

AMHERST PLANNING BOARD
Wednesday, May 1, 2019, 7:00 PM
Town Room, Town Hall
MINUTES

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

STAFF: Christine Brestrup, Planning Director
Pamela Field-Sadler, Administrative Assistant

7:00 pm: Mr. Stutsman opened the meeting.

I. MINUTES - There were no Minutes available for review.

II. PUBLIC COMMENT PERIOD – None

While waiting to open the scheduled public hearing, the Planning Board (Board) took up items as follows:

V. OLD BUSINESS

A. SPR 2017-13 – Craig’s Doors – First Baptist Church – 434 North Pleasant St. - Mixed-use building – Discussion about Condition #1, regarding Landscape Plan

Gerry Weiss introduced himself and explained he is a member of the Board of Directors for Craig’s Doors. Mr. Weiss provided a summary of the process whereby a trailer, owned by Craig’s Doors, was approved in October 2014. In May 2017, the Board approved a change of use for the trailer from food service and dining to office space and a resource center. Jerry Gates, Property Manager for the First Baptist Church (Church), presented both of these applications as the representative for the applicant Craig’s Doors.

Mr. Weiss explained the Board of Directors for Craig’s Doors recently became aware of the Site Plan Review (SPR) condition that requires the applicant to submit a Landscape Plan by March 1, 2019 if the trailer was still in place. Mr. Weiss stated that Craig’s Doors only rents the space for the trailer from the Church and questioned whose responsibility it is to submit a Landscape Plan. Mr. Weiss requested the Board require the Church to be accountable for the Landscape Plan.

Ms. Brestrup, Mr. Birtwistle and Ms. Chao completed a site visit; the Board reviewed a photo of the area behind the trailer taken during this site visit. Ms. Gray-Mullen reported she visited the site independently and offered her opinion that the site looks similar to what she observed two years ago. Mr. Weiss shared

his concern regarding the unsightliness of the area behind the trailer. Mr. Weiss contends the Church uses this area for storage, and Craig's Doors has no control over this space.

The Board discussed the status of the trailer as temporary. Ms. Brestrup explained at the time Mr. Gates made the original proposal, the Church intended to expand, and the need for the trailer would be eliminated. However, a period for the potential expansion was undefined. Mr. Weiss asserted, at that time, he was unaware of the expansion possibility and did not conceive the trailer as temporary.

Mr. Weiss restated his opinion that this is a Church problem, and installing screening, as opposed to eliminating the unsightly storage, would create unsafe conditions requiring additional monitoring. The Board agreed that as the applicant, Craig's Doors is responsible to adhere to the conditions of SPR 2017-13 and needs to return to the Board to present a Landscape Plan or a statement proposing an alternative plan. Mr. Weiss stated he would work with the Church on this issue.

III. SITE PLAN REVIEW - PUBLIC HEARING

SPR 2019-05 – I YA TOO, LLC d/b/a IYA Sushi and Noodle Kitchen – One East Pleasant Street

Request Site Plan Review approval to operate a Class I restaurant with a seasonal outdoor dining patio and live or pre-recorded entertainment under Sections 3.352.0 and Section 5.041 and 5.042 of the Zoning Bylaw (B-G zoning district, Map 11C, Parcel 278)

Mr. Stutsman recused himself from this discussion; Ms. Gray-Mullen presided over this Public Hearing.

7:40 pm: Ms. Gray-Mullen read the preamble and opened the public hearing.

There were no additional Board disclosures.

Attorney David Berson, Bacon Wilson, P.C., explained he would provide the presentation on behalf of I YA TOO, LLC d/b/a IYA Sushi and Noodle Kitchen. Attorney Berson introduced Mr. Andy Yee from I YA TOO, LLC, d/b/a IYA Sushi and Noodle Kitchen. Attorney Berson provided an overview of the permit approval process for the mixed-use building including a ground floor restaurant with attached outdoor space. At this time, the applicant requests approval for a seasonal outside dining patio and live or pre-recorded entertainment for the restaurant space.

