

AMHERST PLANNING BOARD
Wednesday, March 3, 2010 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Jonathan Shefftz, Chair; Jonathan O’Keeffe, Denise Barberet, David Webber, Richard Roznoy, Stephen Schreiber, Bruce Carson and Rob Crowner

ABSENT: None

STAFF: Jonathan Tucker, Planning Director; Christine Brestrup, Senior Planner; Jeff Bagg, Senior Planner

Mr. Shefftz opened the meeting at 7:11 PM.

I. MINUTES Meeting of: February 17, 2010

Ms. Barberet and Mr. Roznoy noted several grammatical and substantive changes.

Mr. O’Keeffe MOVED to approve the Minutes of February 17, 2010, as amended. Mr. Schreiber seconded and the vote was 8-0.

II. PUBLIC HEARINGS – ZONING AMENDMENTS

A-09-10 Master Plan Compliance (Planning Board)

To amend Article 1, and Sections 10.38, 11.1 and 11.24 of the Zoning Bylaw to indicate that the Zoning Bylaw is in accordance with the provisions of the Master Plan.

Mr. Shefftz read the preamble and opened the public hearing for this proposed zoning amendment.

Mr. O’Keeffe reported on the Zoning Subcommittee’s discussions about the proposed amendment. He characterized the amendment as relatively simple in that it would modify the Zoning Bylaw to recognize the existence of the Master Plan.

The proposed amendment states that the Zoning Bylaw is in accordance with the recommendations of the Master Plan. It also adds language to the findings that the Zoning Board of Appeals and Planning Board must make with respect to Special Permits and Site Plan Reviews, in Articles 10 and 11. The language added to the findings would state that the project being reviewed is in harmony with the goals of the Master Plan.

The Zoning Subcommittee deleted a portion of a sentence that stated that the Building Commissioner shall enforce the Zoning Bylaw “in conformance with the recommendations of the Master Plan adopted by the Planning Board” because the ZSC did not want the Building Commissioner to be put in the position of having to interpret the Master Plan.

Other changes included the word “purposes of the Master Plan” being changed to “goals of the Master Plan”, since the text of the Master Plan refers to “goals” and not to “purposes”.

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

Mr. Webber stated that he thought the article was well-written and he agreed with the change of language.

There was discussion about whether the Master Plan had been adopted by the Planning Board or rather that the recommendations of the Master Plan had been adopted by the Planning Board. The Board decided to leave the language as it was.

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

Mr. O’Keeffe MOVED to recommend to Town Meeting that the article regarding Master Plan Compliance be adopted. Mr. Roznoy seconded and the vote was 8-0.

A-10-10 Non-Profit Uses (Planning Board)

To amend and reorganize Section 3.330 of the Zoning Bylaw to create a non-profit social service use category with standards and conditions.

Mr. Shefftz read the preamble and opened the public hearing for this proposed zoning amendment.

Mr. O’Keeffe reported on the Zoning Subcommittee’s discussions about the proposed amendment. The Zoning Subcommittee (ZSC) had identified gaps in the zoning bylaw with respect to non-profit uses that were not educational or religious in nature. These gaps had come to light as a result of the Amherst Survival Center’s efforts to find a new location for its operations. The Bylaw now contains Section 3.330, which regulates non-profit educational or religious uses. In the absence of a section that regulates non-profit uses that are not educational or religious, the Building Commissioner has to find the closest use that applies. In the case of the Survival Center, the closest use is “retail”.

Section 3.330 is proposed to be broken into two sections:

- Section 3.330.0 for non-profit educational and religious uses and
- Section 3.330.1 for non-profit human service uses

Neither of these categories would include residential uses for overnight stays. These residential uses are already covered under Section 3.336.1, Philanthropic or charitable medical or residential facility.

The Planning Board has received an opinion from Town Counsel that non-profit human service uses are not protected uses under state law. Therefore towns can allow these uses by Special Permit or Site Plan Review. The ZSC recommended that these uses be allowed by Special Permit in all of the residential zoning districts, in the B-N (Neighborhood Business) district and in the PRP (Professional Research Park) and FPC (Flood Prone Conservancy) districts. This would give the Zoning Board of Appeals the authority to say “no”. The ZSC recommended that these uses be allowed by Site Plan Review in the business districts (other than B-N) and in the COM (Commercial), OP (Office Park) and LI (Light Industrial) districts.

The ZSC voted 3-0 to recommend that the Planning Board recommend to Town Meeting that this article be adopted.

Mr. Crowner asked about the reference to Section 2.22 versus 2.02. Mr. Tucker stated that both numbers should be retained, with 2.22 being shown with a strike-through and 2.02 being shown in bold.

