

AMHERST PLANNING BOARD
Wednesday, November 2, 2005 – 5:00 PM
Home Economics Room – Amherst Regional Middle School
MINUTES

PRESENT: Paul Bobrowski, Chair; Aaron Hayden, Rod Francis, Leandro Rivera, Mary Scipioni, Chris Boyd, David Kastor

ABSENT: Adrian Fabos, Carl Mailler

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

Mr. Bobrowski opened the meeting at 5:00 PM.

I. MINUTES – Meeting of October 19, 2005

Ms. Krzanowski noted that a correction had been made on page 2, second paragraph, to reflect who Mr. Kusner said recommended a comprehensive review of the FPC District, There were no other corrections or changes.

Mr. Francis MOVED: to approve the corrected Minutes of October 19, 2005. Mr. Hayden seconded, and the Motion passed 6-1 (Rivera abstained).

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

III. NEW BUSINESS

A. Lot Release Request – The Board received a request from Mr. Paul Zahradnik for the release of Lot 11 at Palley Village Place. Mr. Tucker noted that six lots would be left as surety for completion of the subdivision conditions and staff recommend release of the lot.

Mr. Kastor MOVED: to release Lot 11, Palley Village Place. Mr. Francis seconded, and the Motion passed 7-0.

B. Upcoming Meeting Schedule – Ms. Krzanowski reminded the Board that another meeting to review upcoming ZBA applications was scheduled for next week, Wednesday, November 9, 5:00 PM, Home Economics Room, Middle School.

C. Other – Mr. Tucker noted that approval of zoning amendments from the last Town Meeting from the Attorney General's office has been received by the Town.

IV. OLD BUSINESS

A. Town Meeting – Mr. Kastor said that he would like the Board to reconsider their second FPC decision. Mr. Tucker described Select Board action regarding Article 23 which, he said, treated the article's five sections in three different ways. Mr. Robie Hubley, Select Board member, noted that the rest of the Select Board was

expected to attend tonight's meeting and recommended waiting until they arrived for further discussion.

V. FORM A (ANR) SUBDIVISION PLANS – None

VI. UPCOMING ZBA APPLICATIONS

The Board decided not to review the following:

ZBA2006-00021, 75 Woodside Avenue – William Gillen

VII. UPCOMING SPC/SPP/SPR/SUB APPLICATIONS – There will be four public hearings on December 7, three preliminary subdivisions and one Site Plan Review application. The Board will review new signs for Amherst Shopping Center on November 16.

II. PUBLIC HEARING – ZONING AMENDMENTS

Mr. Bobrowski opened the public hearing and read the preamble.

A-10-06, ZBA Appointments

To amend Section 10.01 of the Zoning Bylaw to clarify the terms of members of the Zoning Board of Appeals.

Mr. Bobrowski explained that this was one of the “housekeeping” zoning amendments which would make the terms of ZBA appointments conform with the terms of other types of board/committee appointments.

There was no public comment.

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

Mr. Kastor MOVED: to recommend that Town Meeting adopt this amendment. Mr. Hayden seconded, and the Motion passed 7-0.

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

VIII. PLANNING BOARD SUBCOMMITTEE REPORTS

A. Zoning – provided under “Public Hearing”

B. Atkins Working Group – No Report

IX. PLANNING BOARD COMMITTEE REPORTS

A. Pioneer Valley Planning Commission – Mr. Hayden said that sustainability and renewable energy have been the focus.

- B. **Community Preservation Act Committee** – No Report
- C. **Farm Committee** – No Report
- D. **Comprehensive Planning Committee** – Mr. Hayden said the Committee discussed collaboration between the Public Transportation and Bicycle Committee’s proposed transportation plan and the Comprehensive Plan. Although, according to Mr. Alcorn the intent is to run on parallel tracks, Mr. Hayden said that funding sources are unclear and there are misunderstandings that need to be cleared up. The Comprehensive Planning Committee did not take a position.

A-11-06, DRB Appointments

Mr. Bobrowski read the preamble for this proposal to amend Section 3.2 to clarify the appointment procedure for Planning Board and Historical Commission representatives to the Design Review Board.

Mr. Bobrowski said that the Zoning Subcommittee recommends this technical change to the Zoning Bylaw which reflects how most appointments are done in the Town. Mr. Tucker said that it will also bring it into line with the Amherst Town Government Act.

