

AMHERST PLANNING BOARD
Wednesday, December 4, 2019, 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Michael Birtwistle, Maria Chao, Christine Gray-Mullen, Chair, Jack Jemsek,
David Levenstein, Janet McGowan

ABSENT: None

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

7:05 pm: Chair Christine Gray-Mullen opened the meeting.

I. MINUTES - None

II. PUBLIC COMMENT PERIOD – None

III. PUBLIC HEARING – SITE PLAN REVIEWS AND SPECIAL PERMITS

SPR2020-04 – Enterprise Rent-a-Car – 213 College Street

Request Site Plan Review approval to install a carport structure (14' x 20') at the rear of the building (Map 14B, Parcel 243, COM zoning district)

7:05 p.m.: Ms. Gray-Mullen read the preamble and opened the Public Hearing; there were no Planning Board (Board) disclosures.

Kevin Kolstad introduced himself and RJ Kolesnik who are employees of Enterprise Rent-a-Car (Enterprise); Enterprise has been operating at 213 College St. for many years. Mr. Kolstad showed depictions of the proposed carport from a side view and front view perspective, and explained the structure would be installed at the rear of the existing building. Mr. Kolstad explained each car is cleaned between rentals which includes vacuuming and window cleaning; car washing happens off site. Enterprise would like cover from the weather, while prepping a car, especially when it rains and snows.

Mr. Birtwistle reported on the Site Visit attended by Ms. Chao, Ms. Brestrup and Mr. Birtwistle. The group observed the proposed location for the carport and noticed the area is paved, and free of any encumbrances with the exception of a light on the back wall which is believed to not be in the way of the proposed carport. The area appears sufficient in size for the proposed structure and is not visible from College Street.

Ms. Brestrup explained this application has come before the Board because the request is for a change in the site. The Building Commissioner feels the proposal is

more than a de minimis request and wanted the Board's approval, as well as to provide the public an opportunity to share comments.

Ms. Gray-Mullen asked if the carport is intended to be a temporary structure. Mr. Kolesnik explained it is intended to be long standing; however, it can be dismantled and removed easily. Ms. Brestrup explained if the structure needed to be replaced, the Building Commissioner could grant an Administrative Approval in conformance with Section 11.214 of the Zoning Bylaw, provided any new structure is the same or similar to what is approved.

In answering questions from the Board, the following was noted:

- The structure will not be taller than the existing building.
- The applicant is unsure who owns the wooded area behind the Enterprise property, but there are no existing residences.
- The placement of the structure will not impede the driving clearance in that area.
- The carport will be tucked into the proposed area and anchored at three points to the base of the building. Anchoring the fourth point will be explored if required.

Public Comment – None

Draft Conditions

There shall be no car washing operations on the project site.

Mr. Birtwistle made the motion to close the public hearing, to find that the Site Plan Review application meets the relevant criteria of Section 11.24 of the Zoning Bylaw and to approve the Site Plan Review application with conditions as drafted. Mr. Levenstein seconded.

VOTE: 6-0-0 to approve

PUBLIC HEARING – SITE PLAN REVIEWS AND SPECIAL PERMITS
SPR2020-03 – Jonathan Gurfein – Riverside Organics – 555 Belchertown Road
(cont. from November 6, 2019 and November 20, 2019)

Request Site Plan Review approval to construct and operate a Marijuana Product Manufacturer & Marijuana Micro-business under Section 3.363.5 of the Zoning Bylaw (Map 18D, Parcel 2, PRP zoning district)

7:18 p.m.: Ms. Gray-Mullen explained this public hearing is continued from November 6, 2019 and November 20, 2019.

Ms. Gray-Mullen welcomed Jonathan Gurfein back and thanked him for the additional documents he provided including a variety of operational plans. Mr. Gurfein explained the development of operational plans is a requirement of the state application process. Mr. Gurfein also informed the Board that he has spoken with the Fire Inspectors and

has requested that they send Ms. Brestrup a letter with their comments regarding the proposed project.

Mr. Gurfein explained that he is having difficulty obtaining the storm water run-off calculation from his Civil Engineer. Mr. Gurfein shared that he has spoken to Town Engineer Jason Skeels who said he is familiar with the property and is aware the storm water all runs downhill, but that he would like to have the calculations. Ms. Brestrup reminded the Board that during a previous meeting they had reviewed a letter from Ward Smith, wetlands expert, relating to the Conservation Commission review. Mr. Smith, in his report, noted his opinion that there is not any new impervious area on the site, and does not foresee any change in the run-off post development of the site. The proposed structure will be placed on an area with existing pavement. Ms. Brestrup reported that Mr. Skeels told her verbally that he does not envision any problems. Mr. Jemsek pointed out the rain catchment system will support a minor decrease in run-off.