There was discussion about why the human service uses were “non-profit” and did not include “for-profit” uses. Mr. Schreiber questioned the distinction. Other Board members cited examples of types of “for-profit” uses that could negatively take advantage of a use category called “human service uses” without the qualifying term “non-profit”. Mr. O’Keeffe noted that there are other use categories that would accommodate “for-profit” uses and further noted that the town may be willing

to be a little more lax when dealing with a non-profit uses, if they are for the benefit of the community.

Mr. Webber stated that there was a problem with the second sentence of the first paragraph, starting with the words "All facilities". He expressed concern that this sentence would remove the power of discretion from the Boards. Mr. Tucker stated that the word "reasonably" was inserted by Town Counsel to ameliorate this problem.

Ms. Brestrup noted that there is language already in the Bylaw with regard to "adequate facilities" in the findings for Special Permits, Section 10.384.

Mr. O'Keeffe stated that this language applies to Special Permits but not to Site Plan Reviews. He also noted that the language of the amendment had been changed by Town Counsel from "provided" [by the applicant] to "permitted" [by the Board].

Mr. Tucker stated that the currently proposed language does not limit what the Board can require.

Ms. Barberet asked about the meaning of the word "facility" in the phrase "human service facilities". Mr. Tucker stated that the word refers to "physical facilities".

Mr. Webber asked if "human service facilities" were defined in the Zoning Bylaw. The Board discussed the fact that the second paragraph of the "Standards and Conditions" gave examples of the types of uses that would be allowed. Mr. Shefftz noted that the "distribution of food and clothing" clearly did not refer to a business like "Wal Mart".

Ms. Barberet suggested that there might be a definition that would include reference to "providing services to those who need assistance".

Jan Eidelson, President of the Board of the Amherst Survival Center, who resides at 80 Kellogg Avenue, thanked the members of the Planning Board for all of the work they had done on behalf of the Survival Center. She stated that the Survival Center supports this article and stated that it would help the Center to be more effective in meeting the needs of the community.

Tom Ehrgood, the Zoning Board of Appeals liaison to the ZSC, stated that the Zoning Board of Appeals had also recommended that "non-profit human service uses" be allowed by Special Permit in several of the zoning districts. He recommended removing the word "reasonably" from the sentence about "facilities".

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

Mr. Webber recommended rewording the first paragraph by combining the two sentences into one, to make the language clearer. Several Board members agreed with the rewording.

Ms. Barberet asked for an example of a facility that is used as a staging area, and asked if it would be something like "Meals on Wheels". She noted that the phrase "staging area" was bothersome.

There was further discussion about the rewording of this paragraph.

Mr. Schreiber MOVED to recommend to Town Meeting that the zoning amendment be approved as modified by Mr. Webber. Mr. Roznoy seconded.

Mr. Crowner stated that he was still not clear on the language.

Mr. Tucker stated that the more examples, of the types of uses that are included, without getting excessive, the easier it is for the Permit Granting Authorities to apply the regulations.

There was further discussion attempting to clarify the language.

Mr. Tucker read the final wording that was being proposed:

“Uses under this section may include administrative offices and human service facilities providing services directly to members of the community on or from the premises, including facilities used as staging areas for off-site service delivery and facilities reasonably necessary for the safe, secure, and appropriate operation of the use.”

Several Board members agreed with this wording.

The vote was 6-0-2 (Barberet and Crowner abstaining).

Mr. Crowner and Ms. Barberet explained that they abstained because they were not ready to vote and that they did not yet understand the language of the zoning amendment. Mr. O’Keeffe noted that the Board could reconsider the vote at a later date.

Mr. Schreiber left the meeting at 8:04 PM.

III. NEW BUSINESS – There was no New Business.

IV. OLD BUSINESS

A. Electronic Meeting Notices & Mailings – Follow-up Discussion

The Board members agreed that the electronic mailing had gone well. Mr. Shefftz requested that the order of the email attachments match the order of items on the Agenda. He also requested that the attachments be clearly labeled so that they can be matched with items on the Agenda and that each item be dated so that newer items can be differentiated from older copies of the same document.

Mr. Tucker left the meeting at 8:05 PM.

Mr. O’Keeffe noted that each Board member could freely rename the attachments to suit his particular method of electronic filing.

The Board discussed the possibility of moving to a requirement that applicants file all of their documents electronically. Mr. O’Keeffe stated that in a recent discussion of Planning Board Rules and Regulations, the Board had decided that the Board was not quite ready to require electronically filing of applications.

