

AMHERST PLANNING BOARD
Wednesday, October 17, 2007 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Aaron Hayden, Chair; Jonathan O’Keeffe, Richard Howland, Jonathan Shefftz, Ludmilla Pavlova-Gillham, Denise Barberet (7:14 P.M.),

ABSENT: Eduardo Suarez, Kathleen Anderson and Susan Pynchon

STAFF: Jonathan Tucker, Director; Christine Brestrup, Senior Planner; Sue Krzanowski, Management Assistant

Mr. Hayden opened the meeting at 7:12 P.M.

I. MINUTES – Meeting of October 3, 2007

Mr. Howland MOVED: to approve the Minutes of October 3, 2007. Ms. Pavlova-Gillham seconded, and the Motion passed 4-0-1 (Hayden abstained).

VI. FORM A (ANR) SUBDIVISION APPLICATIONS

Mr. Tucker presented a Form A (ANR) application for a flag lot on Bay Road (ANR 2008-0007), reminding the Board members that they had seen the two adjacent frontage lots shown along with the flag lot at a previous meeting. The flag lot will need a Special Permit from the Zoning Board of Appeals, and the ZBA will assign the Phased Growth authorization date. The flag lot meets the frontage, lot area and access strip requirements of the Bylaw. Mr. Hayden signed the ANR plan.

II. PUBLIC HEARING – ZONING AMENDMENTS

Mr. Hayden read the preamble and opened the first public hearing.

A-2-08 Technical & Professional Offices

To amend Section 3.359 of the Zoning Bylaw to create separate regulations for technical and professional offices providing services to clients predominantly by appointment.

Mr. Tucker explained the background of this zoning article and noted the differences between Sections 3.358 and 3.359 of the current Zoning Bylaw. Section 3.359 now only allows administrative offices with no services to the public on the premises. Mr. Tucker explained that only administrative offices are allowed in the PRP (Professional Research Park) Zone. This is the third or fourth time that there has been an attempt to amend this bylaw, he said. This is one of the economic development articles that are being brought to Town Meeting.

Mr. Tucker explained that the article proposes to split the uses allowed by Section 3.359 into two types, one being the purely administrative offices that will allow no visits by the general public and one being the technical and professional offices that will allow visits by the general public by appointment. Mr. Tucker explained that follow-up visits for services already initiated would need no appointment. Mr. Tucker stated that there would be limitations placed on advertising such that the limits of the allowed visitation would be clearly explained to potential clients or visitors.

In the R-VC zone technical and professional offices would be allowed on the first floor only, the size of the offices would be limited, and technical and professional offices would be allowed only on properties adjacent to other properties with similar uses. In addition, the permitting for technical and professional offices would be changed to Special Permit from Site Plan Review in the LI zone.

Mr. Tucker suggested that the article as described above and the alternative version proposed by the Coalition for Sustainable Neighborhoods (CSN) could be discussed together.

Since it was now after 7:25 P.M., Mr. Hayden opened the next public hearing (the alternative article proposed by CSN) and read the preamble.

A-8-08 Technical & Professional Offices (petition)

To amend Section 3.359 of the Zoning Bylaw to create separate regulations for technical and professional offices providing services to clients predominantly by appointment with specific additional requirements on numbers of employees, buffers, hours and types of lighting, and signs.

Mr. Vincent O'Connor of 179 Summer Street (a Precinct 1 Town Meeting member) presented the article for CSN. He stated that he agreed with the Zoning Subcommittee's version of the zoning proposal with respect to technical and professional offices in the R-VC zone. He noted that CSN's proposal has additional protections for abutters to the PRP zone. He would like to combine the best aspects of the two articles into one to bring a new article to Town Meeting. He described the highlights of CSN's article. He stated that some of the office uses proposed are not appropriate for the LI zone. He agreed with the definitions of general public. He stated that there was a need for three types of office use categories.

Ms. Pavlova-Gillham asked for clarification on the hours and types of lighting that would be allowed by CSN's proposed zoning change.

Mr. Hayden gave the Zoning Subcommittee report on the articles and stated that a compromise article may contain enough substantive changes that a new article would need to be created. Because of Town meeting deadlines a new article would need to go before a Special-Special Town Meeting, rather than being presented at the Fall Special Town Meeting. Mr. Tucker said that the Planning Board could ask the Select Board to schedule a Special-Special Town Meeting to consider a new compromise article.