Attorney Berson presented a revised patio plan, and assured the Board that the requirements of the Americans with Disabilities Act (ADA) have been met. Attorney Berson provided renderings of the proposed patio chair, patio tabletop, planter box and a moveable outdoor service cart. Attorney Berson explained that although the Zoning Bylaw requires planter boxes be removed between November 1 and April 1

annually, the Design Review Board (DRB) has recommended the planter boxes remain year round and maintained with appropriate seasonal plantings or decorations.

The Board reviewed the proposed design rendering and placement reference for one projecting sign mounted on a brick pillar on the westerly side of the building facing East Pleasant St. The sign is 6" deep, double faced and internally illuminated. Attorney Berson shared that the original proposal included two projecting signs, but the DRB suggested one is sufficient. The Board also reviewed the proposed design rendering for a koi fish etching placed across the three windows facing the outdoor dining patio, as well as proposed window etchings depicting the restaurant logo for the door and six adjacent windows.

Attorney Berson discussed an issue in regards to the proposed occupancy of 96 people not including any staff. The proposed plan includes two handicap accessible bathrooms, which in accordance with the Plumbing Code is inadequate for the proposed occupancy. As proposed, the Plumbing Code will allow a total occupancy of 60. Attorney Berson explained the applicant may seek a variance from the Plumbing Code.

Attorney Berson also noted that if the Alcohol Beverage Control Commission (ABCC) requires any additional enclosure for the patio, the applicant would need to return to the Board for approval. In addition, Attorney Berson explained the applicant is requesting approval for live or pre-recorded music at the establishment, and noted that no exterior music or speakers are intended.

Attorney Berson stated that there are no additional proposed changes to the exterior. In closing his presentation, Attorney Berson described the Yee family's vast knowledge of and successful management experience in the restaurant business.

Mr. Birtwistle, Ms. Brestrup and Ms. Chao participated in the site visit. During the site visit report, it was noted that the outside dining patio seems small, and there is an existing grade change in the southwest corner where two planters are proposed. Also observed was the significantly sloping wall between the dining area and the sidewalk that dips approximately 4' to 5' deep in the corner by the door. This area has potential to be hazardous and a more tangible fence might be appropriate.

During the discussion, Ms. Brestrup explained that the Board could require the applicant provide a physical fence in the area of the sloping wall; however, Attorney Berson stated this is beyond the applicant's purview and would need to be discussed with the lessor. The Board discussed the mulched buffer zone and the use of vegetation as a natural barrier. Ms. Brestrup added the ABCC or the Amherst License Commission could potentially require additional fencing for the patio area as a license condition. Mr. Yee shared his eagerness to work with town departments and the ABCC to revise the plan as needed.

Attorney Berson clarified several points. The correct planter is approximately 36" high, and the number of proposed seats is 34 including two that are ADA compliant. He also stated the intention is for pre-recorded music to be played inside the restaurant area. Additionally, Mr. Yee confirmed the windows are transparent, and the proposed window decals are frosted.

Ms. Brestrup noted there are two potential solutions to the plumbing issue. The applicant can seek a variance from the Plumbing Code, or add another bathroom. If an additional bathroom is proposed, the applicant will need to return to the Board for approval because of the potential need to alter the exterior of the building. Attorney Berson confirmed the applicant is prepared to operate within the bounds of the Certificate of Occupancy requirements.

There being no Public Comment, the Board reviewed and agreed upon a list of conditions.

Mr. Birtwistle moved to close the public hearing finding the application meets the relevant criteria of Section 11.24 of the Zoning Bylaw, to grant the Site Plan Review approval with conditions. Ms. Riahi seconded.

VOTE: 6-0-0 to approve

Conditions

1. No structure, framework, fence, wall or furnishing (with the exception of planter boxes) used in conjunction with the operation of this outdoor dining area shall be allowed to remain in the patio area between November 1 and the April 1 following thereafter.
2. Planter boxes shall be left in place throughout the year and filled with appropriate seasonal plants or decorative items.
3. No wall or fence related to the seasonal outdoor dining facility shall have a height of more than four (4) feet.
4. No free-standing heating and cooling devices except for fans may be used in the seasonal outdoor dining area.
5. No more than 34 seats shall be allowed in the seasonal outdoor dining area. Two of the tables shall be handicapped accessible.
6. If the patio is required to be enclosed by the Alcohol Beverage Control Commission (ABCC) or the Town of Amherst License Commission, the applicant shall return to the Planning Board at a public meeting for review and approval of any railing or gate that is proposed to meet this requirement.
7. If the window configuration or façade on the ground floor in the vicinity of I YA TOO, LLC d/b/a IYA Sushi and Noodle Kitchen changes due to interior changes required by the Plumbing Code, the applicant shall return to the Planning Board at a public meeting for review and approval of the proposed changes.

