

AMHERST PLANNING BOARD
Wednesday, October 7, 2009 PM – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Jonathan Shefftz, Chair; Bruce Carson, Denise Barberet, David Webber,
Jonathan O’Keeffe, Ludmilla Pavlova-Gillham, Richard Roznoy, Stephen Schreiber

ABSENT: No one

STAFF: Jonathan Tucker, Planning Director; Christine Brestrup, Senior Planner; Jeff Bagg,
Senior Planner; Sue Krzanowski, Administrative Assistant;

Mr. Shefftz, Chair, opened the meeting at 7:06 PM.

I. PUBLIC HEARINGS – ZONING AMENDMENTS

A-03-10 Sign Area (Planning Board)

Mr. Shefftz read the preamble and opened the public hearing for this proposal to amend the Zoning Bylaw, including footnote 1. of Section 3.3, Section 8.0, and Article 12, to clarify requirements for the surface area of signs and to add a definition of a projecting sign.

Mr. O’Keeffe, of the Zoning Subcommittee, explained the article. This zoning amendment seeks to address a source of confusion in the Bylaw. The sign section of the Bylaw does not specify how the area of a sign is to be calculated. The Building Commissioner interprets the wording in the Bylaw to include the entire area of the sign structure, including the open area below the sign, if it is supported by two posts. A more pragmatic way to measure the area might be to look at the actual area of the sign itself. Mr. O’Keeffe summarized the four paragraphs of the proposed zoning amendment describing how signs would be measured and he read the proposed definition of projecting signs. He noted that signs may be allowed to be larger because the open space underneath them would no longer be counted in the measurement. Therefore this zoning amendment includes a lower limit for the maximum size of a sign. Presently the limit is 125 square feet. The proposed limit will be 80 square feet, which could be extended up to 125 square feet with a Special Permit.

Part A of Article A-03-10 is an attempt to clarify that no Site Plan Review is required if a sign is in conformance with the default requirements of the sign section of the Bylaw. The Zoning Subcommittee had trouble with the wording and whether the word “not” should be included in the phrase starting with the words “other than signs”. [The Planning Director will seek guidance from the Town Moderator on this issue.]

Ms. Pavlova-Gillham asked if the Design Review Board had reviewed this zoning amendment. Mr. Tucker explained that most signs that the DRB reviews will not be affected by this zoning amendment since the DRB’s area of jurisdiction is primarily the downtown area. He also explained that height limitations, setbacks and other dimensional requirements will not change. Section 8 of the Zoning Bylaw speaks to the size of signs throughout town.

Ms. Barberet expressed concern about the change. By not including the space underneath a sign the town would be allowing signs that are somewhat bigger. She is concerned that the town might end up with a sign that is 80 square feet in the business area.

Mr. Tucker explained that the Building Commissioner had requested that an amendment be drafted that would clarify the way signs are measured. He stated that sign makers have had a problem with the way sign area is measured in town. He gave the example of the sign for the Main Street housing project, which is very small because of the current interpretation of sign area.

Mr. O’Keeffe MOVED to close the public hearing. Mr. Schreiber seconded and the vote was 8-0 to close the public hearing.

Mr. O’Keeffe MOVED to recommend Article 8 to Town Meeting for adoption. Mr. Webber seconded and the vote was 7-0-1 (Barberet abstained).

A-04-10 Green Building & Lot Coverage (Planning Board)

Mr. Shefftz opened the public hearing for this proposal to amend Sections 3.3, 6.17, 16.18, and Article 12 of the Zoning Bylaw to provide for modification of maximum building and lot coverage requirements when ‘green’ roofs and permeable surface materials are used.

