

**AMHERST PLANNING BOARD**  
**Wednesday, February 7, 2007 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Aaron Hayden, Chair; Kathleen Anderson, Rod Francis, Mary Scipioni, Carl Mailler, Susan Pynchon, Richard Howland, Eduardo Suarez (7:10 PM)

**ABSENT:** No One

**STAFF:** Niels la Cour, Senior Planner; Sue Krzanowski, Management Assistant

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Mr. Hayden opened the meeting at 7:07 PM.

**I. MINUTES – Meeting of January 17, 2007**

Mr. Francis MOVED: to approve the Minutes of January 17, 2007 as submitted. Ms. Pynchon seconded, and the Motion passed 7-0.

**II. PUBLIC HEARING – AMENDED DEFINITIVE SUBDIVISION APPLICATION**

**SUB 2007-00001, South Middle Street Cluster Subdivision**

Mr. Hayden read the preamble and opened the hearing for this request to amend SUB2006-00006 by revising the property lines and lot areas for Lots 1, 7 and 8, as well as a reconfiguration of the large open space parcel. (Map 26A/Parcels 45, 46 & 47, Map 26C/Parcels 142, 143, 144, 145, 146 & 147; R-O & R-LD zoning districts)

Mr. Doug Kohl, applicant, presented the revised plans showing the new lot layouts where lots lines had been moved and lots reconfigured.

Mr. Dave Chadbourne, 473 Bay Road, told the Board that he appreciates Mr. Kohl's willingness to make the adjustments.

Mr. Hayden noted the Development Application Report prepared by staff.

There was no additional public comment.

Mr. Howland MOVED: to close the public hearing. Mr. Francis seconded, and the Motion passed 8-0.

Mr. Francis MOVED: to approve SUB2007-00001, South Middle Street Cluster Subdivision, based on the plans presented at tonight's hearing and subject to all previous waivers and conditions of SUB2006-00006 and SPR-C2006-00004. Ms. Anderson seconded, and the Motion passed 8-0.

Since it was not yet time for the next scheduled public hearing, the Chair moved ahead on the agenda.

V. NEW BUSINESS

- A. **Special Municipal Employee Status** – Mr. Hayden reported on the recent Select Board meeting and their position on Special Municipal Employee Status for Town board and committee members. He said that he would write a letter as Planning Board chair stating how the Planning Board will be affected negatively if it does not have Special status. The Select Board will be sending information on the process to all Town boards and committees, he said.

Ms. Scipioni MOVED: that the Board write a letter of intent to the Select Board requesting Special Municipal Employee status effective on the date when the procedure is opened. Mr. Howland seconded.

Mr. Hayden asked if staff would draft a letter to the Select Board. Mr. la Cour said that he would.

The Motion passed 8-0.

Mr. Hayden said that the process will include an annual training session on ethics.

- B. **Citizen Planner Training Collaborative – Annual Conference** – Members are to let Ms. Krzanowski know (ASAP) if they would like to attend so that she can process the paperwork.
- C. **Warrant Review Meeting** – The Board received notice that the Town Meeting Coordinating Committee and the League of Women Voters have scheduled the Warrant Review meeting at 7:30 PM on Wednesday, April 18. Mr. Hayden said that he is planning to attend. Although the Board discussed attending the meeting, they did not make a decision on whether they would hold their regular Planning Board meeting scheduled for that night.
- D. **Upcoming Meeting Schedule** – The Board will not meet on February 21, 2007 which is school vacation week. At least four members indicated they would not be able to come to a Planning Board meeting that week.

III. JOINT PUBLIC HEARING –SITE PLAN REVIEW/SPECIAL PERMIT APPLICATIONS

**SPR 2007-00005/SPP 2007-00001 – 25 East Pleasant Street – The Bank of Western Massachusetts**

Combined hearing to request approval to expand lobby and offices for improved ATM use and customer service and exceed maximum coverage. (Map 11C/Parcel 308; B-G zoning district) [continued from 12/20/2006]

Mr. la Cour explained that at the last hearing the Board had expressed concern about the amount of impervious surface proposed and asked the applicant to modify the plans to include additional landscaping. By reducing the proposed lot coverage to meet the requirement (max.

95%) a Special Permit would no longer be necessary. At that time the applicant said that he would be willing to do that.

Mr. John Kuhn of Kuhn, Riddle Architects and Mr. William Canon, landscape architect appeared before the Board on behalf of the bank.

