

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman David Wigglesworth presiding. Other members present were Harry Bilicki, Charles Cain, Aline Dix, Wayne Choyce, John Kurtz, John Percy and Heather Tomasello. Alternate member present was Harry Rogers. Also present were John Rosenberger, Solicitor and Philip Sartorio, P.P., Director of Community Development.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Mr. Cain moved, seconded by Mr. Percy, to approve the minutes of the meeting of April 4, 2013, as published. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Proposed Ordinance Review – Mr. Sartorio reviewed the ordinance proposed to qualify the Township for the State’s designation as a Certified Local Government with regard to historic preservation. He compared the proposed provisions with that which was currently in effect. Board members asked questions, expressed concerns and offered comments with regard to the proposed provisions and current provisions.

Mr. Sartorio advised that a separate definition section is proposed and related issues must be resolved; that there are four additional responsibilities listed in the section establishing the Commission and some modification related to member appointments; that there was a requirement to provide a Township Committee liaison; that there was a section re budget appropriation; that there was a section that would require amending the fee schedule to allow a fee for professional review; that the Commission would adopt Rules of Procedure; that the procedure for designation of historic landmarks and historic district would be modified; that the relationship between the Planning Board and the HPC may be different; that there would be a requirement for the Zoning Board and the Planning Board to refer applications for development involving historic landmarks to the HPC for review and recommendation and that the HPC review would apply to any element of the application; that there would be a requirement that a recommendation for a zoning change by the HPC to the Planning Board could only be disproved or changed by a majority of the full membership of the Board when it makes its recommendation to Township Committee; that there is a provision that relieves an applicant from providing certain proofs when seeking yard variances involving historic structures; that there would be no exemption for exterior colors for residential structures; that interior renovations are not listed in the exceptions for a Certificate of Appropriateness; that there needs to be clarification as to whether non-contributing structures would be exempt from certain requirements; that the HPC application procedures would be codified; that certain reference to the construction official should be changed to zoning official; that clarification is needed with regard to the HPC’s consideration of zoning requirements; that appeals of demolition denials and certain other sections referencing appeals should provide for the appeal to be to the Planning Board and not the Zoning Board to be consistent; that the proposed section “Demolition by Neglect” may be inconsistent with the Township’s property maintenance ordinance, does not specify whether it pertains to unoccupied structures only and provides for more than structure stabilization for public safety; and that there were certain provisions that are already addressed within the Land Use Ordinance. During his review, Mr. Sartorio noted what was and was not a requirement of the Municipal Land Use Law and/or the Certificated Local Government.

Mr. Rosenberger offered legal advice with regard to certain aspects of the proposed ordinance, and noted that the comments of the HPC are certainly relevant and entitled to be treated with respect, but the judgments and authority of the Planning Board cannot be curtailed by a subsidiary board.

Mr. Rosenberg noted that an important sentence contained within Section 110 of the MLUL (“Failure to refer the application as required shall not invalidate any hearing or

proceeding.”) had been deleted from Paragraph A, and he advised that provisions within the Statute could not be altered by any language contained within the Ordinance.

Mr. Rosenberger advised that the proposed ordinance would be reviewed by the Township Solicitor, who will identify issues of concern before any action is taken by the Governing Body,

In response to a concern with regard to redundant provisions, Mr. Rosenberger advised that language could be provided that sets forth that nothing contained within the provisions of the ordinance shall be construed to be inconsistent with any superseding statute or Township ordinance, and in the event of a direct conflict, the superseding laws would prevail.

Board members questioned the additional responsibilities of the HPC; the requirement to appoint a Township Committee liaison; the budget appropriation section; the provision to charge applicants for professional review; the type of professionals who would advise the Commission; whether the proposed ordinance would change the relationship between the Planning Board and the HPC; the requirement to review changes to colors of residential structures; the section on demolition by neglect, particularly whether it pertains to occupied structures and whether it would provide for more than structure stabilization for public safety; duplication of provisions; whether there was an attempt to expand the historic district boundary; and whether the HPC would be reporting directly to Township Committee and not be just advisory to the Planning Board as it now is. Certain other proposed provisions were questioned by Board members and Mr. Sartorio provided clarification.

Mr. Kurtz thanked Mr. Sartorio for the work he had done on the proposed ordinance to date, and he noted that he had notes in his possession that indicated the HPC had been working on it since 2006.

Mr. Rogers questioned what the anticipated annual costs for professionals and the Commission would be, and who would compensate property owners for the loss of property value that he felt would occur if they were subject to the restrictions. Mr. Rogers expressed the opinion that it would be a taking without just compensation and he asked Mr. Rosenberger for an opinion.