Mr. O’Keeffe stated that this amendment seeks to encourage sustainable building practices by encouraging green roofs and permeable paving. He described the Article. Parts A and B concern green roofs. Two applicable dimensional regulations would be affected – building coverage and lot coverage. The Bylaw sets limits on lot coverage and building coverage in an effort to control stormwater runoff. The amendment proposes bonuses for the use of green roofs by allowing 35% of the area of a green roof to be added to a lot as increased building coverage. Since this bonus might lead to a higher number than would be desirable maximum caps would be imposed. These caps would be 10-15% higher than what is currently allowed.

Part C of the amendment concerns permeable paving materials. There would be a 3-tiered system of materials, the permeability of which would be evaluated by the Town Engineer and others. Mr. O’Keeffe described the three categories of materials, which would be treated differently with respect to lot coverage.

Mr. Tucker stated that Section A creates a new footnote to Table 3. He noted the addition of PURD and OSCD as technical corrections bringing the language up to date. He also noted that building coverage applies to all buildings on a site, including accessory structures. In Part C he noted that there was no intent to include “unpaved porous soils” or “landscaped areas” and that these two categories would be deleted.

Mr. Shefftz asked for an explanation of the Rational Method. Mr. Tucker explained that the Rational Method was a long-established way of assigning a different coefficient of runoff to different types of materials depending on their permeability, and then calculating the amount of stormwater runoff from a site, based on these coefficients, among other factors.

Mr. O’Keeffe noted that the Zoning Subcommittee had voted 3-0 to recommend this article. He also noted that green roofs and porous pavement would require maintenance and that the management plans submitted for projects with green roofs and porous pavement would need to specify maintenance procedures for these surfaces.

Mr. Schreiber asked about the intent of this amendment. He questioned the trade-off between stormwater control and aesthetics. He asked whether the town wants bigger buildings and what the aesthetic effects would be.

Mr. O’Keeffe stated that the effort was to try to do this by incentives and that the increases in building coverage were subject to caps.

Mr. Shefftz stated that to some degree he was willing to “sacrifice” aesthetic goals to achieve runoff goals.

Mr. Tucker noted that green roofs could be considered a form of insulation and that most likely the significant initial users of green roofs would be institutions and commercial users, not residences.

Ms. Barberet stated that the Planning Board members were right to be concerned about the increase in density that would result from this amendment and that the changes might be limited to commercial users. She asserted that it was contradictory to have green roofs and then allow larger footprints for buildings. She noted that proposed Footnote “o” contains caps on building coverage, but Footnote “a” allows the caps to be overridden.

Mr. Tucker stated that the caps can only be exceeded if the ZBA or the Planning Board agree and only in the R-VC, R-G and B-G zoning districts.

Mr. Schreiber stated that this amendment needs more study regarding aesthetics. A lot of communities use building coverage as an “anti-McMansion” law. He would like to see this one modeled in a “worst-case” scenario. He expressed concern about the proliferation of flat roofs.

Ms. Brestrup noted that, although most green roofs in the U.S. and Canada are flat roofs, angled roofs can be used and there are examples of angled green roofs throughout Europe

Mr. Webber expressed support for this amendment. He noted that the boathouse at Jones Ferry in Holyoke has a sloped green roof.

Ms. Pavlova-Gillham stated that, while it is clear that with porous paving the intent is to decrease runoff, there is no performance specification as to what a green roof is supposed to accomplish. She noted that the LEED rating system includes a performance spec.

Mr. Tucker stated that although there is no numerical specification, the performance specification is included in the definition of green roofs.

Mr. Shefftz stated that the zoning can be modified in the future as technology develops.

Ms. Pavlova-Gillham stated that porous paving has a quantifiable method of measurement. For green roofs there is no reference as to what soils are appropriate and what rate of runoff is allowed. She recommended that there be some standards in the amendment on which an evaluation could be made.

Mr. Tucker noted that such new language would be outside of the scope of the article, but that requirements could be added to the Planning Board Rules and Regulations regarding what kinds of information applicants were required to provide.

Ms. Barberet stated that she would like this to be the beginning of a whole article that addresses green building. She stated that the article does not have a “restrictive covenant” clause to cover future circumstances and questioned what would happen if the green initiative does not work out.