Mr. O'Connor stated that Site Plan Review and Special Permit processes could address some of the issues of concern in the PRP with respect to the technical and professional offices. He said that it would be helpful in reassuring neighbors if conditions were developed which would be specific to each use to protect the abutting residential neighborhoods.

Mr. Fred Mosley of 70 Larkspur Drive (a Precinct 8 Town Meeting member) stated that he was encouraged by the progress and he supported the ZSC in its work toward a compromise. He liked the idea of a specific agreement on conditions so that battles will not be fought over each new building in the PRP zone. The specific issues that he would like to see addressed are 1) that a roundabout be built on Larkspur Drive at the border between the two neighborhoods as proposed by the Public Works Committee, 2) the number of buildings built on Larkspur Drive be limited, and 3) that parking be located behind the buildings.

Ms. Mary Streeter of 66 Larkspur Drive spoke against the proposed zoning change and stated that there is a lot of empty office space in town. She stated that if the PRP zone were to be created now she doubts that the PRP would be located where it is because of the proximity to the surrounding residential district. She asked the Planning Board keep in mind that parts of the PRP zone abut people's homes. She requested that a meeting between the neighbors and the Planning Board be held to discuss issues related to the PRP. She noted that economic development is not a "cure-all".

Ms. Carol Gray of 815 South East Street spoke against the proposed zoning change and stated that she is concerned about the rezoning proposals. She thinks they are premature because the Master Plan is still being worked on. She noted that some of the proposed rezoning articles have already been defeated at previous Town Meetings. She stated that the problems related to traffic would not be changed by the alternative proposal. She stated that the types of professionals and technical

workers who may occupy the offices would be counselors, lawyers, etc., who might have as many as one visitor per hour. Traffic is a cause for concern.

Mr. Marion Streeter of 66 Larkspur Drive asked what the reason was for the rezoning. He commented that the PRP zone may not be a good idea in the first place.

Mr. Tucker stated that the PRP districts are “under-performing”. The change in use is a modest one, he said. This will encourage the kind of businesses we want, Mr. Hayden added.

Ms. Barberet stated that the failure of the zone change at Town Meeting was due to the fact that the East Amherst PRP is close to a residential neighborhood. She asked where the buildable acres of the East Amherst PRP are located.

Mr. Mickey Marcus of 8 Ladyslipper Circle spoke in favor of the zoning change. He stated that he leases office space on Research Drive. He would like to build and own a new office building there. Although the PRP zoning restrictions would not affect his own business, the bank that would lend him money to construct his building is concerned about whether the space could be rented to other types of businesses in the future. Without this zone change the bank would not have the confidence that the space could be rented.

Mr. Tucker showed on a map the area that is buildable on the west side of Larkspur Drive. He also showed other small parcels that are buildable in the East Amherst PRP. He stated that the buildable area is about 17 to 18 acres altogether. Mr. Tucker stated that he would estimate that three (3) buildings similar to what is there now could be built on the west side of Larkspur Drive (taking into account a 100 foot buffer from the residential neighborhood, the parking requirements, the environmental restrictions and the zoning setbacks).

Ms. Pavlova-Gillham asked to have clarification on the uses currently allowed in the PRP zone, the zoning setbacks and the coverage. Mr. Tucker reviewed these zoning restrictions and requirements for the Board.

Mr. O’Connor stated that Mr. Marcus’ presentation illustrates why CSN is trying to reach a compromise with the ZSC on the rezoning article. The Town Manager would like to attract and keep this type of business. Mr. O’Connor stated that a compromise would take some issues off the table so that people would feel protected.

Mr. Rob Crowner of 44 Spaulding Street, Public Works Committee, said that the Public Works Committee had recommended to the Select Board that a roundabout be included in PRP that borders residential use and an article on a potential roundabout could be considered by the Special-Special Town Meeting.

Ms. Streeter stated that in the past nine to twelve office buildings have been proposed for the area along Larkspur Drive.

There was further discussion regarding how many office buildings could be built in this vicinity and whether a 100-foot buffer could be established between the office and residential uses.

