

**AMHERST PLANNING BOARD**  
**Wednesday, October 4, 2006 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Aaron Hayden, Chair; Carl Mailler, Richard Howland, Kathleen Anderson, Mary Scipioni, Rod Francis, Eduardo Suarez

**ABSENT:** Leandro Rivera

**STAFF:** Jonathan Tucker, Director; Sue Krzanowski, Management Assistant

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Mr. Hayden opened the meeting at 7:05 PM.

**I. PUBLIC HEARING – DEFINITIVE SUBDIVISION APPLICATION REVIEW**

**SUB 2006-00009 – Haskins View, East Leverett Road – Barry Roberts**

Request approval for a 27 lot, single-family subdivision on East Leverett Road. (Map 3B/Parcels 20 & 80 and Map 3A/Parcel 78; R-O zone) [continued from July 12, August 2, September 6, 2006]

Mr. Hayden noted that the Board received a request to continue the hearing because only seven members were available and one of the abutters had also requested postponement because she was out of the country and unable to attend the meeting.

Mr. Howland MOVED: to continue the hearing to December 6, 2006. Mr. Francis seconded.

Ms. Scipioni expressed concern about the applicant's request to continue the hearing so more members would be available and that neither the applicant nor his representative appeared before the Board in person to make this request.

Mr. Suarez shared her concerns and commented that the Board has made significant decisions with a lesser number of members.

Staff noted that the applicant would like to have as many members available as possible for the public hearing. The Board was short several members over the summer and hearings had to be cancelled because a quorum couldn't be reached. The next few meetings are already full because of the approaching Special Town Meeting. The Board has usually granted such requests.

Ms. Scipioni said the Board should establish a policy on having such requests made in person.

Mr. Howland noted that the Board has no right to deny the permit and should grant the continuance to ensure a proper review and get on with the rest of this meeting.

The Motion passed 5-0-2 (Scipioni and Suarez abstained).

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

### III. NEW BUSINESS

- G. **Other** – Mr. Hayden asked if the Board wanted to put the above issue on a future agenda. The Board began discussing again whether it wanted to set a policy requiring applicants to show up for these requests. Mr. Mailler said that he didn't see a need to create a new policy and since it was not likely to be resolved tonight, he suggested it be put on a future agenda.
- B. **Zoning Subcommittee Composition** - Mr. Tucker noted that the Board needed to vote to appoint Ms. Anderson as a new member of the Subcommittee.

Mr. Mailler MOVED: to appoint Ms. Anderson as a member of the Zoning Subcommittee. Ms. Scipioni seconded, and the Motion passed 7-0.

- C. **Planning Board/Zoning Board – Training Session** – scheduled for Thursday, October 26, 2006 at 6:30 PM, Town Room, Town Hall. Mr. Tucker urged everyone to attend.
- D. **Upcoming Meeting Schedule** – Mr. Tucker asked if the Board wanted to change their meeting schedule to accommodate Town Meeting. Mr. Francis and Mr. Mailler noted that they will not be at the November 15<sup>th</sup> meeting. The Board decided to meet at 5:30 PM at the Middle School on November 1. They did not make a decision regarding the second meeting.
- E. **2006 Massachusetts Smart Growth Conference** – brochure in packet
- F. **Sustainability, Urban Planning, and What They Mean to Dark Skies** – in packet

### II. PUBLIC HEARINGS – ZONING AMENDMENTS

#### A-21-06 446 Main Street Rezoning

Mr. Hayden read the preamble and opened the hearing for this request from a property owner to rezone the property at 446 Main Street (Map 14B/Parcel 66) from General Residence (R-G) to Commercial (COM).

Mr. Jerry Guidera, Jr., the petitioner, said that he sent a request to the Select Board requesting that his property at 446 Main Street be rezoned from residential to commercial. Mr. Guidera told the Board that under the current zoning the Center for Cross-Cultural Studies which he operates on the site has had to go through the special permitting process repeatedly because of non-conformities. Over the years the staff has grown, he said, and he cannot use the upstairs without another special permit. He believes that commercial zoning would be more appropriate and would resolve permitting issues for his business.

Mr. Mailler noted that when the Zoning Subcommittee began reviewing Mr. Guidera's request, the project became more complicated because of several adjacent non-conforming properties which had the same problem. The Subcommittee held a public meeting and

walked the site and decided that this request should be reviewed as part of the larger picture. Mr. Mailler noted that a public hearing had been scheduled for October 18 to review a larger rezoning proposal.

Mr. Hayden added that the Zoning Subcommittee prefers recommending that the zoning be changed to Village Center Business, instead of Commercial. They recommend that the Board take no position on tonight's proposal, and wait until the hearing on the 18<sup>th</sup>. Mr. Tucker summarized the larger proposal.

Mr. Gerry Weiss, Select Board, suggested that the Board review the proposal which was in the packet.

Mr. Frederick Griffith, 21 Gray Street, said that he opposes changing the zoning to Commercial although it would be very appropriate for the current use. He would be concerned about future uses which Commercial zoning would allow and risk to the integrity of the neighborhood, he told the Board.

Mr. Tucker asked about Village Center Business. Mr. Griffith said that he would also be opposed to that designation. He would prefer more control rather than less, he said. He has full trust in the current owner (of 446 Main Street) but would be concerned that future uses under other owners might not be appropriate, he said.