Mr. Roznoy referred to maximum lot coverage and noted that in certain circumstances minimizing the size of buildings and paving and maximizing the size of landscaped areas was not always a desirable goal.

Mr. O’Keeffe noted that some objections had been revolving around maintenance and changes and that any project that the Planning Board or the ZBA approves will include conditions of approval that require that the roof or paving must be maintained. The conditions are enforceable by the Building Commissioner.

Mr. Tucker stated that if an owner wishes to abandon a green roof he would need to amend his permit. He acknowledged that the issue of aesthetics was a real one. He stated that green roofs and porous paving represent an emerging technology and that if the zoning is not perfect it can be amended. One of the problems with addressing the concerns about any increase in building size from this provision is that the town has yet not done the geographic planning for the community that is associated with the Master Plan.

Mr. Schreiber agreed with Mr. Roznoy that 100% lot coverage may be appropriate for the center of town, but he stated that he didn’t have enough information to assess aesthetic impacts or to assess the full impact of current zoning. He would like to see the zoning adjusted to allow buildings on smaller sized lots.

Ms. Pavlova-Gillham stated that the issues of aesthetics and coverage vis-à-vis lot size were important issues. She was also concerned about volume, including building volume, people volume and traffic volume.

Ms. Brestrup suggested separating the green roof portion of the article from the porous paving portion.

Mr. O’Keeffe noted that Mr. Schreiber’s concerns were directed towards single-family houses. He acknowledged that the sight of McMansions with green roofs would be incongruous. He also stated that green roofs would be hard to retrofit and would be more suitable to new buildings. Mr. Tucker noted that likelihood of many green roof retrofits in historic neighborhoods was slim.

Mr. Roznoy referred to a chart that showed the impact of the green roof amendment on building coverage. He was comfortable knowing about the limitation.

Barbara Ford of 300 Flat Hills Road suggested that another six months of looking at this article might be useful. She noted that, given the present economic climate, people would not be rushing to construct green roofs.

Mary Streeter of 66 Larkspur Drive expressed concerns, including the following:

- It would not be good to incentivize larger buildings;
- If something happens to the green roof, the larger building cannot be “un-built”;
- The article doesn’t include other sustainable issues such as energy efficiency;
- The first attempt should not be so generous; people will expect more incentives as more green initiatives come forward;
- The town should require porous paving rather than providing incentives for it;
- The article should be referred back for further study;
- The genesis of this article is open to question;
- There are concerns about the inclusion of the PURD and the OSCD which are already dense;

- A better incentive for a bigger building would be more insulation.

Mr. O’Keeffe addressed the genesis issue. The article is in response to a 2008 petition article that had been brought directly to Town Meeting by a citizen, bypassing the Planning Board. That article had proposed that the Planning Board development zoning regulations require LEED certification for new construction. Green initiatives and crafting of an article related to sustainability has been high on the “to do” list of the Planning Board for a while.

Mr. Roznoy MOVED to close the public hearing. Mr. Webber seconded and the vote was 8-0 to close the public hearing.

Mr. Schreiber MOVED to break the article into two parts – one concerning green roofs and one concerning permeable paving. The Board members discussed various ways of breaking the article into two parts.

Mr. Schreiber MOVED to separate Parts A and B plus the portion of Part D containing the definition of green roofs from the remainder of Article 13. Mr. Shefftz seconded and the vote was 7-0-1 (Barberet abstained).

Mr. O’Keeffe MOVED to recommend to Town Meeting adoption of Parts A and B plus the portion of Part D containing the definition of green roofs. Mr. Webber seconded and the vote was 4-4 (Carson, Schreiber, Pavlova-Gillham and Barberet opposed). The motion failed.

Mr. O’Keeffe MOVED to recommend to Town Meeting adoption of Part C and the portion of Part D containing the definition of porous paving and the Rational Method. Mr. Schreiber seconded and the vote was 7-1 (Barberet opposed).