Ms. Paula Russell of 54 Larkspur Drive stated that she is a direct abutter to the PRP. She spoke in support of the 100-foot buffer. However, she noted that the office development on Larkspur Drive remains unfinished and has not been maintained and was never cleaned up after construction. She noted that buffers, landscaping and sidewalks are very important.

Mr. Hayden described the options that were available to the Planning Board with respect to these rezoning articles.

Mr. Howland stated that the Board should wait for the Comprehensive Plan to be adopted. He recommended that the Planning Board ask Town Meeting to send the article back to the Planning Board.

Mr. Tucker referred the Board to the survey and draft strategies associated with the almost-complete Master Plan that strongly support these kinds of changes.

Mr. Hayden cautioned against relying heavily on the Master Plan and noted that the completion and adoption process had been stalled recently.

Mr. Tucker noted that much of what is in the rezoning articles is already in the Bylaw. He further noted that these particular articles address principal uses and that accessory uses would need to be addressed at a future date.

Ms. Pavlova-Gillham MOVED: to close the public hearing. Mr. Howland seconded and the vote was 6-0-0 to close the public hearing.

Mr. Howland MOVED: to recommend that Town Meeting refer the articles back to the Planning Board for further study. The motion failed for lack of a second.

Mr. O’Keeffe MOVED: that in accordance with the recommendations of the Zoning Subcommittee the Planning Board instruct the Zoning Subcommittee to craft a compromise version of the articles that incorporates parts of the two articles that the Planning Board has been discussing and to ask the Select Board to schedule a Special-Special Town Meeting to consider the new compromise article. Ms. Pavlova-Gillham seconded.

Mr. Howland stated that there needs to be a new article drafted before a request can be put before the Select Board. There is a need to do one thing at a time, he said.

Mr. O’Keeffe stated that there is limited time available and the Board is not far from achieving its intent with regard to these articles.

Ms. Pavlova-Gillham stated that she is a residential abutter to a PRP district in North Amherst. She asked if she needed to recuse herself from discussions and votes related to the PRP rezoning. Mr. Tucker responded that she should refrain from voting and that he would check on this issue.

Ms. Pavlova-Gillham then withdrew her second and Mr. Howland seconded Mr. O’Keeffe’s motion.

There was further discussion about the possibility of a buffer between residential uses and uses in the PRP zone. Mr. Tucker stated that there is currently a 50 foot setback from a Residential District for uses in the PRP Zone. He suggested that a specific requirement for a vegetated buffer could be added.

Ms. Barberet stated that she would like a better idea of what a completely built-out Larkspur Drive would be like. Mr. Tucker said that the Planning Department could do a conceptual build out plan. Ms. Barberet said that she would like a conceptual build out plan for both the west and east sides of Larkspur Drive.

Mr. Tucker noted that there had been two traffic analyses in the Larkspur Drive area 1) a count by traffic engineers at UMass and 2) a count by a Planning Department intern at the intersection of Old Belchertown Road, Research Drive and Larkspur Drive. He commented that the vast majority of the traffic was from Belchertown Road and Old Belchertown Road. Ms. Barberet stated that she was not so interested in existing traffic counts but she wanted to know how much traffic future development would generate.

The motion passed 4-0-2 (Pavlova-Gillham and Howland abstained).

Mr. Tucker advised the Board to forego making a recommendation at this time to Town Meeting regarding the two PRP articles and wait to hear what would come out of the discussions with the CSN group and Mr. O’Connor about a compromise article.

Mr. Hayden read the preamble and opened the public hearing for the following article.

A-1-08 500-502 Sunderland Road Rezoning (Bergstrom)

To amend Official Zoning Map to change the designation of Assessor’s map 2A, Parcels 51 and 52 from Outlying Residence (R-O) and Low Density Residence/Farmland Conservation overlay (R-LD/FC) to Village Center Residence (R-VC).

Since the petitioner was not present, Mr. Tucker explained the history of the property owned by Mr. Bergstrom and explained the rezoning proposal. The property consists of two parcels with a significant amount of water. It is the former home of the Bioshelter, an establishment for raising fish and associated aquatic plants. Mr. Tucker presented information about the surrounding properties, both in Amherst and in Sunderland, including their current uses, topography and groundwater and surface water conditions. He noted that wetlands regulations limit what can be done on the site. He stated that Mr. Bergstrom would like to use the existing concrete pad on which the Bioshelter structure had sat to house a multi-unit residential building, with approximately 6 to 8 dwelling units and possibly some office uses. This type of use is not possible under existing zoning.