There was no public comment.

Mr. Kastor MOVED: to close the public hearing.

Mr. Kastor MOVED: to recommend that Town Meeting adopt this amendment. Mr. Boyd seconded, and the Motion passed 7-0.

- XI. **REPORT OF THE PLANNING DIRECTOR** – Mr. Tucker noted that the Planning Board received a new, written request from the Select Board to consider FPC Zoning amendments for the Bylaw and Map for the 2006 Annual Town Meeting. He noted that previous attempts by the Board to publish very early legal ads for zoning amendment public hearings for the purpose of preventing the filing of effective permit applications had run into legal problems—he was seeking Town Counsel’s advice in the matter. The Board discussed the request.

In the absence of other agenda items in advance of the next public hearing, Mr. Bobrowski asked if any members of the public had questions or comments for the Board.

Mr. Walter Wolnik, 8 Hillcrest Place, noting the upcoming SPR application for the Amherst Shopping Center, asked about the possibility of a pedestrian connection on the slope between Big Y and Stop & Shop.

Mr. Scott Nielsen, 171 Gray Street, summarized his impression of the Select Board action on the zoning articles.

Mr. Bob McAllister, 1730 South East Street, commended the Planning Board and Select Board for not supporting an article (FPC) which could cost Town Meeting \$350,000.

Mr. Kastor, citing a potential conflict with the next item, recused himself from the Board and left the room.

A-9-06, AG District

Mr. Bobrowski read the preamble for this request to amend the Zoning Bylaw to add new language to Section 2.05, create a new Section 3.29, a new footnote o. to Table 3, Dimensional Regulations, to amend Section 5.090, and to amend the Official Zoning Map to create a new Agricultural (AG) District and associated regulations.

Mr. Bobrowski asked the proponent of the article to present. Mr. Hubley said that he had spoken to Mr. O'Connor earlier who said that he has made changes to the article and was expected to be at the meeting. Mr. Weiss added that the Select Board had voted to recommend referral to the Planning Board and Farm Committee.

Mr. Bobrowski briefly summarized the article and said that Town Counsel's analysis of it led to the vote to refer it back. At this point Mr. O'Connor arrived and said he would save his comments for the "public comment period."

Mr. Kusner called to order the meeting of the Select Board. Members of the Planning Board, Select Board, staff and Mr. O'Connor discussed the merits or non-merits of the proposal and how it would go through the Town Meeting process.

There was a considerable amount of opposition to the article expressed by members of the public, including: Mr. Bob McCallister, 1730 South East Street; Mr. Stephen Gottlieb, 44 Ward Street; Mr. Tom Baker, 137 Shutesbury Road; Mr. Scott Nielsen, 171 Gray Street; Mr. Janna Cutson, 30 Hulst Road; Mr. Leigh Andrews; Ms. Barbara Van Nourd, 44 Ward Street; Mr. Joseph Gianesin, 97 Pine Street; Mr. James David, 244 Stanley Street; Mr. Lance Davis; 627 South East Street; Mr. Phillip Sweeney, Maplewood Organic Farm. The concerns were generally that the 50 foot buffer would be too restrictive, people would be deprived of their economic rights, it would adversely affect affordable housing, it would add one more layer of bureaucracy to the process, people would lose property rights without due compensation, and that the Town would be sued, again.

Mr. O'Connor and Mr. Kusner, spoke in support of the article. At the end of the discussion Mr. Kusner noted that the Select Board would ask Town Meeting to refer the article back to the Planning Board and Farm Committee.

Ms. Scipioni MOVED: to close the public hearing.

Mr. Boyd asked if the language in Motion A is more restrictive than an APR. Mr. O'Connor said it was not, and that one purpose of Motion A is to avoid litigation.

Ms. Scipioni MOVED: to close the public hearing. Mr. Francis seconded, and the Motion passed 6-0.

At this point, the Select Board conducted its own meeting.

The meeting turned to the discussion of whether or not to reconsider the Planning Board's vote to refer Article 23 (the FPC Bylaw amendments). It was determined that the Board could not do so.

Ms. Scipioni commented that zoning regulations shouldn't be made more complicated. Having a master plan will provide clear and simple direction for the Town, she said.