A-05-10 Medical Offices (Planning Board)

Mr. Shefftz read the preamble and opened the public hearing to amend Section 3.360 and Article 12 of the Zoning Bylaw to recognize, define and regulate distinct categories of medical office uses.

Mr. Shefftz explained that any use that is proposed must be classified into some use category of the Bylaw and that it is in everyone’s interest to have clear definitions.

Mr. O’Keeffe explained that this amendment stems from a need to clarify the definitions related to medical uses. Now there is just one use category – “medical or dental center”. The Planning Board and the Building Commissioner are required to regulate all medical uses under the category “medical or dental center”. He explained that there is a total of six definitions that are being developed. He described each of the definitions and stated that they will be used to define the size of offices. There are three tiers of definitions relating to the size of offices – a medical office, a medical group practice and a medical center. In addition there is a clinic or emergency care facility. These are defined by the types of services provided. Medical Offices would be allowed by Special Permit in the PRP zoning district. In two places the language in Article 9 is in error and an amended motion will need to be made. In the R-VC zoning district medical offices would be by Special Permit (not by Site Plan Review), since the mixed use category (Section 3.325) under which medical offices would be allowed in the R-VC district is only allowed by Special Permit. Also, in Section 3.360.2 in the R-VC zoning district, medical centers are not allowed now and this limitation is not proposed to change, so the designation should be “N”, not “SP”.

Mr. Shefftz explained the meaning of the symbols for designated uses:

Y = Yes

N = No

SPR = Site Plan Review

SP = Special Permit.

Mr. O’Keeffe stated that the Zoning Subcommittee had voted 3-0 to recommend to the Planning Board that they recommend to Town Meeting adoption of this article.

Fred Moseley of 70 Larkspur Drive stated that there is a contradiction in the way that the amendment for medical offices and medical group practices is written. There is no limitation on the number of medical offices in the PRP. There needs to be a limitation of one medical office per PRP. Otherwise the size of the medical uses could exceed one medical group practice, which is not allowed in the PRP.

Mr. Shefftz stated that the citizens need to trust in the good judgment of the ZBA to determine how many medical offices should be in any given area of the PRP.

Mr. O’Keeffe stated that an earlier version of the article showed medical offices being allowed by Site Plan Review in the PRP district with a limitation of one per 200,000 square feet of aggregated properties. The PRP is much larger than the area adjacent to Larkspur Drive. He stated that the Zoning Subcommittee recognizes that different parts of the PRP differ from each other. This article gives the ZBA discretion to make the decision as to where it is appropriate to locate a medical office.

Mr. Moseley noted that since medical group practices will not be allowed in the PRP, two medical offices should also not be allowed.

Mr. Schreiber stated that the Special Permit process will allow public hearings. If one physician opens an office and has low visitation rates, and only one office is allowed, that would prevent others from locating in the PRP.

Mr. Webber pointed out that the definition of medical center, which is not allowed in the PRP district, might help in providing a limit to the density of medical offices in the PRP.

There was further discussion about why the article should or should not explicitly limit the number of medical offices.

Ms. Barberet expressed strong concerns about the definitions and stated that they are ambiguous. This amendment is attempting to shoehorn medical offices into the PRP. She gave a list of districts where medical offices are currently allowed. She stated that there had been a recent zoning amendment that was a compromise article that allowed technical and professional offices but did not allow medical offices. She recommended that the town should stop “chipping away” at the PRP district and make a real effort to make the PRP work as a whole.

There was further discussion about how many medical offices could be or should be allowed.

Steve Klein of 67 Larkspur Drive stated that medical centers are almost always aggregates of group practices. Medical groups want to be near other medical groups so that they can easily “cross-refer” their patients. A part-time medical practice is non-existent due to the

high cost of insurance. Therefore it is unlikely that a doctor's office would have low visitation rates. Most doctors need to schedule four visits per hour.