IV. PLANNING & ZONING

A. ZSC Report

Mr. Stutsman shared, as last reported, the ZSC is preparing a memo for Town Council and the Community Resources Committee discussing zoning and specific items the ZSC is working on. The ZSC plans to request Town Council revisit the Supplemental Apartment decision from the 2018 Spring Town Meeting and the Planning Board voting requirements in the Zoning Bylaw. The ZSC is also discussing the local bylaws governing non-retail marijuana uses. The ZSC may consider revising the current bylaws to be consistent with the amended state marijuana regulations with regard to the buffer zone requirements. The goal is to have a draft memo for the Board to review at the May 15, 2019 meeting.

B. Public Comment about ZSC Report – None

C. Other – None

V. OLD BUSINESS

B. SUB 1989-13 – Amherst Hills – Tofino Associates – Request release of lots

Ms. Brestrup explained Tofino Associates is requesting a release from the Covenant Contract for Lots 1, 2, 5, 6, 7, 8, 19, 20, 21, 22, 29, 39 and 41. Lot 29 was previously released; however, Tofino Associates is unable to locate a copy of the release and is requesting the Board release it again. The Board reviewed a tri-party agreement between Tofino Associates, LLC, Greenfield Savings Bank (GSB) and the Town of Amherst. The agreement is a guarantee that GSB will provide the sum of \$288,995.30 to finish the roadway work for the Amherst Hills subdivision with the exception of the last cul-de-sac. The Board noted that the estimate for the roadwork developed by the Town Engineer in May 2017 is now two years old.

Mr. Levenstein made the motion to approve the release of Lots 1, 2, 5, 6, 7, 8, 19, 20, 21, 22, 29, 39 and 41 from the Covenant Contract as requested. Mr. Jemsek seconded. **Vote:** 7-0-0 to approve

C. Topics not reasonably anticipated 48 hours prior to the meeting. - None

VI. NEW BUSINESS

A. Topics not reasonably anticipated 48 hours prior to the meeting. - None

VII. FORM A (ANR) SUBDIVISION APPLICATIONS - None

X. UPCOMING ZBA APPLICATIONS - None

IX. UPCOMING SPP/SPR/SUB APPLICATIONS

Ms. Brestrup provided a review of these upcoming applications.

A. Amherst Media will return to the Planning Board on May 29, 2019.

B. Dog Park – The Town of Amherst is proposing to locate a Dog Park at the old landfill on Old Belchertown Rd. – application not yet submitted

C. Amir Mikhchi – Proposing a 62 unit building on South East St. – application not yet submitted

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission - Jack Jemsek and Christine Gray-Mullen

No Report

Community Preservation Act Committee – Mr. Birtwistle reported that CPAC is waiting to receive a response from the Finance Committee and Town Council regarding proposed project funding.

Agricultural Commission – No report

Design Review Board – Mr. Birtwistle reported the DRB reviewed and approved applications for I YA TOO, LLC, the Amherst Dog Park, and several proposed locations for newspaper boxes for a UMass student publication.

Amherst Municipal Affordable Housing Trust - Mr. Stutsman stated there has not been a meeting since his last report.

Zoning Subcommittee – Maria Chao, David Levenstein, Greg Stutsman – Report provided earlier in the meeting.

UTAC (University and Town of Amherst Collaborative) - Christine Gray-Mullen and Greg Stutsman – Mr. Stutsman explained that UTAC is not meeting until a reformation of the committee takes place.

Downtown Parking Working Group - Ms. Gray-Mullen – No Report

XI. REPORT OF THE CHAIR - No Report

XII. REPORT OF STAFF – No Report

XIII. ADJOURNMENT

The meeting adjourned at 9:00 pm.

Respectfully submitted:

Approved:

Pamela Field-Sadler
Administrative Asst.

Greg Stutsman, Chair

DATE: _____