered landscape architect, had reviewed the location during several seasons. Mr. Reffett recommended that area would only allow for a narrow berm, which even if installed, would add soil over the existing vegetated roots. Adding soil over the existing tree roots would cause the existing trees to die in about two years. Mr. Reffett recommended adding twenty additional evergreen trees to the area instead. Mr. Reffett suggested wording the condition: "Applicant to provide twenty additional evergreens based on availability a minimum of 8' in height to be

located in voids along that southerly side and that they be shade tolerant.” Members of the Board agreed. Mr. Reffett noted that the applicant had agreed to the condition as well.

The second issue to be discussed was the location of the trash facilities. The original plan had the dumpster and trash collection being on the northeast corner of the building and the Board requested that it be moved to the northwest corner of the building, which would distance the area from the abutting property. Bill Bowler recalled that he had spoken with Town Counsel who would make the change to the Draft Decision. Patrick Reffett said he had spoken with the applicant and the applicant’s architect who both agreed that the change would be easily made. Mr. Reffett recommended that the change be shown on the permit set of plans rather than the conceptual plans submitted.

The third issue was about the secondary means of access. Bill Bowler thought the condition could be removed as it was not recommended by the Fire Department. The property was flat and if emergency vehicles had to enter the site, they could enter anywhere along Asbury St. The plan had been approved by the Fire Department as proposed and filed.

The final issue to be discussed was in regard to the sidewalk proposal from the project’s side of the site up to the corner of Asbury St. and Highland St. It was suggested in the public hearing that members of the public thought the sidewalk would be a good thing. Members discussed the value of a sidewalk versus the expense. Patrick Reffett, Tim Olson (DPW), Joe Domelowicz (Town Manager) and the petitioners had reportedly previously discussed the sidewalk. An email of the draft budget had been received. The total project estimate was \$610,000. The Town would be responsible for \$350,000, which included the sidewalk and access ramps to connect Asbury St. and Highland St. intersections. The DPW was reportedly confident the sidewalk could be constructed within the right of way without encroaching private property. The remainder, \$260,000, would be financed pro-rata between Canterbrook’s 23 units (\$88,000) and Asbury Common’s 45 units (\$172,058). Price per unit would be \$3,823.53. Andie Philip questioned the Town’s funding and if the tax rate would be affected. It was determined that it would not affect the tax rate. Mr. Reffett noted the increased growth in the neighborhood and that the Planning Board had supported the concept. Pedestrian access for handicapped residents, students, and those walking downtown was noted as a benefit. The applicant had reportedly agreed to the cost sharing, which would be capped, as set out. Canterbrook would be asked for their share. Mr. Reffett recalled that Canterbrook had made an inclusionary payment to the Town of \$500,000. If Canterbrook did not agree to the contribution, the Town would decide if they wanted to pursue the construction of the sidewalk or not.

As the request of Devin Braun (Town Counsel) members discussed Safe Harbor and the waiver spreadsheet. Bill Bowler recalled the procedural history, when the Board met, when the hearing was opened and closed, and that early discussions included whether the Town qualified for Safe Harbor. The information would be included in the Decision. The applicant had initially asked for a waiver from the Groundwater Protection Overlay District but no longer requested the waiver because they had the ability to use additional acreage through an easement. The

waiver from a single family requirement under the By-law (80,000 sf requirement) remained. Members discussed who was responsible for having affordable projects listed with the State. Patrick Reffett said the Town had 114 affordable units, which was 119 short of the 278 required to maintain Safe Harbor. Mr. Reffett added that the applicant was good at providing paperwork to have the host community access the Subsidized Housing Inventory with the Department of Housing and Community Development.

The Decision would require that the applicant provide final plans that reflect what the Board was voting on. The Board of Health was responsible for the septic approval. The septic plans had been approved with the condition that additional test pits be conducted in the spring. The Decision would be contingent on the Board of Health's final approval. The Decision would reference agreements with other parties and require that copies of agreements be provided to the Town. The Decision would require as-built plans be submitted upon completion to the Town if and when the project was constructed to ensure compliance with all conditions discussed.

Motion made Bruce Gingrich to grant the Special Permit under Chapter 40B for Harborlight Community Partners at 466 Highland St. with the Findings of Fact and Conditions contained in the Draft Decision and as discussed and amended here.

Seconded by David Perinchief.

Vote: Unanimous in favor. Voting members: Bill Bowler, Bruce Gingrich, and David Perinchief.

REGULAR BUSINESS

Minutes

Motion made by David Perinchief to approve the minutes of February 1, 2023.

Seconded by Bruce Gingrich.

Vote: Unanimous in favor.

DOCUMENTS DISCUSSED

16 Blueberry Lane. Memo from the Building Inspector
440 Asbury St./466 Highland St. Draft Decision, email regarding sidewalk budget, conceptual plans, and permit plans.

ADJOURNMENT

Motion made by Bruce Gingrich to adjourn at 7:59 pm.

Seconded by David Perinchief.

Vote: Unanimous in favor.

Respectfully submitted as approved at the _____ meeting.

Bill Bowler