Mr. Tucker noted that the intersection of Plumtrees Road and Route 116 was a historic village center. He explained that there is commercial zoning on both sides of Route 116 in Sunderland and that the historic village center had a mix of commercial and residential uses. The R-VC (Residential Village Center) zoning would allow the uses that the property owner is proposing and it would relate to the land uses and zoning in Sunderland. Mr. Tucker also referred to the proposed 150 unit housing development that is being proposed for the adjacent property in Sunderland.

The Bergstrom property is 15 acres and thus larger than the 5 acres that would be protected for agricultural use. Any form of aquaculture would be allowed by right in any zone, even after rezoning. Mr. Tucker presented a chart comparing the uses currently allowed, the uses that would be allowed with rezoning and the uses allowed in the adjacent commercial district in Sunderland. He noted that the large amount of water on the site limits the proposed development to the area of the concrete pad. Mr. Tucker presented a letter that had been received from a nearby property owner (Ms. Helen M. Rocasah of 485 Sunderland Road) commenting on the deterioration of the Bioshelter property and objecting to the proposed rezoning.

Mr. Hayden stated that the Zoning Subcommittee had found complicating issues with respect to this proposed rezoning. He stated that the ZSC had recommended that the Planning Board ask Town Meeting to refer the article back to the Planning Board for further study.

Mr. Tucker noted that since the petitioner and landowner, Mr. Bergstrom, was not present and unable to provide input, the Board might want to delay action on the proposal.

Ms. Tracy Hightower of 486 Sunderland Road spoke about her concerns regarding the proposed rezoning. Her property abuts the Bergstrom property. Her husband is John Reed, who formerly operated Bioshelter. They bought their house from Mr. Bergstrom, and a condition of the purchase was that the new owners operate Bioshelter. She stated that there is a high water table throughout the area and that when the Bioshelter building was constructed it was necessary to do "vibro-compaction" in the slab area to compact the soil sufficiently to accommodate the concrete slab. She stated that the slab is not solid, but contains deep tanks, about 8 to 10 feet deep. She noted that there is only one well [located on her residential property] that feeds both Mr. Bergstrom's properties and her own. She noted the presence of tiny creeks throughout the property that run into the nearby Mill River. She stated that there are "constructed wetlands" located behind the Bioshelter structure and that there is conservation land abutting the property. She stated that the proposed residential facility would be detrimental to the conservation land and the wildlife in the area. She said that there are serious traffic issues on Route 116.

Ms. Hightower said that she wanted the Board to have the background. She and her husband cannot afford the current asking price but there may be people interested in restarting Bioshelter, she said. Ms. Hightower expressed concern about a discrepancy in the amount of taxes that they were paying and the amount that the current owner is paying.

Mr. Frank Wells of 33 Kellogg Avenue (a member of the Housing Partnership/Fair Housing Committee and the Public Transportation and Bicycle Committee) spoke in opposition to the proposed rezoning. He stated that it is a "stretch" to include this property as part of a village center and that the area is unsafe for pedestrians and bicycles. He stated that it is not viable to have apartments in that location and questioned what unsafe materials might be in the containers located

in the concrete pad. He noted that there is a drop in grade from the road to the parcel, that there are no sidewalks and that Route 116 is a heavily-traveled road.

Mr. Vince O'Connor, Town Meeting member, 179 Summer Street, stated that this area is part of Precinct #1, which he represents in Town Meeting. He agrees that this is not a good place to build more housing because it would be difficult to extend police, fire, school bus and other town services to this area of town. He noted that the ZSC has not heard a presentation from the applicant and he suggested that the Planning Board hold off on making a recommendation to Town Meeting. He stated that this proposal will interact with the "40B" proposal just north of the town line and that the Planning Board should see the 40B proposal before voting on this article.

Ms. Mary Streeter, Larkspur Drive, stated that she was concerned that commercial greenhouses would not be allowed in the R-VC zone. She referred to the Comprehensive Plan and stated that the rezoning of this site should wait for the Comprehensive Plan to be finished.