At tonight's hearing, Mr. Kuhn said that they were asking to withdraw the Special Permit and asked that the Board focus on the Site Plan Review. Mr. Kuhn presented the new plans and said that the coverage is now 94.999%. Landscaping is being proposed in a landscaped island along Pray Street and at the south east corner of the building. Three parking spaces would be eliminated to accommodate the changes. The applicant discussed the possibility of improvements off-site, within the Town Right of Way in front of the bank. The Board reminded the applicant that they would need permission from the Select Board if they wanted to use the Right of Way.

Mr. Canon addressed concerns raised by the Town Engineer about a proposed tree in the island along Pray Street and a conflict with the drain line. Mr. Canon said that he would really like to put the tree in and will pursue options as recommended by the Town Engineer. He said that he has a concern that the islands will be used for snow storage in the winter. The plantings he is proposing, ornamental perennial grasses and other plantings that will die off in winter and come back in Spring, along with the placement of the large stones used in the current landscaping should be appropriate for the space, he said.

Ms. Scipioni asked about the suitability of the proposed trees and whether they would survive.

Mr. Suarez said that if the island is used for snow storage, it would impact the proposed Katsura tree and wondered if it would live for 5 or 10 years.

Mr. Canon said that both proposed trees are suitable. The Katsura is a large tree and the Yellowwood is a medium-sized tree and he thinks they would both be appropriate as proposed.

The Board and applicant also discussed the proposed paving for the handicapped space area.

The discussion closed with Mr. Mailler expressing appreciation to the applicant for improving the site.

There was no public comment.

Mr. Francis MOVED: to close the joint public hearing. Mr. Howland seconded, and the Motion passed 8-0.

Mr. Mailler MOVED: to accept the applicant's request to withdraw the Special Permit application (SPP2007-00001). Mr. Francis seconded, and the motion passed 8-0.

Mr. Francis MOVED: to approve SPR2007-00005, 25 East Pleasant Street – The Bank of Western Massachusetts subject to waivers and conditions.

**Waivers**

- 1) Traffic Impact Statement
- 2) Lighting Plan
- 3) Soil Erosion Plan
- 4) Site Management Plan

**Conditions**

- 1) The landscaping shall be installed and continuously maintained.
- 2) Four (4) copies of the final plans shall be submitted to the Planning Department.
- 3) This approval will expire in two (2) years if substantial construction has not begun.

Mr. Hayden amended the condition to include a recommendation that the Bank work with the Town on improvement within the Town Right-of -Way. Mr. Francis accepted the amendment, Mr. Howland seconded, and the amended Motion passed 8-0.

**IV. PUBLIC HEARINGS – SITE PLAN REVIEW APPLICATIONS**

**SPR 2007-00006, A.J. Hastings – 45 South Pleasant Street**

Mr. Hayden read the preamble and opened this hearing to request approval to renovate/amend store front, including new facade, entrance, repainting, new signage and lighting. (Map 14A/Parcel 250; B-G zoning district)

Representing A.J. Hastings were owner Ms. Mary Broll, Ms. Sharon Povinelli and Ms. Mary Krause, architect.

Ms. Broll presented the proposed changes to the Board. Mr. Mailler noted the recommendations from the Design Review Board which had recommended approval of the proposal. Mr. Hayden reviewed the Development Application Report prepared by staff.

There was no public comment.

Mr. Howland MOVED: to close the public hearing. Mr. Francis seconded, and the Motion passed 8-0.

Mr. Francis MOVED: to approve SPR 2007-00006, A.J. Hastings, Inc., 45 South Pleasant Street subject to the following waivers and conditions:

Waivers

- 1) Traffic Impact Statement
- 2) Landscape Plan
- 3) Soil Erosion Plan
- 4) Management Plan

Conditions

- 1) Four (4) copies of the final plans shall be submitted to the Planning Department.
- 2) This permit will expire in two (2) years if substantial construction has not begun.

Mr. Howland seconded, and the Motion passed 8-0.

**IV. OLD BUSINESS**

**A. The Common School – Lighting Plan**

Because one of the conditions of Site Plan Approval (SPR2006-00008) was approval of a lighting plan, the Board reviewed a photometric plan and photos showing the approximate height and location of the proposed fixtures.

Ms. Jill Sherman, abutter, told the Board that she would like more lighting, particularly for safety reasons.