The Board and staff agreed that staff would encourage applicants to submit information electronically when it was feasible for them to do so.

B. Signing of decision

SPP2010-00002/M4468 – Jason Brown – 178 North Pleasant Street – modification of front setback requirement for free-standing sign

The Board signed the decision for Jason Brown’s Special Permit.

C. Other None

V. FORM A (ANR) SUBDIVISION APPLICATIONS

The Board endorsed ANR plans for the following:

ANR2010-00006/M4662 – Andrew Glace – 79 Taylor Street

Mr. Glace presented his ANR plan to the Board. He stated that he is transferring 252 square feet from 79 Taylor Street to 65 Taylor Street, so that he will have enough lot area at 65 Taylor Street to add one dwelling unit in the future. He currently owns both lots and plans to sell 79 Taylor Street. He would like 65 Taylor Street to have a lot area of 17,000 square feet so that the property can accommodate three dwelling units. He stated that the fence line between the two properties is askew from the property line and that this is why the small parcel that is being transferred is not rectangular in shape.

ANR2010-00007/M4720 – Rus Wilson (for Hills House LLC) – 14 Gray Street

Ms. Brestrup explained that the applicant had recently submitted an application for a two-family house at 14 Gray Street and needed at least 14,500 square feet of lot area to accommodate the two-family house.

VI. UPCOMING ZBA APPLICATIONS

The Board declined to review the following:

ZBA FY2010-00010 – Safari Transit – Request to modify conditions of Special Permit ZBA FY2009-00023, to expand livery service, number of vehicles and hours of operation under Section 10.33 and 3.340.31 of the Zoning Bylaw, at 160 Old Farm Road (Map 18C, Parcel 21, PRP Zoning District)

VII. UPCOMING SPP/SPR/SUB APPLICATIONS

SPR2010-00010 – Rus Wilson (for Hills House LLC) – 14 Gray Street – to convert a single-family to a two-family dwelling under Section 3.321 of the Zoning Bylaw (R-G zoning district) – public hearing scheduled for March 17, 2010

SPR2010-00009 – Hampshire Mosque – 264 Harkness Road – to operate a non-profit religious use, a mosque, under Section 3.330 of the Zoning Bylaw (R-N zoning district) – public hearing scheduled for April 7, 2010

Mr. Shefftz asked about the agenda for the upcoming Planning Board meeting. Ms. Brestrup stated that there would be two public hearings for zoning amendments – the amendments for University Drive rezoning and for Four Unrelated. In addition, there will be a continued public hearing for the office building on Meadow Street and a public hearing for 14 Gray Street.

VIII. PLANNING BOARD SUBCOMMITTEE REPORTS

Zoning – Mr. O’Keeffe gave the report of the Zoning Subcommittee. He stated that, aside from the discussions on the Master Plan Compliance article and the Non-profit Uses article, the ZSC had spent the bulk of its meeting, on March 3rd, discussing the “Four unrelated persons” zoning amendment. This is a petition article that proposes to remove the limitation of four from the definition of family, when referring to how many unrelated people may live in a dwelling unit. There were at least a dozen people who came to speak to this article and the public comment was evenly split between those who thought the change was a good idea and those who didn’t. The ZSC has reached no decision yet about the article and will consider it again at a future meeting. The ZSC is also planning to meet next week [March 10th] to consider the Development Modifications amendment.

IX. PLANNING BOARD COMMITTEE REPORTS

- A. Pioneer Valley Planning Commission – There was no report on the PVPC.
- B. Community Preservation Act Committee – Ms. Barberet stated that the CPAC had met at 6:00 p.m. on February 18th. She reported that not many members of the public had attended. The CPAC heard an overview of different projects, had a short discussion on what they had heard and will be voting at the next meeting on what projects they expect to recommend to Town Meeting. The public hearing was continued to the next meeting of CPAC which, Ms. Barberet thought, will be on March 18th. The amount of money that has been requested is greater than the amount that the CPAC has available so the members will be doing some “pruning”.
- C. Agricultural Commission – Mr. Roznoy reported that the Agricultural Commission had held a breakfast with the farmers. Thirty-one people attended. The Commission will be compiling a data base of farmers in the area. The next meeting will be next Tuesday [March 9th].
- D. Save Our Stop Committee – There was no report on the SOS Committee.

X. REPORT OF THE CHAIR – Mr. Shefftz reported that his daughter, Michaela, had grown to more than 11 pounds.

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

XII. ADJOURNMENT – The meeting was adjourned at 8:30 PM.

Respectfully submitted:

Christine M. Brestrup, Senior Planner

Approved:

Jonathan Shefftz, Chair

DATE: _____