Mr. Tucker stated that the Building Commissioner and the ZBA would interpret the question of whether a group of medical offices became a medical center. The ZBA need not even approve the first office. It would be under no obligation to approve a series of medical offices.

Eva Franklin of 59 Larkspur Drive stated that she lives across the street from the new development. She is concerned for her health because of construction and traffic. She asserted that there is illegal dumping at night in the vicinity of Old Belchertown Road.

Mr. Tucker stated that the town bylaws do not allow construction before 7:00 a.m.

Paula Russell of 54 Larkspur Drive distributed a letter that she had sent via email. She stated that the PRP is a quiet location. There was a five-year discussion about whether to allow the tenants of the PRP to have visitors or clients by appointment. In 2007 a Special Town Meeting achieved a compromise on this issue. Now medical offices are being proposed. This PRP is different from other PRP's in town since it is surrounded by residences. She has concerns about the definitions proposed. Clients come to see health care providers by appointment, but not all of the providers are physicians. She named several types of health care providers who are not physicians. She distributed a "build-out" map of the Larkspur Drive PRP. She stated that she does not want medical offices in the PRP and described them as "the camel's nose under the tent".

Mr. Tucker stated that this amendment does not address tertiary health related services, or services that are sometimes allied with medical care. However, if one of these tertiary services is associated with a medical office, then that person would be included in the total number of employees in that medical office. Mr. Tucker noted that the "build-out" map of the PRP submitted by Ms. Russell had been prepared by the developer, and not the Planning Department. He doubted that the number of buildings shown could be built there due to wetlands. Mr. Tucker gave a history of the PRP and described how state grant funds had been obtained for this area to provide infrastructure and promote economic development. The grant was used to extend the sewer line and other utilities to the PRP.

Ms. Streeter referred to what she considered a series of "broken promises". Residents were not able to tie into the sewer because of design problems. The conditions of the permit for 9 Research Drive were not met. A traffic impact statement neighbors had requested has not been done. A plan for complete development of the PRP has not been submitted. During the recent case before the ZBA, the Board discussed the impact of traffic. She asserted that there are other places in town where medical offices can be located. The definitions offered by this amendment are not good definitions. The Planning Board should change SP to N in the PRP for medical office uses.

Barbara Ford of 300 Flat Hills Road (a member of the Zoning Board of Appeals, but not speaking for the ZBA) noted the following:

- The ZBA refers to Section 10.38 of the Zoning Bylaw; if similar businesses are already located in a certain vicinity, then the ZBA usually believes that it is appropriate to add another similar business;
- There is a question about what will happen if a psychiatrist or a psychologist wants to rent space;

- There are many PRP's in town and this amendment will apply to all of them;
- The town should clarify its intent for the PRP zoning district.

Mr. Tucker noted that whenever there is a change in use or tenancy and there is any type of renovation proposed the Building Commissioner becomes involved. She will determine, at the time of her review, if the change in use complies with the Zoning Bylaw.

Mr. Schreiber MOVED to close the public hearing. Mr. Roznoy seconded and the vote was 7-0-1 (Barberet abstained) to close the public hearing.

There was a discussion about Section 10.38 and its implications for permitting under the proposed zoning amendment.

Mr. Tucker stated that the PRP District was developed in the late 1980's or early 1990's. It was later designated as an Economic Opportunity Area that allowed deferral of taxes. In 1981 the PRP was designated as a PRP district. It was never intended to be for retail or commercial space.

Ms. Pavlova-Gillham, disclosing that she was an abutter to a PRP in another part of town, explained how a PRP could be developed. A PRP is different from a business district. New buildings are best for medical practices. Older buildings are too hard to retrofit for a modern practice. Her concern was that the definition of the PRP is being encroached upon.

Mr. Roznoy MOVED to recommend Article 9 to Town Meeting for adoption, except that the scribe's errors should be corrected. These errors include the following:

- In the R-VC zoning district, medical offices would be allowed by Special Permit (not by Site Plan Review);
- In Section 3.360.2, medical centers would not be allowed in the R-VC zoning district;
- In the definition of medical office, the word "direct" will be deleted.

