

**AMHERST PLANNING BOARD**  
**Wednesday, December 5, 2018, 7:00 PM**  
**First Floor Meeting Room, Town Hall**  
**MINUTES**

**PRESENT:** Greg Stutsman, Chair, Maria Chao, Michael Birtwistle, Christine Gray-Mullen, Jack Jemsek, Pari Riahi and David Levenstein

**ABSENT:** none

**STAFF:** Christine Brestrup, Planning Director  
Alan Snow, Tree Warden

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Mr. Stutsman opened the meeting at 7:01 PM. Ms. Brestrup introduced Pam Sadler-Field, the new Administrative Assistant in the Planning Department, who will be assisting the Planning Department staff, the Planning Board and other boards and committees that are supported by the Planning Department.

**I. MINUTES**

Mr. Birtwistle MOVED to approve the Minutes of November 7, 2018. Mr. Levenstein seconded. The vote was 6-0-1 (Riahi abstained).

It was not yet time for the first public hearing so the Board took up untimed topics.

**VI. OLD BUSINESS**

Topics not reasonably anticipated 48 hours prior to the meeting – none

**VII. NEW BUSINESS**

**B.** Topics not reasonably anticipated 48 hours prior to the meeting – none

**XI. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – Jack Jemsek and Christine Gray-Mullen reported that the PVPC will meet next Thursday (December 13<sup>th</sup>).

Community Preservation Act Committee – vacant – Michael Birtwistle has been nominated as the Planning Board’s CPAC representative, but he has not been officially appointed yet.

Agricultural Commission – vacant – Ms. Riahi has been nominated as the Planning Board’s Ag Com Representative, but she has not been officially appointed yet.

Design Review Board – Michael Birtwistle – no report

Amherst Municipal Affordable Housing Trust – Greg Stutsman – no report but the Trust will be meeting on December 6<sup>th</sup>.

Zoning Subcommittee – Greg Stutsman and Maria Chao – report will be given later in the meeting

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman and Christine Gray-Mullen – no report

Downtown Parking Working Group – Christine Gray-Mullen – no report

## II. PUBLIC HEARINGS – SCENIC ROADS

### **Scenic Road tree removal – trees no longer provide screening due to loss of lower branches, tops of trees extend into utility wires, some trees are leaning – 194 Strong Street (Map 11B, Parcel 107)**

Public Shade Trees impacted by this project include the following trees (Sizes indicate “diameter at breast height” – DBH):

Approximately 16 to 18 Arborvitae in clumps/hedgerow

Mr. Stutsman read the preamble and opened the public hearing.

Alan Snow, Tree Warden, presented the application. The property owner wants to remove a row of old Arborvitae that is interfering with utility wires along the street, in order to plant new Arborvitae that will provide the desired screening.

Mr. Birtwistle reported on the site visit. Board members observed the trees proposed for removal as well as the house behind them. The trees are spindly and tall and are growing into the utility wires. They don’t screen the house since the lower branches are gone. Tree removal on the property, in the front yard has been completed. The house is now more open and visible. The tree removal appears to be a reasonable part of the landscaping process that is ongoing.

The Public Shade Tree Committee held a site visit, but there weren’t enough members present to vote. There were members of the PSTC present at the Planning Board meeting who could comment, however there was no comment from the Public Shade Tree Committee.

Mr. Snow agrees with the property owner that the trees in the public way can be taken down. The property owner plans to plant more trees back on his own property.

Ms. Gray-Mullen MOVED to close the public hearing and to approve the removal of the trees. Mr. Jemsek seconded.

Nancy Higgins, a member of the Public Shade Tree Committee, asked if the existing trees had been planted by the owner. Mr. Snow responded that they had been planted by the previous owner on town property.

The vote was 7-0-0. Mr. Snow agreed with the Planning Board’s vote to allow removal.

## III. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT

### **SPR2019-01 & SPP2019-01 – Gray Street, LLC – 236 North Pleasant Street & 12 Hallock Street**

Joint public hearing to request Site Plan Review approval for construction of a new office building, two lots to be combined to provide large enough site to accommodate new building, and renewal of previously approved Special Permit to modify dimensional requirements: minimum front setback (0’ vs. 20’), minimum side setback (10’ vs. 20’), maximum floors (4 vs. 3) and maximum height (45’ vs. 35’) (Map 11C/227 & 228, B-L zoning district)

Mr. Stutsman read the preamble and opened the public hearing.