Mr. Rosenberger advised that that it may appear to be a “taking” but there were laws that support the creation of historic preservation districts, and those laws have been upheld. He noted that there is a counter argument that the mass as a whole creates a value for the properties located within a historic district. Mr. Rosenberger commented that it was a political issue as to whether the Governing Body should be creating a historic district, with related standards, and residents could show their support or non-support when the members of the governing body who supported the ordinance are running for election.

Mr. Kurtz pointed out that there are instances where owners of property within a historic district have had access to grants to make certain improvements.

Present in the audience were Judith Link, Township Committee Deputy Liaison to the Historic Preservation Commission; Grant Wilinski, Historic Preservation Commission Chairman; James Kerrigan, Historic Preservation Commission Vice-chairman; Cheryl Fetty, Historic Preservation Commission Member; William Sacchinelli, Historic Preservation Commission Member; Sam Wells, Historic Preservation Commission Member; and Jennie Ayers, former Historic Preservation Commission Member. Mr. Wigglesworth invited comment from those present.

Mr. Wilinski stated that he was pleased to see that the ordinance was finally being addressed and he was very impressed with the effort Mr. Sartorio had put forth. He stated that the Historic District boundaries map has been digitalized and can be found on the Township’s web site.

Mr. Kerrigan described the Historic District boundary.

Ms. Fetty described the original Historic District boundary, the reduced Historic District boundary and the process for qualifying the District for the National and State Registers, and

she stated that, once the Township has received the Certified Local Government status, it would allow property owners to apply for grants; that there is no present plan to expand the District, but the possibility exists upon conducting a new survey; and that the “Demolition by Neglect” provision is to prevent absentee property owners from allowing their structures to deteriorate, when something could be done to protect them.

Ms. Ayers stated that she and Linda Benner had worked on the proposed ordinance and they had attempted to address the State requirements for Certified Local Government status, but were novices with respect to preparation of ordinances. She expressed excitement with regard to the fact that the ordinance was now being considered, and stated she would like to follow through to see that it gets adopted. It was Ms. Ayers’ belief that the ordinance would clarify the rules and acquaint applicants with what is to be expected of them before they actually appear before the Commission. Ms. Ayers encouraged the Board to try to adhere to the guidelines so the State will issue the Certified Local Government designation, and she thanked everyone for their involvement.

Mr. Sartorio was requested to address the comments and concerns expressed by Board members and revise the draft ordinance for further review and consideration at the Board’s May 16, 2013 meeting, and he agreed to attempt to comply by that date. A suggestion was made that a subcommittee be appointed to review the changes.

Public Comment – Mr. Wigglesworth opened the meeting to public comment and there was no response.

Mr. Cain moved, seconded by Mrs. Dix, to close the public portion of the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

9:05

Signs – Board members questioned Mr. Sartorio about the ordinance provisions for signs, specifically whether electronic signs were permitted. Some members were under the impression that electronic signs were not permitted, based on the Hamilton Mall’s application for signs, and were confused when they saw a sign at a particular location within a commercial district that was electronic. Mr. Sartorio advised that the Ordinance permits bulletin board signs, but it does not distinguish between the “old style” manual sign and the newer electronic sign. With regard to the particular sign at issue, Mr. Sartorio stated that he had placed a restriction within the permit limiting one message within a twenty-four hour period.

Mr. Cain commented that anyone within a commercial zone could apply for, and receive, a permit to install an electronic sign, and he expressed the opinion that electronic signs are contrary to what the Board feels would be appropriate within the commercial districts. Mr. Cain suggested that the Board consider reviewing the sign ordinance in an effort to eliminate the type of permitted sign that would result in a “honky tonk” image in the Township’s commercial zones.

Ms. Tomasello pointed to the “rope” lighting on the building at the site in question and the statues that were placed on the sidewalk in front of the building, and she questioned whether statues were permitted. During the discussion, it was pointed out that the statues could be obstructing pedestrian access to the sidewalk. Mr. Rosenberger advised that it could be considered that the statues are an alteration to an approved site plan if it is determined that they have been placed in a location that was approved for some other purpose, and an application would need to be submitted to amend the approved site plan in order to keep them there. Mr. Sartorio was requested to investigate whether the sidewalk in that location was part of the approved site plan and advise the Board accordingly.

Mr. Cain moved, seconded by Mrs. Dix, to request that Philip Sartorio review the sign ordinance and related ordinances to assist the Board in making a determination as to whether amendments would be necessary to address the concerns expressed. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Adjournment – Mr. Cain moved, seconded by Mrs. Dix, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Nancy Rainbow,
Planning Board Administrator