Mr. Hayden said that the Common School is proposing a light level that's minimally required. It was generally agreed that the Common School was meeting the condition of Site Plan Review approval. Mr. Hayden suggested that Ms. Sherman contact the Director of the Common School to ask if they would be willing to put in additional lighting on the east side of the parking lot near her house to better ensure security.

Mr. Francis MOVED: that the Board accept the lighting plan as submitted. Mr. Howland seconded, and the Motion passed 8-0.

**IV. PUBLIC HEARINGS – SITE PLAN REVIEW APPLICATIONS (continued)**

**SPR 2007-00007, 30-36 Main Street – Brendan Sullivan**

Mr. Hayden read the preamble and opened the hearing for this request for Site Plan Review approval to locate a storage shed near the north west corner of the building.  
(Map 14A/Parcel 57; B-G zoning district)

Mr. Brendan Sullivan, building manager, told the Board that the shed had been relocated to the back of Clay's from its previous location behind the Knights of Columbus building. It will be used by the businesses in the building for trash and recycling storage and transfer, he said.

There was no public comment.

Ms. Anderson MOVED: to close the public hearing. Ms. Pynchon seconded, and the Motion passed 8-0.

Ms. Scipioni and Mr. Suarez expressed concern about potential leaching issues. Mr. Francis said that he shared the concerns but that was probably a Board of Health issue and not the Planning Board's jurisdiction. Mr. Howland noted that there are numerous easement issues on the site that would create difficulty if the applicant were to make additional improvements.

Mr. la Cour told the Board that the origination of the sheds behind the Knights of Columbus building was a joint effort between the Planning and Health departments and various businesses. The applicant worked with the Planning Department and Inspection Services and a lot of planning went into the current siting of the shed, he said.

Ms. Scipioni MOVED: to approve the relocation of the shed subject to the following conditions and waivers:

Conditions

- 1) All reasonable measures shall be taken to prevent storm water access into the shed and leaching of waste materials onto surrounding surfaces and to paint and maintain the shed.
- 2) Four (4) copies of the final plans shall be submitted to the Planning Department.

Waivers

- 1) Site Plan prepared by a Registered Professional Engineer
- 2) Soil Erosion Plan
- 3) Sign Plan
- 4) Traffic Impact Statement

Mr. Howland seconded, and the motion passed 8-0.

**V. NEW BUSINESS** (continued)

**E. Other** - Mr. Suarez expressed a concern that the Board had been given advice by the Planning Director and that his advice was later contradicted by Brackett & Lucas (interim Town Counsel). The Board reviewed two pieces of correspondence from Brackett & Lucas, dated January 10, 2006 and February 1, 2007. Mr. Suarez said that he would like an explanation about why the Board was given a recommendation that is contrary to regulations and said that he would like the issues clarified.

Mr. la Cour said that he would ask Mr. Tucker to respond to Mr. Suarez's concerns. After further discussion, Mr. la Cour said that he was not comfortable discussing conversations which took place between the Planning Director and Town Counsel since they were not present at the meeting.

Mr. Suarez said that it's very important that the issue be clarified.

Mr. Hayden suggested that the Board might need to have guidelines in place seeking advice from Town Counsel.

Mr. Howland offered the explanation that the attorney's letter is telling the Board what its options are and how to do them. It's important not to have Town Counsel decide what the Planning Board should do, he said.

Ms. Scipioni suggested that the Board ask Town Counsel to respond directly to the Board. The details would need to be worked out, perhaps going through the Town Manager via staff, she said.

Mr. Hayden asked staff to explore what the process would be for the Board to get advice directly from Town Counsel.

Ms. Scipioni said that the other issue which needs to be addressed is whether a subdivision approval implies that a lot is buildable.

Mr. Francis explained that it's not the developer's responsibility to ensure that a lot is buildable. The "last one in" (the property owner seeking to build) is responsible.

Ms. Pynchon left the Board at 9:30 PM.

**E. Other** – The Board reviewed notice that a new house lot is going to be removed from a parcel of land which is in Chapter 61. The property is located at 1011 Bay Road and is owned by David & Phyllis Smith. The land that will remain classified under Chapter 61 is scheduled for bargain sale to the state and the Town for conservation use.

Mr. Francis noted that the Conservation Director has been in discussions with the applicant and the Community Preservation Act Committee in an effort to put a permanent restriction on the parcel.