Mr. Jemsek reported that he had recused himself during the original public hearing because he had had a relationship with one of the proponents. He no longer has such a relationship.

John Kuhn of Kuhn Riddle Architects presented the applications. He was accompanied by Attorney Tom Reidy of Bacon & Wilson and by the applicants, Barry Roberts and Curt Shumway.

Mr. Kuhn noted that the applicants had come before the Planning Board two years ago for Site Plan Review approval and for a Special Permit.

The site is at the corner of Hallock Street and North Pleasant Street. The Special Permit and Site Plan Review approval are good for a period of two years, unless they are acted upon. As no action has occurred within two years, the applicants are back seeking to renew their Special Permit and to obtain approval for the Site Plan Review application once again.

He showed the location of the site in context with the downtown. The Historical Commission reviewed the proposed demolition of the two buildings [at 236 North Pleasant Street and 12 Hallock Street] and imposed a 12-month demolition delay on removal of the two buildings. The demolition delay period has expired.

The properties are in the B-L zoning district (Limited Business). Mr. Kuhn showed a map of the downtown (B-G) zoning district and the three B-L zoning districts that surround the downtown, as well as a map of the Municipal Parking District.

The dimensional regulations call for a minimum of 20,000 square feet for residential uses in the B-L district, for the first unit. The lot area requirement is not modifiable.

Setbacks, number of floors, and heights of buildings are all modifiable in the B-L zoning district. Lot coverage is not modifiable.

The two parcels taken together are 15,000 square feet. The maximum allowable building coverage is 35%, so the building can be no larger than about 5,000 square feet in footprint. Mr. Kuhn presented a map showing the required setbacks in the B-L zoning district, indicating that very little of the land is developable if the minimum required setbacks are adhered to. Very few, if any, of the parcels in the B-L district west of downtown meet the setback requirements.

The proposed building is moved towards the east end of the site, with a 13-foot setback proposed from North Pleasant Street and a 4-foot setback proposed from Hallock Street. The required front setback is 20 feet. The required side yard setback on the south side is 25 feet and the proposed setback is 10 feet. A Special Permit is requested for modification of setbacks.

Fourteen parking spaces are proposed and will be accessible from a new curb cut on Hallock Street.

There will be new plantings and lighting around the building. The project will have 79% lot coverage; 85% is allowed. The project will have 33.9% building coverage; 35% is allowed.

Mr. Kuhn presented the floor plans, for the ground floor and the upper floors. The upper floors are all the same.

The materials are a combination of brick for the base and tower, clapboards elsewhere, with different colors to break up the mass of the building, and there will be double-hung windows.

The building across the street [One East Pleasant Street] is five stories tall. In the B-L district the dimensional requirements allow three stories and 35 feet. The proposed building will have four stories and will be 45 feet tall, with a tower that is three feet higher, but the tower will not be occupied space. A Special Permit is requested for height and number of floors.

There will be a commercial tenant on the ground floor.

Mr. Kuhn showed an elevation of the proposed building next to the adjacent building to the south, which is owned by one of the applicants, Mr. Shumway. He also showed all four elevations of the proposed building as well as a 3D image of the downtown, with the new building in place.

Mr. Kuhn noted that the Perry Apartments, which is in the R-G zoning district, is four stories in height. He presented an image showing the relative scale of the proposed building and One East Pleasant Street, across the street.

Mr. Kuhn requested that the Planning Board renew the Special Permit for setback, height and number of stories for two more years. He confirmed that there are no proposed changes to the building that was approved two years ago. He confirmed that no residential units are proposed in the building, because the proposed lot [two lots combined] is too small.

Mr. Kuhn noted that one of the property owners., Curt Shumway, who owns 12 Hallock Street, couldn't build that building today and have apartments in it. He urged the Planning Board to consider looking at the B-L zoning district to make it easier to develop housing.

Ms. Gray-Mullen reported on the site visit. Mr. Jemsek, Mr. Birtwistle, Mr. Levenstein, and Ms. Gray-Mullen attended. The Board members walked the site and looked at the property lines, the proposed setbacks, the outline of the parking and driveway and noted where the building would be located. They also viewed the two existing buildings on the site.