Ms. Brestrup explained that tying into the town sewer system is difficult. The nearest tie-in is on an abutter's property who has stated he does not support this development. The second possible tie-in is a far distance away on Belchertown Road and is uphill. Mr. Gurfein reported that he proposes a 1500 gal tight tank for the greenhouse which has an overflow alarm system and will be pumped out on a regular basis. The house has 2 toilets and 1 hand sink that will discharge into a septic system. Mr. Gurfein is communicating with Health Inspector Ed Smith to plan for a Title V inspection of the septic tank. Mr. Gurfein also said he has examined the system with a septic professional and believes it is in good shape.

Ms. Brestrup has drafted a list of possible conditions for the Board to review. She suggested if the Board chooses to approve the application, they could make a condition to require a Title V study to deem the septic system is in operational condition and meets the local and state standards prior to the issuance of a Certificate of Occupancy [later this requirement was changed to require resolution of the situation with the septic system prior to the issuance of a Building Permit]. Additionally, if the existing septic system is found unacceptable, the applicant would need to upgrade the system, or tie-in to the town sewer system. Ms. Brestrup would like to review the list of conditions with the Building Commissioner.

The Board reviewed the Development Application Report and noted:

- The installation of warning signage should be made a condition.
- In accordance with industry standard, an oxygen (O₂) monitoring system for the greenhouse should be made a condition.
- This is an organic operation. The use of any pesticides, insecticides or other chemicals in the organic cultivation process is illegal in Massachusetts.
- In accordance with Section 6.29 of the Zoning Bylaw, the applicant has requested a waiver to install a 6' perimeter security fence.
- The emergency generator is 4' X 8' and approximately 40" tall. Mr. Gurfein estimates that the accompanying propane tank will be 200 to 300 gallons.

- An emergency exit door shall be provided for the greenhouse. The location of exit doors shall be determined by the Building Commissioner.
- There will be 1 compost area.
- Mr. Gurfein stated that his operation is not visible to people traveling on Hall Drive.

The Board reviewed and discussed draft conditions developed by Ms. Brestrup. [The conditions were revised during the meeting and a final draft was presented at the December 18, 2019 Planning Board meeting.]

Mr. Birtwistle made the motion to continue the public hearing for SPR2020-03 – Jonathan Gurfein – Riverside Organics – 555 Belchertown Road to the meeting of the Planning Board scheduled for December 18, 2019 at 7:04 p.m. Mr. Jemsek seconded the motion.

Vote: 6-0-0 to continue

**PUBLIC HEARING – SITE PLAN REVIEWS AND SPECIAL PERMITS
 SPR 2019-08 – Javier Campos of Adams & Ruxton for Bank of America –
 360 College Street** *(cont. from July 24, September 18, October 16, November 6,
 and November 20, 2019)*

Request Site Plan Review approval to install new light posts and fixtures to provide better illumination, safety & security for Bank of America ATM (COM Zoning District, Map 15A, Parcel 28)

8:20 p.m.: Ms. Gray-Mullen explained this public hearing is continued from July 24, September 18, October 16 and November 6 and November 20, 2019.

Ms. Gray- Mullen explained that Bank of America has requested the application be withdrawn without prejudice, and asked for a motion to approve the request and close the public hearing.

Mr. Birtwistle stated he is prepared to make a motion, however, not exactly the motion suggested.

Ms. Brestrup reported the applicant is asking to withdraw the application for the 2 light poles, but be allowed to install the lights proposed for the building. The proposal includes 16 replacement lights under the eaves and 4 new light fixtures to be attached to the building. These fixtures, in accordance with Section 11.214 of the Zoning Bylaw, can be approved by the Building Commissioner without the Planning Board’s review. Ms. Brestrup confirmed that the applicant intends to remove the concrete structures installed for the light poles.

Mr. Birtwistle made the motion to close the public hearing and further move that
 1. the Planning Board deny Bank of America’s request to withdraw SPR 2019-08 without prejudice;

2. the Planning Board deny Site Plan Approval for SPR 2019-08 on the grounds (enumerated in Section 11.2501 of the Zoning Bylaw) that
 - a. “insufficient information was submitted with the application in order for the Board to adequately review the proposal” and
 - b. the Site Plan “does not meet the requirements of Section 11.2” (specifically Section 11.210 which states “In all instances where Site Plan Review is required, no work shall commence to alter a site...until Site Plan Review has been granted by the Planning Board”);
3. that Bank of America shall be required, subject to the provisions of Section 11.4 Enforcement, to remove the two light pole bases which were constructed on the subject property without authorization prior to the commencement of Site Plan Review.

