

**Town of Hamilton**  
**Zoning Board of Appeals Meeting**  
**PUBLIC HEARING**

Tuesday, May 16, 2019 at 7:15pm  
Hamilton Public Library  
13 Broad Street  
Hamilton, NY

**Present:** Harmon Hoff, Harvey Kliman, Jeff Schindler, Lydia Slater, Bill Nolan, Deputy Clerk Elisa Robertson

**Audience:** Greta Shiffer, John Myers, Josh Buell

Meeting called to order at 7:13 pm at the Hamilton Public Library

Chairman Hoff states that this is the first meeting that Erwin Lamb is not with this board. He passed away last winter. Mr. Lamb served on this board as well as many others in this community. He was a long-standing member of this board, always had something to offer; vast knowledge of the history of the area, knowledge of the codes, and a pleasant outlook. He will be very missed on this board.

**Resolution 2019-1: Motion to approve Minutes from Zoning Board of Appeals Meeting dated August 7, 2018.**

Motion: Jeff Schindler

Second: Harvey Kliman

Vote: Aye – 5 Nay – 0

ADOPTED

**Area Variance: Joshua Buell, AREA VARIANCE, 988 Route 12B, Hamilton; tax map #198.-1-3.**

The applicant is asking for an area variance. The applicant wishes to build a three-unit apartment building on a substandard lot. One portion of the Lot (1.1 acres), located in the Town of Hamilton and a smaller piece (.31 acres) in the Town of Lebanon.

The applicant is proposing to remove the three abandoned trailers that are on the property now as well as possibly remove the garage, if necessary.

Chairman Harmon Hoff has been out to see the property today. It appears that the neighbor's fence is inside the property line; the lot extends further past the fence than what is seen on the property. CEO Mark Miller confirmed this on the phone with Chairman Hoff earlier today. The applicant shows the board on the map exactly where he hopes to place the new building. They are going to have the land surveyed.

The well is centrally located on the property which makes placing the septic system a bit of a challenge. Chairman Hoff has made a chart showing what variances are needed for this property. They are as follows:

- An overall area variance for lot size
- A rear set-back variance
- A Special Use Permit is also needed

A Special Use Permit is needed because according to the use table in the Zoning Law; a three-family dwelling in any/all zoning districts requires one. CEO Miller discussed this with the chairman of the Planning Board. They decided that they wanted the variance to be dealt with first before the Special Use Permit Application is made. There is some discussion about the different boards in the Town of Hamilton and their functions. Ultimately, this application would have ended up before this board regardless of where it started.

Chairman Hoff explains the lot requirement for a dwelling of this type; which is 1.5 acres plus 10,000 square feet per unit. The land requirement is even greater than what the chairman put in the table. It complicates matters that .3 acres of the lot are in the Town of Lebanon. It appears that the total acreage needed is 2.18 acres for this project.

Joshua Buell describes the project. The current state is an eyesore, has been for ten years. He proposes to remove the three trailers on the property and replace it with a three-dwelling unit. He is not adding more people to the lot that have been there previously. There will be adequate parking. It is noted that Hamilton needs housing. The applicant shows an example of a house on River Road that he just finished in the Town of Lebanon. The taxes would go up from what is being paid now. Josh's father-in-law speaks to the project in support. Their biggest concern is about the Septic System.

Chairman Hoff states that those issues are the CEO's job but that they just want to make sure that everything will fit without impacting neighboring properties. They feel as if there will be enough room.

A neighbor, Ms. Shiffer does have 2 concerns, she lives south and across the street. First, the road is dangerous and there have been some accidents. The applicant acknowledges that and plans to widen and change the angle of the driveway. Second, she has a spring that runs through her basement, and is unsure where it goes from there. The applicant explains that it runs along the border of the pasture. She states that the property in question is an eyesore and would like to see it fixed up.

This application was sent to the Madison County Planning Department for input and they have returned it for local determination. They had no comment. If they felt there were any additional safety concerns, they would have made comment.

Board member Kliman asks if there is an existing well on the property. Yes, there is. It will need to be checked to see if it is good; a new one will be drilled if it is not. The square footage of the new building is nearly the same as that of the three trailers that are currently on the property. No one has been living there in eight years.

There is some additional discussion about septic systems and wells. Mr. Kliman states that the main issue is not whether the proposed project would be an improvement or not; it is whether to allow three dwellings on a 1.1 acre lot. The Town needs to be aware of setting a precedent. The total acreage is 1.4 acres including the piece that which lies in the Town of Lebanon. Even so, the applicant would still need an area variance of  $\frac{3}{4}$  of an acre. Chairman Hoff wishes to review the criteria for granting a variance according to the Town of Hamilton Zoning Law, Article 10.1-3-B (page 69). The following are the boards comments regarding each criteria:

1. Leaving the property as it is now is a detriment to the community far more than if those trailers are removed.
2. They discuss other possible methods of relief. They discussed offering to purchase more land; however, the other landowner was not interested. The applicant is planning on having the property surveyed so that he has accurate dimensions and knows exactly where his property lines are. They could make a 1 or 2 family home, instead. Whether it be a 2 or 3 family dwelling will still have the same footprint. And it helps preserve open space as well as provides needed housing which supports the comprehensive plan.
3. This is a substantial variance. However, it is a unique application. The overall square footage of the new dwelling is comparable to what is already there, additionally it will improve the aesthetics of the area.
4. There would be no negative impact on the community.
5. It is self-created.

There is more discussion about the well and septic system and the placement of the building on the lot. They discuss the topography of the lot including the location of parking and the driveway. There are numerous reasons to support this application because it is a unique circumstance.

Chairman Hoff refers to Article 10.1-3-C and D (page 70); which states that the board shall grant the minimum variance necessary and that they may impose conditions.

The applicant asks about the Special Use Permit application and the Planning Board meeting process. Deputy Clerk Robertson briefly explains what they will need to do to get the process started and notifies them of the next meeting and cut-off dates.

**Resolution 2019-2: Motion to grant a total area variance of .76 acres.**

Motion: Jeff Schindler

Second: Lydia Slater

Vote: Aye – 5 Nay – 0

ADOPTED

**Resolution 2019-3: Motion to allow a setback for the rear yard to be not less than 20 feet from the property line.**

Motion: Jeff Schindler

Second: Bill Nolan

Vote: Aye – 5 Nay – 0

ADOPTED

Since the property has not yet been surveyed the board encourages the applicant to have the minimum variance necessary with the understanding that the property is sloped, that it is

close to the highway, and that they may have more property. The applicant states that they can place the house to accommodate the septic system.

**Resolution 2019-4: Motion to adjourn at 8:25.**

Motion: Harvey Kliman

Second: Jeff Schindler

Vote: Aye – 4 Nay – 0

ADOPTED

Respectfully submitted by:  
Elisa E. Robertson  
Deputy Clerk