Mr. Tucker noted that he will check with the Town Moderator to determine if the words "as a single entity" should be added to line 2 of the definition of medical center, after the words "on the same property".

Mr. Schreiber seconded and the vote was 5-3 (Pavlova-Gillham, Webber and Barberet opposed).

IV. NEW BUSINESS

Mr. Shefftz asked about the schedule for the October 21st meeting. Ms. Krzanowski stated that there were public hearings for three zoning amendments and that there was an additional public hearing for a Site Plan Review.

III. OLD BUSINESS

Mr. Tucker asked the Board to consider a revised motion regarding green roofs. He suggested a motion to recommend that Town Meeting refer the green roofs portion of Article 13 back to the Planning Board for further study.

Ms. Pavlova-Gillham MOVED that the Board recommend to Town Meeting that the portions of Article 13 dealing with green roofs be referred back to the Planning Board for further study. Mr. Schreiber seconded and the vote was 7-0-1 (Roznoy abstained).

IV. NEW BUSINESS (Continued)

- A. Other
The Board discussed Movers and Speakers for the various zoning articles. Mr. O’Keeffe, Mr. Roznoy and Ms. Barberet are Town Meeting members. Only Town Meeting members may move an article. The members of the Planning Board volunteered to act as movers and speakers, as follows:

<u>Article</u>	<u>Mover</u>	<u>Speaker</u>
6 Zoning Amendment Footnote A. Amendment	R. Roznoy	J. Shefftz
7 Zoning Amendment Non-Conforming Structures	R. Roznoy	S. Schreiber
8 Zoning Amendment Sign Area	J. O’Keeffe	J. O’Keeffe
9 Zoning Amendment Medical Offices	R. Roznoy	R. Roznoy
10 Zoning Amendment Phased Growth Amendment	J. O’Keeffe	J. O’Keeffe
11 Zoning Amendment Neighborhood Business (B-N District)	J. O’Keeffe	J. O’Keeffe
12 Zoning Amendment Depot Center Rezoning	J. O’Keeffe	J. O’Keeffe
<u>Article</u>	<u>Mover</u>	<u>Speaker</u>
13 Zoning Amendment ‘Green’ Building & Lot Coverage	R. Roznoy	L. Pavlova-Gillham

V. FORM A (ANR) SUBDIVISION APPLICATIONS – none were noted

VI. UPCOMING ZBA APPLICATIONS – none were noted

VII. UPCOMING SPP/SPR/SUB APPLICATIONS – none were noted

VIII. PLANNING BOARD SUBCOMMITTEE REPORTS

- A. Zoning – the Zoning Subcommittee Report was given by Mr. O’Keeffe during discussion of each article.
B. Master Plan – There was no Master Plan Subcommittee Report.

IX. PLANNING BOARD COMMITTEE REPORTS – There were no committee reports

II. MASTER PLAN

Mr. Tucker noted that one minor change had been made to the Land Use Concept Map since the last time the Board had discussed the Master Plan. The key for the areas shown as

circles around the town center and village centers had been amended to describe a “ $\frac{3}{4}$ mile walking distance”.

Mr. Schreiber MOVED to approve the Land Use Policy Map, dated October 6, 2009. Mr. Roznoy seconded and the vote was 7-1 (Barberet opposed).

X. REPORT OF THE CHAIR – There was no report of the Chair.

XI. REPORT OF THE DIRECTOR – There was no report of the Director.

XII. ADJOURNMENT – The meeting was adjourned at 10:43 p.m.

Mr. Tucker noted that he will try to schedule a discussion of the Master Plan text for the Planning Board meeting on November 18, 2009.

Respectfully submitted:

Christine M. Brestrup, Senior Planner

Approved:

Jonathan Shefftz, Chair

DATE: _____