Ms. McGowan seconded the motion.

DISCUSSION

Speaking to his motion, Mr. Birtwistle referred to Article IV, Section 4 of the Planning Board Rules and Regulations and reminded the Board that requests to withdraw an application after a public hearing notice has been published, may only be granted by permission of a majority of the Board. In this case, the public hearing notice was published at some point in July.

Mr. Birtwistle shared his opinion the Board not grant approval for a withdrawal without prejudice as requested because:

1. too much staff time has been expended on the ill-conceived and poorly presented plan, as well as the Board’s discussion and review time;
2. the applicant has been unable to provide requested information and details;
3. the Site Plan does not meet the requirements of Section 11.2 and is evidence of the applicant’s inability to work within the bounds of the Zoning Bylaw.

Ms. Brestrup explained if the Board votes to approve the motion on the table, the applicant’s fees would not be returned. She further explained that “withdrawal without prejudice” means if the applicant returns to the Board with a similar plan within two years, they can have their application considered by the Board. If the Board denies the request to withdraw the application without prejudice, the applicant can’t return to the Board with a similar plan for 2 years. Ms. Brestrup advised the Board to consider if the additional lighting on the building would benefit the town. Ms. Brestrup shared she is unsure what affect the Board’s denial would have on the applicant’s ability to seek an administrative approval for the proposed lighting plan for lighting mounted on the building.

The Board reviewed the photometric plan and cut sheets for the lighting fixtures. Ms. Brestrup pointed out the 16 existing fixtures that are to be replaced, as well as the proposed location for 4 new fixtures on the model. Ms. Gray-Mullen noted that the wall packs resemble a mini cobra more than a traditional wall pack. The proposed wall packs are intended to be mounted to the building and shine down creating a spray of light

Ms. Brestrup confirmed that originally the applicant applied for and received an electrical permit believing that was what they needed to begin work. The applicant's installation of the pole lights was stopped by the Building Commissioner because the Site Plan Review requirement had not been met. Ms. Brestrup said it is unclear why the Site Plan Review process requirement was missed by town staff.

Mr. Levenstein stated that although he is sympathetic to Mr. Birtwistle's motion, he can't support it wholly. Mr. Levenstein shared his support for Item 3 of the motion. Mr. Levenstein expressed support for an administrative approval for the lighting proposed for the building; however, he hopes the Building Commissioner would consider any concerns and suggestions expressed by the Board. Ms. Gray-Mullen stated she would like a 5th light added to the southwest corner of the building and 1 of the 2 lights proposed for the southeast side to be located a little farther back. Ms. Brestrup could send a memo to the Building Commissioner to convey the Board's suggestions.

Mr. Levenstein proposed revising Mr. Birtwistle's motion by removing items 1 and 2. Mr. Birtwistle stated he could not support the proposed revision. Ms. Gray-Mullen confirmed, in accordance with Article IV, Section 4 of the Planning Board Rules and Regulations, that a motion would need 4 votes in the affirmative to pass.

VOTE:

1-5-0 motion fails (Chao, Gray-Mullen, Jemsek, Levenstein, McGowan - vote against)

Mr. Levenstein made the motion to close the public hearing and approve the withdrawal without prejudice for SPR 2019-08 – Javier Campos of Adams & Ruxton for Bank of America located at 360 College Street with the condition Bank of America remove the two light pole bases installed on the property prior to proper permitting and the parking lot be restored.

Ms. Chao seconded the motion.

DISCUSSION

Ms. Brestrup reminded the Board that withdrawal without prejudice means that the applicant can return in the future with a similar proposal and this public hearing has no bearing on the new application. The applicant would be required to pay any fees associated with a new application. If the Board denies the application or approves a withdrawal with prejudice, the applicant cannot return to the Board with a similar proposal for 2 years. If the Board approves the request to withdraw without prejudice, the applicant can seek an administrative approval to install the lights on the building.

Mr. Birtwistle suggested amending Mr. Levenstein's motion to include removing the light pole bases within 30 days. Ms. Gray-Mullen suggested the language "remove and restore." Ms. Brestrup recommended the pavement restoration be complete by a specific date. Mr. Jemsek suggested requiring the applicant to remove the structures within 30 days, and restore the pavement by June 1, 2020.