Ms. Hightower stated that the Bioshelter had operated for 20 years on this property and that they had grown plants (basil) in a commercial greenhouse.

Mr. Hayden spoke on behalf of the Agricultural Commission and noted that Mr. Bob Saul, Chair of the Agricultural Commission, wants the property to remain in the Farmland Conservation District. Mr. Saul had expressed concern that the concrete pad would no longer be available for agricultural use if a residential use were built there.

Mr. Tucker stated that the Town cannot prohibit agricultural uses on this property.

Ms. Barberet stated that she thought it would be fair to hear from the applicant and asked if he would come to speak with the Planning Board. Mr. Tucker said that the applicant had been invited to speak to the Planning Board at this public hearing.

Mr. O'Keeffe MOVED: to close the public hearing. Mr. Howland seconded and the vote was 5-1-0 (Pavlova-Gillham opposed).

Ms. Pavlova-Gillham MOVED: to recommend to Town Meeting that this article be referred back to the Planning Board. Ms. Barberet seconded and the vote was 6-0-0.

III. PUBLIC HEARING – DEFINITIVE SUBDIVISION APPLICATION

SUB 2007-00002, Meadow Street, Amherst Enterprise Park – Andrews & La Verdere

Request for Definitive Subdivision Approval for a 6-lot subdivision located on Meadow Street. (Map 4D/Parcel 8; LI & FPC zoning districts) (Continued from March 7, April 18, May 16, June 6, July 18, August 15, 2007)

Mr. Hayden presented a letter from Garrity and Tripp, consultants for the applicants, dated October 11, 2007, requesting a sixty (60) day continuation of the public hearing to the December meeting. The Board noted that this public hearing had already been continued several times.

Mr. Howland MOVED: to continue the public hearing to December 5, 2007, as requested. Mr. O'Keeffe seconded and the vote was 6-0-0.

IV. NEW BUSINESS

B. Town Meeting – Movers/Speakers Assignments

Mr. Hayden explained the procedure for presenting rezoning articles to Town Meeting. Ms. Krzanowski noted that the Select Board had set October 19th as the deadline for naming Movers and Speakers. Mr. Tucker stated that the only Planning Board members who are also Town Meeting members are Ms. Anderson and Ms. Barberet and that they would need to act as the Movers for all of the Planning Board articles. The Board proceeded to name Movers and Speakers for all of the rezoning articles. Mr. Tucker offered to check on whether Ms. Barberet would need to be excluded from the discussion on the Main Street/Dickinson Street rezoning article since she lives nearby.

<u>Article</u>	<u>Mover</u>	<u>Speaker</u>
#10 Zoning Bylaw & Zoning Map Research & Development (R & D) Overlay District	Anderson/ Barberet	Hayden
#11 Zoning Bylaw – Research & Industrial Uses	Anderson/ Barberet	Hayden
#12 Zoning Bylaw – Accessory Light Manufacturing	Anderson/ Barberet	Hayden
#11 Zoning Bylaw – Technical/Professional Offices	Anderson/ Barberet	O’Keeffe
#14 Petition - Allowing Professional Offices Accessible by Appointment in Some Zoning Districts	Petitioner	O’Keeffe
#15 Zoning Map & Bylaw – Spring Street Rezoning & General Business Lodging Uses	Anderson/ Barberet	Shefftz
#16 Zoning Bylaw – Zoning Map – College/South East Street	Anderson/ Barberet	Shefftz
#17 Petition – College/South East St. & Belchertown Rd. Rezoning	Petitioner	Shefftz
#18 Petition – Zoning Map – 500-502 Sunderland Road	Petitioner	Anderson
#19 Petition – Main/Dickinson/High Street Rezoning	Petitioner	Hayden

Mr. Howland stepped down at 10:05 P.M.

X. PLANNING BOARD COMMITTEE REPORTS

A. Pioneer Valley Planning Commission - No report.

B. Community Preservation Act Committee

Ms. Barberet reported that her appointment to the CPAC by the Select Board had been delayed because she was not aware of the procedure that she needed to follow in order to be appointed. She was also not aware of the September 25th meeting, she was not eligible to participate in the October 9th meeting as a voting member and she was finally able to fully participate at the October 16th meeting. Mr. Tucker explained that the Select Board had recently changed its procedures with regard to appointments of existing Board and Committee members to new committees. The Select Board now requires that appointees submit a Citizen Activity Form for each new appointment.