Mr. Birtwistle asked several questions and offered comments. When the Planning Board reviewed the project previously, two floors were to be leased by one tenant. That tenant did not materialize. There does not appear to be a tenant at this time. He asked if the applicants would plan to build the building if they didn't have tenants.

Mr. Shumway, one of the owners, stated that the applicants would not build the building "on spec".

Mr. Birtwistle asked why it was necessary to approve the applications if there were no plans to build the building right now. He acknowledged that the zoning in the B-L district needed to be modified. He acknowledged that the building was "good looking" but suggested that it may be smarter to wait until the B-L zoning is changed to build the building.

Mr. Shumway stated that the applicants were interested in building the building, and that it would be impossible to market the site if they didn't have approval to build it. The applicants need to be able to act immediately. They intend to proceed and to get a tenant.

Mr. Kuhn noted that if the project is not approved, the applicants would have to start all over again, perhaps subjecting themselves to another demolition delay from the Historical Commission.

Ms. Chao reported that the Zoning Subcommittee of the Planning Board has been talking about looking at all of the downtown with the Town Council. But it is a careful, slow, public process to change zoning.

Mr. Jemsek noted that the design seems solid for that location, especially given the development across the street. He likes what is proposed. He asked for confirmation that the exterior of the site would not change based on a new tenant. Mr. Shumway stated that there would not be exterior changes and if any were proposed, the applicants would come back to the Board.

Mr. Levenstein acknowledged that the applicant was requesting the renewal of a previously approved Special Permit. He noted the changes in the context of the building – the perspective tenant has not materialized and the building across the street has been built, giving a different context to the building. He asked if anything else had changed.

Attorney Tom Reidy of Bacon Wilson, attorney for the applicants, noted that the demolition delay had expired in 2017.

Mr. Levenstein asked if there were any sustainability features associated with the building. He noted that the bike rack location was “to be determined” and asked if there were any parking spaces for electric car charging.

Mr. Kuhn stated that the applicants will add a bike rack and that they hadn’t discussed parking spaces for electric cars.

Mr. Levenstein suggested putting in a charging station for two of the parking spaces.

Ms. Riahi observed that she had a lot of sympathy for building a commercial building downtown, but expressed reservations about the height of the proposed building in context with its surroundings. She asked if the top floor could be moved back to diminish the appearance of height. This is the tallest building on this side of the street. The taller building on the other side of the street doesn’t address the height of this building. She encouraged the architect to consider the height of the building and how to make it appear less tall.

Mr. Birtwistle noted that when the Design Review Board met it was not unanimous about its recommendations. There was disagreement among DRB members about the height of the proposed building. He agreed with the members who felt that the building was taller than it needed to be. It is very close to the building to the south and appears to overwhelm that building. He objected to “zoning by Special Permit”, or rezoning the area without giving attention to what this area should be. He was concerned about how the height of this building would set a precedent for what will later be built both north and south of the site.

Mr. Kuhn stated that the applications comply with the Zoning Bylaw, but that the applicants hope that the Zoning Bylaw will change. He asked that the Planning Board also look at changing the dimensional limitation for 35% building coverage, since it limits the horizontal size of the building.

Ms. Gray-Mullen asked about whether taking a foot off each floor could substantially reduce the size of the building.

Mr. Kuhn stated that the first floor needs to be a little taller than the upper floors for aesthetic as well as practical reasons.

Mr. Birtwistle noted that 35 feet in height is the standard and that 45 feet is allowable with a Special Permit. Forty-five feet does not fit into the neighborhood. By granting the Special Permit the Planning Board will be setting the standard for this area of town.

Ms. Gray-Mullen urged Board members to look at the 3D context map with topography and note the heights of other buildings in the vicinity.

#### Public Comment

Suzannah Fabing of 38 North Prospect Street expressed concern that the height of this building will become the new standard. It is out of scale with the residential texture of this side of the street. Residents can already see the impact of tall buildings with no setbacks. Big buildings are changing the architectural character of the town.

James Muspratt of 38 North Prospect Street spoke in opposition to the large size of the building, the proposed reduced setbacks and the height of the building.

Dorothy Pam of 229 Amity Street spoke about threats to residential neighborhoods. She doesn’t want to see tall buildings on both sides of Kendrick Park, fears that the row of houses will be demolished and wants to keep the west side of the park as a residential area.