Members of the Select Board spoke in favor of postponing the FPC amendment until Spring Town Meeting. Mr. Hubley said this would be a good opportunity for the Select Board and Planning Board to work together. Mr. Bobrowski concurred, and thanked the Select Board, on behalf of the Planning Board, for their willingness to put the article off until Spring.

Mr. Bobrowski suggested the Planning Board vote on the AG amendment. The Board discussed the difference between recommending the article be referred back or recommending against it and whether the amendment was even appropriate for the Zoning Bylaw. Mr. Bobrowski said that Mr. O'Connor had brought this proposal to the Zoning Subcommittee a few years ago with the general consensus that the article did not have enough merit. Other Board members agreed. Mr. Hayden commented that some of the issues are not really planning issues. Ms. Scipioni said that it should be done in relation to a master plan.

Mr. Boyd MOVED: to recommend that Town Meeting reject the AG article because it has no merit. Mr. Francis seconded. After discussion, Mr. Boyd and Mr. Francis agreed to amend the motion to "not recommend" that Town Meeting adopt the amendment. The amended motion to not recommend passed 6-0.

Mr. Kastor returned to the Planning Board at 6:45 PM.

A-7-06, FPC Boundaries

To amend the Official Zoning Map and Section 3.233 of the Zoning Bylaw to alter and redefine the boundaries of the Flood Prone-Conservancy (FPC) District. (continued from October 19, 2005)

Mr. Bobrowski explained that this hearing was continued from October 19th and the amendment deals with the delineation of the FPC zone. He noted that the Select Board had voted to recommend the article be referred back to the Select Board and Planning Board.

The Board discussed the issues and difficulties involved. Mr. Bobrowski explained the Select Board's request to refer back for reconsideration at Spring Town Meeting.

The following people spoke urging the Board to oppose the article: Mr. Scott Nielsen, 171 Gray Street; Mr. Phillip Sweeney, Maplewood Organic Farm; Mr. Leigh Andrews; Ms. Jaana Cutson, 30 Hulst Road; Mr. Bruce Patterson, 28 Kingman Road.

Mr. Hayden MOVED: to close the public hearing. Mr. Francis seconded, and the Motion passed 6-0.

The Board discussed whether to recommend referral or rejection. Mr. Hayden noted that it would be difficult to complete the process in time for Spring Town Meeting. Ms. Scipioni

commented that the Board could vote to refer it back because it will have to be dealt with in the Spring anyway. The Board should stay open to the process now and decide to reject the article in the Spring as we need to, she said.

Mr. Hayden MOVED: that the Planning Board recommend that Town Meeting refer the article back. Ms. Scipioni seconded, and the Motion passed 4-3 (Francis, Boyd, Rivera opposed).

X. REPORT OF THE CHAIR

Mr. Bobrowski said that he wanted to discuss the Select Board's decision to not reappoint Mr. Francis as the Planning Board's representative to the Community Preservation Act Committee because of alleged rude treatment of Mr. O'Connor and Mr. Kusner at the last Planning Board meeting.

Mr. Kastor said that he felt that Mr. Francis's comments were "overheated" and made discussion hard. He said that he could understand how Mr. O'Connor and Mr. Kusner felt the way they did. Further, Mr. Kastor said that while he had no concern with Mr. Francis being the Board's representative to CPAC, he had concerns about Mr. Francis speaking to the FPC articles on the Board's behalf.

Mr. Hayden said that he viewed it differently and was pleased that there had been good open debate on the zoning articles. He did not think it had been appropriate for Mr. O'Connor to bring up reconsideration of Mr. Francis's appointment at a Select Board meeting based on the discussions which had taken place during the Planning Board's public hearings. A majority of Board members agreed with Mr. Hayden, and felt Mr. Francis' behavior during the public hearing had been appropriate.

After further discussion, it was the consensus of the Board to confirm Mr. Francis as its representative to CPAC. Mr. Bobrowski offered to go to the Select Board to discuss Mr. Francis's nomination to CPAC. It would be inappropriate for Mr. Francis to have to go in front of the Select Board to explain himself, he said.

XII. ADJOURNMENT

Ms. Scipioni MOVED: to adjourn this meeting at 8:05 PM. Mr. Francis seconded, and the Motion passed 7-0.

Respectfully submitted:

Sue Krzanowski, Management Assistant

Approved:

Paul G. Bobrowski, Chair

DATE: _____