Mr. Levenstein moved to amend the motion to read as follows:
“to close the public hearing and approve withdrawal of the application without prejudice for SPR 2019-08 – Javier Campos of Adams & Ruxton for Bank of America located at 360 College Street and require the applicant to remove the light pole structures within 30 days if possible, and restore the parking lot by May 1, 2020.”

Mr. Jemsek seconded the amended motion.

VOTE: 6-0-0 to approve

The Board noted suggestions regarding the proposed lighting for the building including:

- add a 5th light added to the southwest corner of the building
- move the location of the light at the far east corner of the building further north
- keep the light Kelvin under 4000
- remove light pole bases within 30 days if possible
- repair parking lot by May 31, 2020

Ms. Brestrup will send a memo to the Building Commissioner to apprise him of the Board’s suggestions for his consideration.

Ms. McGowan left the meeting at 9:08 p.m.

IV. PLANNING & ZONING

A. ZSC Report

Ms. Chao reported the ZSC continued their discussion regarding ongoing housing initiatives. The ZSC is working to develop Mixed-Use Building standards, Supplemental Dwelling and Planning Board Voting Requirement Bylaw articles for proposal to Town Council. The ZSC will present the draft articles to the Board for review.

B. Public Comment about ZSC Report – None

C. Other – None

V. OLD BUSINESS – None

VI. NEW BUSINESS

A. Master Plan Update – Memorandum to Community Resources Committee from Mandi Jo Hanneke regarding Recommendation on Process for Updating and Adopting the Master Plan, per Charter Section 9.8

Ms. Gray-Mullen reported that Town Council member Mandi Jo Hanneke plans to attend the December 18, 2019 Board meeting to review the proposed process for updating and adopting the Master Plan; however, Ms. Hanneke has also provided the option to hold a joint meeting at that time with the Community Resources Committee (CRC). The focus of the meeting would primarily be to determine the pathway for updating the Master Plan, identify expectations for the Master Plan and develop a Scope of Work to meet those expectations. Ms. Gray-Mullen pointed out that Ms. McGowan had asked the CRC if, similarly, the discussion could expand to include the process for rewriting the Zoning Bylaw as well.

Ms. Brestrup explained the meeting on December 18th will serve as an introduction. The CRC, acting as a liaison to Town Council, will garner knowledge and be responsible to keep the Town Council informed of the progress. The CRC will ultimately be responsible to make a recommendation to Town Council whether to adopt the updated Master Plan once approved by the Board. The Board agreed that meeting with only Ms. Hanneke on December 18th, versus a joint meeting with the CRC, is appropriate at this time. Ms. Gray-Mullen suggested scheduling Ms. Hanneke for 8:00 p.m. on December 18th. The Board also agreed to discuss rewriting the Zoning Bylaw at future meeting.

Ms. Brestrup shared that she has been asked to develop a list of updates/changes she would suggest for the Master Plan, and invited Board members to share their thoughts and ideas with her. The Board agreed it is important to review the current Master Plan and other pertinent plans and policies. Ms. Brestrup will send an email to the Board with links to documents that will be helpful including the PowerPoint presentation she created summarizing the Master Plan.

Ms. Gray-Mullen asked for a list of plans that the town has done and that have been accepted that are related to the Master Plan, such as the Transportation Plan, the Complete Streets Policy, Green Sustainability Goals, etc.

B. Timing of receipt of permit application materials – discussion

Ms. Gray-Mullen tabled this discussion until Ms. McGowan could participate.

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

VII. FORM A (ANR) SUBDIVISION APPLICATIONS – None

VIII. UPCOMING ZBA APPLICATIONS – None

IX. UPCOMING SPP/SPR/SUB APPLICATIONS

Ms. Brestrup reported that she expects John Wroblewski to return to the Board in January for a Site Plan Review to make changes to his project at 462 Main Street.

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS

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

Mr. Jemsek reported the next PVPC meeting is planned for December 12, 2019.

Community Preservation Act Committee - Michael Birtwistle – No Meeting

Agricultural Commission – David Levenstein - No Meeting

Design Review Board - Michael Birtwistle – No Report

Zoning Subcommittee – Maria Chao, Christine Gray-Mullen, Janet McGowan – Report provided earlier in the meeting.

XII. REPORT OF THE CHAIR - No Report

XIII. REPORT OF STAFF – No Report

XI. ADJOURNMENT

The meeting adjourned at 9:40 p.m.

Respectfully submitted:

Approved:

Pamela Field-Sadler
Administrative Asst.

Christine Gray-Mullen, Chair

DATE: _____