Joe Lynn of 35 McClellan Street agreed with the comments of the other citizens. He feared the spread of similar buildings and commented that there were no solar panels proposed for the roof. In allowing a zoning exception [Special Permit] the town should require more sustainability.

Mr. Kuhn stated that the project has not yet gotten to the energy component. He noted that the Amherst Master Plan proposed density where there is already density. This is downtown and the building will fit in, he said.

Ms. Fabing spoke in opposition to taking down a residential building to build the new building.

Mr. Muspratt expressed concern about the 13-foot setback becoming standard.

Attorney Tom Reidy noted that the applicant was requesting the renewal of a Special Permit that had been granted back in 2016 and was requesting approval of a new Site Plan Review application.

Mr. Levenstein asked if the Special Permit could be split – to approve the front setback, side setback, maximum number of floors or maximum height or did it all need to be taken together?

The consensus was that it needed to be considered together.

Mr. Jemsek stated that he liked the “gateway concept” of having two larger buildings flanking the entrance to downtown from the north – One East Pleasant Street and the proposed building. It establishes the north side of downtown.

Ms. Brestrup noted that the voting requirements for approval of the applications were:

- 4 out of 7 Planning Board members for the Site Plan Review application
- 5 out of 7 Planning Board members for the Special Permit application

Ms. Riahi stated that she would like to see the volume of the fourth floor moved back from the façade of the lower three floors of the building to diminish the apparent height.

Mr. Levenstein noted that he was sympathetic to the concerns about the height of the building and the fourth floor. He agreed with the concept of densification of the downtown, but was not convinced about the proposed height.

Mr. Birtwistle stated that height was one of the points of contention among the DRB members. DRB members felt that a three story building was more appropriate. The owners and designers could come back with a smaller building, that also allows for densification.

Ms. Brestrup cautioned Board members about being overly optimistic about the prospect of changing the zoning of the B-L district very soon.

Mr. Stutsman stated that the Board needed to respond to the application that was before them.

Mr. Reidy stated that these are exceptions that have been built into the Zoning Bylaw. The applicant is asking for renewal of a previously approved Special Permit.

Ms. Pam observed that the Town Council is very concerned about changing zoning. The Council members don't want shadows in the downtown, but want more sunshine and light.

Ms. Gray-Mullen MOVED to close the public hearing on the Site Plan Review application and to approve the application as submitted, with the same findings and conditions as previously crafted and waivers as previously granted. Ms. Riahi seconded and the vote was 6-1-0 (Birtwistle opposed).

There was discussion about whether the applicant was willing to reconsider the massing of the building as it affects the height. The public hearing could be continued to December 12.

Mr. Stutsman noted that the faces of the building are broken up by changes in color.

There was further discussion about what could be done about the height of the building.

Ms. Brestrup noted that the applicant could withdraw and resubmit the Special Permit application after considering redesign. She noted that the applicant was trying to have the Special Permit renewed before its expiration on December 16<sup>th</sup>.

Ms. Gray-Mullen MOVED to close the public hearing on the Special Permit and to approve the renewal of the Special Permit with findings and waivers as previously approved. Ms. Chao seconded.

Mr. Birtwistle explained why he would vote “no”. He liked the design of the building, but he wishes it were proposed for another location. It will be detrimental to the future development of downtown Amherst. He appreciated the architect’s willingness to listen. Height is the issue. The setbacks are not a cause for concern. Height in terms of its relationship with the nearest neighbor is a concern. Now any landowner can ask for the same consideration.

Mr. Jemsek spoke in support of the location and height as part of the “gateway” into downtown.

Ms. Riahi stated that she would vote for the project and that the positive points outweigh the negative points. But the architect could address the height.

The vote was 6-1-0 (Birtwistle opposed).

#### **IV. PLANNING & ZONING**

**A.** ZSC Report – Mr. Stutsman presented the ZSC Report. The ZSC met earlier today. Mr. Crouner is no longer an official member of the ZSC, because he is no longer a member of the Planning Board, however he will continue to attend ZSC meetings to finish some of the work that he had begun. Therefore, the ZSC now has only two members. The ZSC discussed its continuing work on its list of priorities. The ZSC needs more members.