There was no additional public comment.

Mr. Howland MOVED: to close the public hearing. Mr. Mailler seconded, and the Motion passed 7-0.

Mr. Mailler commented that the Zoning Subcommittee decided to downgrade to B-VC because of the number of similar properties nearby. When the Subcommittee started reviewing Mr. Guidera's request, the issue got more and more complex, he noted. It will be reviewed in a larger context on October 18<sup>th</sup>, he said. The Board could end up deciding to just go with this one piece, he said. The Board could go ahead and vote on the one parcel tonight if they wanted to, he added.

Mr. Tucker said that the original thrust of the amendment was focused on fixing technical problems for property owners and to make the properties more conforming. He said that the Subcommittee tried to limit the scope of the amendment so it would be easier to present to Town Meeting. The Board can always recommend to refer it back, he said.

Ms. Scipioni commented that it makes more sense to address the whole neighborhood. It would be more proactive, she said.

Mr. Tucker added that the proximity of the Dickinson National Historic Register District adds to the complexity.

Mr. Guidera commented that the proposal was originally a petition on one property. The larger it gets, the more complicated, he said.

**A-22-06 Wetland District (WD) Removal**

Mr. Hayden read the preamble and opened the hearing for this proposal to remove the Wetland District (WD) from the Official Zoning Map and remove all references to the Wetland District in the Zoning Bylaw.

Mr. Tucker explained that this amendment was brought to the Zoning Subcommittee by staff and is generally a technical fix. The WD is an overlay district created in the early 1980s. It has never been used, he noted and the map has never been amended. It doesn't correspond to reality and can't because wetland boundaries changes over time. Because of the way in which the WD District is defined in the Zoning Bylaw, Town Counsel has indicated that it's a floating zone. He said that he has requested an opinion from Town Counsel but has not heard from him yet.

Mr. Hayden said that the Zoning Subcommittee recommends in favor of bringing this to Town Meeting but also wants to hear Town Counsel's opinion.

Mr. Howland pointed out that wetlands regulations are governed by the Conservation Commission anyway, so removing this would take nothing away from protection of wetlands.

Ms. Scipioni added that wetlands are constantly changing and can't be defined on a map. It doesn't belong in the zoning regulations, she said.

Mr. Hayden and Mr. Howland said that there are liability issues, as well.

Mr. Tucker said that two objections to the proposed amendment have been raised, which he described.

Mr. Gerry Weiss, Select Board, said that the major concern is that someone might get all the way through the permitting process and then get a wetlands determination and not be able to proceed.

There was no additional public comment.

Mr. Howland MOVED: to close the public hearing. Ms. Anderson seconded, and the Motion passed 7-0.

The Board decided that it would prefer to wait for Town Counsel's opinion before voting.

Mr. Francis MOVED: to re-open the hearing. Mr. Howland seconded, and the Motion passed 5-1-1 (Hayden opposed, Anderson abstained).

Ms. Scipioni MOVED: to continue the hearing to October 18, 2006 at 8:15 PM. Mr. Howland seconded, and the Motion passed 7-0.

**III. NEW BUSINESS (continued)**

**G. Other** – Mr. Tucker noted that the Board would be holding a joint public hearing with the Tree Warden to discuss proposed tree removal on Henry Street.

Ms. Scipioni expressed concern about tree removals on East Pleasant Street.

**IV. OLD BUSINESS**

- A. **Farm Committee Representative** – postponed
- B. **Other** – None

Ms. Scipioni and Mr. Suarez left the meeting.

**V. FORM A (ANR) SUBDIVISION APPLICATIONS**

The Chair endorsed the following:

ANR2007-00010, 340 Shays Street – Brian & Marlene Doyle  
ANR2007-00011, West Bay Road – Peter & Edward Kosakowski

**VI. UPCOMING ZBA APPLICATIONS**

ZBA2007-00010, 652 South East Street – Scott J. Nielsen

The Board discussed whether they should review this application and ended in general agreement that they would leave it to the ZBA to handle.

The Board also agreed not to review the following:

ZBA2007-00011, 321 Main Street – Mary Moore Cathcart & Ariana Inglese

**VIII. PLANNING BOARD SUBCOMMITTEE REPORTS**

- A. **Zoning** – given under “Public Hearings” above.
- B. **Atkins Working Group** – Mr. Tucker said that there are revised plans for intersection improvements which will be presented soon.

**IX. PLANNING BOARD COMMITTEE REPORTS**

- A. **Pioneer Valley Planning Commission** – No Report
- B. **Community Preservation Act Committee** – No Report
- C. **Farm Committee** – No Report
- D. **Comprehensive Planning Committee** – Mr. Hayden reported that there was lots happening with the Idea Gathering Meetings beginning next week. It’s an exciting time for the Committee, he said, and urged everyone to attend one of the meetings.

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

**XI. REPORT OF THE DIRECTOR** – Mr. Tucker also urged the Board to participate in the Comprehensive Planning Process and asked that they encourage others to participate as well.

**XII. ADJOURNMENT**

Mr. Howland MOVED: to adjourn this meeting at 9:10 PM. Ms. Anderson seconded, and the Motion passed 5-0.

Respectfully submitted:

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Sue Krzanowski, Management Assistant

Approved:

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Aaron A. Hayden, Chair

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