Ms. Barberet further reported that the CPAC had voted to recommend that \$123,000 of CPAC’s funds be used to purchase a portion of the Haskins View development as conservation land. The vote was 6-1 in favor of recommending the expenditure to Town Meeting.

Ms. Barberet also reported that the CPAC had voted to fund the work on Town Hall. There had been questions as to the legality of this expenditure, because of the lack of clarity as to whether this was restoration or maintenance work. She reported that Joel Bard, Town Counsel, had advised that CPAC funds can be used for this type of work. Mr. Bard had advised that as long as the funds do not supplant other funds then it is okay to use CPAC funds. CPAC voted 5-3 to recommend using

\$100,000 of cash reserves and \$295,000 in borrowed funds over the next several years for Town Hall restoration.

C. Agricultural Commission – No Report

D. Comprehensive Planning Committee

Mr. Hayden reported that the CPC had “hit a snag” in the process of creating a final draft. CPC members could not seem to agree on the best method of moving forward. The consultant, ACP, had offered to be available for another 45 days, from October 16th, to prepare a final draft. The CPC needed to act quickly to get information to ACP for the final edit. Mr. Hayden suggested that the Planning Board may need to become involved again. He expressed concern that the next 45 days needed to be wisely spent.

Mr. Tucker suggested that the Board could send a letter of inquiry to the CPC through its chair inquiring about the status and asking if the Planning Board should step in to move the process along.

Mr. Hayden stated that he was willing to draft a letter.

Ms. Pavlova-Gillham MOVED: that the Chair draft a letter commending the CPC on its excellent work to date, and asking the CPC if the Planning Board should step in to help the CPC to complete the process. Mr. O’Keeffe seconded. Ms. Pavlova-Gillham and Mr. O’Keeffe expressed confidence in Mr. Hayden’s ability to draft an appropriate letter.

The vote was 4-1-0 (Barberet opposed). Ms. Barberet stated that, while she did not oppose the Planning Board sending a letter of inquiry, she was glad that people were stepping in to take a closer look at the Comprehensive Plan before finalizing it because she had some very real concerns about the Plan.

Mr. Hayden reminded the Board that one of the reasons for completing the Master Plan was that the Phased Growth Bylaw would be expiring in November 2009 and that the town could not enforce the Phased Growth Bylaw unless the Master Plan is in place and implementation has begun by the time of expiration. Mr. Tucker clarified that the Phased Growth Bylaw would need to be replaced before it expires.

VIII. UPCOMING SPP/SPR/SUB APPLICATIONS

A. Site Visits

Mr. Tucker stated that there was one upcoming Site Plan Review application (SPR 2008-00001) for a farm stand on Belchertown Road. The public hearing for this Site Plan Review is scheduled for November 7th. Mr. Tucker explained the location of the proposed farm stand. The Board scheduled a site visit for Friday, October 26th, at 9:00 a.m.

B. Other - None

IV. NEW BUSINESS (continued)

C. Upcoming Meeting Schedule

Mr. Tucker stated that there would be public hearings held for three more rezoning articles as follows:

- The compromise article on Technical and Professional Offices that is being worked on by the ZSC and the CSN;
- The College Street/South East Street rezoning proposal brought by a petitioner;
- The Main Street/Dickinson Street/High Street rezoning proposal brought by a petitioner.

After much discussion regarding the schedule the Board decided as follows:

November 6th (beginning at 7:00 P.M.) public hearings would be held for:

- 1) The Main Street/Dickinson Street article (petitioner)
- 2.) The Technical and Professional Offices article (new compromise version)

November 7th (beginning at 5:15 P.M. in the Home Economics Room at the Middle School) a public hearing would be held for:

- 1) The Site Plan Review for the farm stand
- 2) The College Street/South East Street article (petitioner)

XII. REPORT OF THE DIRECTOR

Mr. Tucker reported that he was working on the Town Meeting reports for the rezoning articles.

XIII. ADJOURNMENT

The meeting was adjourned at 10:40 P.M.

Respectfully submitted:

Christine Brestrup, Senior Planner

Sue Krzanowski, Management Assistant

Approved:

Aaron A. Hayden, Chair

DATE: _____