Mr. Mailler **MOVED**: that the Planning Board recommend that the Select Board not exercise the Town's right of first refusal. Mr. Howland seconded, and then **MOVED**: to amend the Motion to read that the Planning Board sees no planning reason to recommend that the Select Board exercise the Town's right of first refusal. Mr. Francis seconded the amended Motion and the Motion passed 7-0.

## **VII. FORM A (ANR) SUBDIVISION APPLICATIONS**

The Chair endorsed the following:

ANR2007-00018, 979 & 1011 Bay Road, David & Phyllis Smith

Mr. Francis **MOVED**: to establish March 2007 as the date that the new lot will be eligible for a building permit. Mr. Suarez seconded, and the Motion passed 7-0.

ANR2007-00020, North East Street, Roger Cherewatti

Mr. Francis **MOVED**: to establish March 2007 as the date that the new lot will be eligible for a building permit. Mr. Mailler seconded, and the Motion passed 7-0.

The Chair did not endorse the following:

ANR2007-00019, East Leverett Road, Haskins View LLC

Noting that this application was subject to the Phased Growth Bylaw, Mr. la Cour asked if the Board wanted to modify the development schedule at tonight's meeting or do it another night since it was getting late. Mr. Howland commented that maybe the Planning Board shouldn't sign the plan since it will be approved by right if they don't.

Mr. Howland MOVED: that the Board let the plan be constructively granted by default and discuss the Phased Growth schedule afterwards.

Mr. Howland MOVED: that the Board instruct the Chair to not endorse the plan, therefore, letting it be constructively granted. Mr. Suarez seconded, and the Motion passed 5-0-2 (Francis and Mailler abstained).

### **VIII. UPCOMING ZBA APPLICATIONS**

The Board decided not to review the following:

ZBA2007-00018, 26 Main Street, Pasta E Basta  
ZBA2007-00019, 575 North East Street, Roger Cherewatti

### **IX. UPCOMING SPP/SPR/SUB APPLICATIONS**

Mr. la Cour noted two subdivision hearings are scheduled for March 7 (Haskins View and Amherst Enterprise Park). On March 21<sup>st</sup>, there will be a hearing for Site Plan Review for the Yiddish Book Center and a hearing for a preliminary subdivision application on West Street (Route 116). The Board did not schedule site visits.

Mr. Howland left the Board at 10:00 PM.

### **X. PLANNING BOARD SUBCOMMITTEE REPORTS**

- A. Zoning** – Ms. Anderson said that the Subcommittee discussed Bylaw revisions to the FPC District. Mr. Mailler noted that preliminary draft amendments will have to go back to the FPC Task Force for its review. Ms. Anderson said the Subcommittee also discussed farm stands. Mr. Suarez said they also discussed a petition article from Mr. Vincent O’Connor proposing to amend the inclusionary zoning section of the Bylaw.
- B. Atkins Working Group** – No Report

### **XI. PLANNING BOARD COMMITTEE REPORTS**

- A. Pioneer Valley Planning Commission** - Mr. Hayden said that there is a meeting tomorrow. He noted that the Select Board hasn’t signed off on the Valley Vision agreement yet.
- B. Community Preservation Act Committee** – has not met.
- C. Agricultural Commission** – No Report
- D. Comprehensive Planning Committee** – Ms. Scipioni reported that the work groups are under way. The next work group session is scheduled for February 27<sup>th</sup>, and the next public participation session will be at the end of March. She said that the Committee met yesterday and looked at “wonderful” maps which were prepared by Planning and GIS staff depicting various aspects of the community. The maps are



available to everyone and are on display in the Second Floor Meeting Room in Town Hall.

**FLOOD PRONE CONSERVANCY TASK FORCE**

Mr. Francis and Mr. Mailler said that the Task Force has met twice and is reviewing the use table.

**XII. REPORT OF THE CHAIR** – No Report

**XIII. REPORT OF THE DIRECTOR** – No Report. However, Mr. la Cour noted that there is a vacancy on the Board and encouraged the members to recruit people to fill it.

**XIV. ADJOURNMENT**

Ms. Anderson MOVED: to adjourn this meeting at 10:12 PM. Mr. Francis seconded, and the Motion passed 6-0.

Respectfully submitted:

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Sue Krzanowski, Management Assistant

Approved:

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Aaron A Hayden, Chair

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