

**AMHERST PLANNING BOARD**  
**Wednesday, July 21, 2010 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Jonathan Shefftz, Chair; Jonathan O’Keeffe Richard Roznoy, Stephen Schreiber, Bruce Carson, and Rob Crowner  
**ABSENT:** Sandra Anderson and David Webber  
**STAFF:** Jonathan Tucker, Planning Director and Christine Brestrup, Senior Planner

---

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

**I. MINUTES** July 21, 2010

Mr. Roznoy MOVED to approve the Minutes. Mr. Schreiber seconded.

Mr. Roznoy recommended that the Minutes could be shorter and less detailed. There was discussion and consensus that when there is no public hearing, Minutes can be considerably less detailed, but that for public hearings some level of detail is helpful.

The vote was 4-0-2 (O’Keeffe and Crowner abstained).

**III. NEW BUSINESS**

**D. Other**

Mr. Shefftz read a letter from Town Manager, Larry Shaffer, to Denise Barberet, thanking her for her service on the Planning Board. Mr. Schreiber thanked Ms. Barberet and stated that he had enjoyed working with her.

**II. OLD BUSINESS**

**A. Signing of decision - SPR2010-00012/M5717 – 321 Main Street, Patrick Kamins – Four members of the Board, who had attended the public hearing, signed the decision. Mr. Webber and Ms. Anderson were absent. The decision needs five signatures before it can be filed with the Town Clerk. Ms. Brestrup will obtain a fifth signature next week.**

**B. Signing of amended Planning Board Rules and Regulations, as approved July 7, 2010 – Mr. Shefftz signed the amended Rules and Regulations.**

**C. Norwottuck Rail Trail Rehabilitation Project – Environmental Notification Form (ENF), prepared by Stantec Consulting Services, Inc. – Planning Board comment? – deadline July 23, 2010**

Dave Ziomek, Director of Conservation and Development, gave a brief presentation about the Norwottuck Rail Trail Rehabilitation Project that is being proposed by the Massachusetts Department of Conservation and Recreation (DCR). An Expanded Environmental Notification Form (EENF), prepared by Stantec, was recently filed with the Massachusetts Environmental Protection Agency (MEPA). DCR is seeking a waiver from the requirement to complete and submit a full Environmental Impact Report (EIR).

Mr. Ziomek noted that the Select Board, the Conservation Commission and the Norwottuck Rail Trail Advisory Committee (NRTAC) had all submitted comments to MEPA. All of these bodies were opposed to the request for a waiver from the requirement for a full EIR. The primary reason for their opposition stems from the substantial impact that the proposed work will have on the environment, especially in the vicinity of the Lawrence Swamp. There will be a negative impact on wetlands and a negative impact on wildlife habitat, Mr. Ziomek said. The trail is proposed to be widened to 10 feet over its entire length. Currently it is 8 feet wide, except for a short, newer section which is wider. Although it favored improving the trail, the Conservation Commission would like DCR to consider leaving the improved trail 8 feet wide through the Lawrence Swamp. There needs to be more public input, Mr. Ziomek said. Without a full EIR all of the decisions with regard to the Rail Trail will be made in Boston. The Expanded ENF includes no safety and user data to support the need to have a 10 foot wide path through the Lawrence Swamp. If an EIR is required, DCR would need to produce data to support the widening in this location.

Several of the Planning Board members noted that they support the rehabilitation project. Mr. O’Keeffe stated that he supports the widening of the Rail Trail to 10 feet for its full length. However, he agrees with the Conservation Commission and the Select Board that the project meets the thresholds for MEPA review and he doesn’t support granting a waiver of the requirement for an EIR.

Mr. Carson expressed concern that the funding may no longer be available if the project is postponed in order to complete the EIR process.

Mr. Tucker noted that the most heavily-travelled area of the Rail Trail is from Amherst Farmers’ Supply on South Pleasant Street to Damon Road in Northampton, not through Lawrence Swamp.