The ZSC heard a presentation from Geoff Kravitz, Economic Development Director, who is also a member of the Bylaw Review Committee. Mr. Kravitz presented a memorandum from the Bylaw Review Committee, containing recommendations for changes to the Zoning Bylaw to bring it into conformance with the new Home Rule Charter. The ZSC voted to recommend that the Planning Board approve the changes and that the Planning Board recommend them to the Town Council. The strategy is to replace the Zoning Bylaw in its entirety, to be voted on by the new Town Council, with one date of adoption for the Bylaw. The Planning Board has scheduled a public hearing on the recommended changes for December 12.

**B.** Public Comment – none

**C.** Other – none

#### **V. ELECTION OF OFFICERS & COMMITTEE ASSIGNMENTS**

Mr. Stutsman stated that the Planning Board needs to elect a chair, a vice-chair and a clerk and that nominations need to be made for vacant committee and liaison positions. The Board noted that Mr. Birtwistle had been nominated to be the PB representative on CPAC on November 7<sup>th</sup>.

Ms. Riahi volunteered to serve as the Planning Board’s representative on the Agricultural Commission.

Ms. Gray-Mullen MOVED to nominate Greg Stutsman as Chair of the Planning Board. Mr. Levenstein seconded.

Mr. Jemsek MOVED to nominate Ms. Gray-Mullen as Vice Chair of the Planning Board. Mr. Levenstein seconded.

Ms. Gray-Mullen MOVED to nominate Mr. Jemsek as Clerk of the Planning Board. Mr. Levenstein seconded.

Mr. Levenstein volunteered to serve on the Zoning Subcommittee.

Mr. Birtwistle MOVED to nominate Mr. Levenstein as a member of the Zoning Subcommittee. Mr. Levenstein seconded.

The vote was 7-0-0 to approve the nominations, including Ms. Riahi as the Planning Board's representative on the Agricultural Commission.

## VII. NEW BUSINESS

- A. Environmental Notification Form – Applied Golf Photovoltaic Power System Project – at Hickory Ridge Golf Club – 191 West Pomeroy Lane – 5.24 MW solar array proposed for 22.8-acre area of 150 acre site – opportunity to review and comment

Ms. Brestrup presented information about the project and noted that the Planning Board could offer comments and recommendations to the state (MEPA – Massachusetts Environmental Protection Agency) on the ENF, at this time. She noted that the clubhouse and parking lot area might be able to support as many as 8 house lots. The site has many attributes. Most of the site would remain undeveloped under this proposal. The solar project would help to combat global warming by providing a passive source of energy production. Four endangered or protected species are found on the site.

Board members asked questions and offered comments and expressed concerns. Among the Board members' comments were the following:

- The course floods regularly. The applicant is proposing to construct stone access drives to the arrays. Will the stone access drives survive the frequent flooding, or will they be washed out regularly?
- The existing bridges were constructed for golf carts and maintenance vehicles. Will these bridges survive construction equipment traveling over them? Will the bridges accommodate Fire Department emergency vehicles if there is a fire or injury on the site?
- In the land use section there is reference to the Master Plan. References to the Master Plan were questioned.
- Board members questioned the impact to economic development as described in the ENF. They believe that an operating golf course has greater beneficial impact on the economics of the town than a solar array. The current use brings people in from other towns who spend money in Amherst.
- In terms of diversifying the town's energy sources, the energy generated by the solar array may or may not go to the town.
- The plan will involve removal of many mature trees. How will these trees be disposed of? There is a negative environmental impact (loss of carbon absorption) from tree removal.
- The golf course provides a wildlife corridor. The solar arrays will be disruptive to the wildlife corridor and animal migration.
- Deer and fox have been observed on the site.

The Board requested that the applicant come to a Planning Board meeting to present the project, so that Planning Board will be able to offer comments and recommendations to the ZBA.

**VIII. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

**IX. UPCOMING ZBA APPLICATIONS – none**

**X. UPCOMING SPP/SPR/SUB APPLICATIONS – none**

**XII. REPORT OF THE CHAIR – none**

**XIII. REPORT OF STAFF – none**

Ms. Riahi announced that she would not be available on January 2.

Mr. Birtwistle announced that he would not be available on January 9.

Ms. Gray-Mullen offered to chair the upcoming Planning Board meeting on December 12.

**XIV. ADJOURNMENT**

The meeting was adjourned at 9:21 PM.

Respectfully submitted:                      Approved:

\_\_\_\_\_  
Christine Brestrup  
Planning Director

\_\_\_\_\_  
Greg Stutsman, Chair

DATE: \_\_\_\_\_