Mr. O’Keeffe MOVED that the Planning Board send a letter to MEPA opposing the request for a waiver.

Mr. Shefftz suggested that the letter contain the statements that the Planning Board agrees with the need for the Trail to be rehabilitated, that it agrees with most of the proposal, but that it wants to see the EIR process completed because the potential impacts rise to the level of negating a waiver.

Mr. Crowner seconded the amended motion. The vote was 5-1 (Carson opposed). Mr. Carson stated that he is in favor of the waiver being granted.

**D. Clarification of Previous Scenic Roads Decision of September 3, 2008** – Scott Nielsen, property owner of South East Street property (Map 17D/Parcel 24) seeks clarification of vote to permit removal of trees in town Right of Way.

Mr. Shefftz stated that the petitioner had submitted a letter withdrawing his request for clarification. Nevertheless, Mr. Shefftz stated that it was important to discuss the larger issue because something like this may arise again. He stated that the Board had received a copy of an email urging people to come to this meeting. He noted that this was to have been a public meeting, not a public hearing. If this had been a public hearing, it would have been important to have public notices sent out and a legal ad placed in the newspaper.

Mr. Shefftz was reminded of the new Open Meeting Law and in accordance with the requirements of the new law, he stated that this meeting was being recorded by Planning Department staff and that ACTV was both recording and broadcasting the proceedings.

Although the specifics of Mr. Nielsen's request are moot, the situation may arise again, Mr. Shefftz said. He read from the motion of September 3, 2008, as follows:

“no work shall begin until all pertinent permits are approved and appeals exhausted.”

The question is, does the word “pertinent” apply to the specific action [tree clearing in the right of way] or to all of the development. Mr. Shefftz expressed the opinion that the word “pertinent” applies to all the necessary permits required for the development as originally presented. The purpose was to prevent the developer from starting to do work and then running into roadblocks and leaving the site in a partially-completed state. The alternative interpretation makes no sense, he said.

Mr. Tucker noted that the Board could consider requiring developers to post bonds or other securities prior to work being started on developments. That would avoid the question entirely.

Mr. O’Keeffe agreed with Mr. Shefftz analysis of the situation, having participated in the original process. The phrase in question would be meaningless if it did not apply to the entire development, he said.

Mr. Shefftz stated that if the applicant feels that there are roadblocks to some parts of the development and he wishes to proceed with the project in an altered form, he can come back before the Board for another public hearing and seek an amendment to the condition in question.

Mr. Shefftz also noted that even though many current members of the Board had not participated in the original decision, it is appropriate for the current Board to interpret the decision of a previous Board. He likened this to the Supreme Court which interprets the constitution, even though the current members of the Court did not write the constitution.

Mr. Tucker stated that the Board would have two options if a similar situation were to arise in the future:

- 1) Ask staff to provide a full and neutral summary of the facts;
- 2) Require that the petitioner apply for a new public hearing.

Mr. Shefftz acknowledged the frustrations faced by the developer in this case seeking to do work and having appeals filed which prevent him from beginning the work.

**E. Other – none**

**III. NEW BUSINESS**

**A. SPR2010-00012/M5717 – 321 Main Street, Patrick Kamins – Review and approval of sign for Hope & Feathers Framing Gallery, in accordance with Condition #6 of Site Plan Review Decision**

Michelle Raboin presented the proposed sign. She is opening a frame shop at 319-321 Main Street. In designing her sign, she took into consideration the architecture of the building and the proximity to the Dickinson House. The green of the sign matches the green of the shutters at the Dickinson House. The lettering of the sign matches the fence color. The name of the shop is related to an Emily Dickinson poem. The Board questioned the lettering on the door. Mr. Tucker stated that it is “standard operating procedure” for a business to put its name and hours of operation on the door. Ms. Raboin does not plan to install a sign on the west side of the building.

Mr. Schreiber MOVED to approve the sign. Mr. Roznoy seconded and the vote was 6-0.

**B. Master Plan Implementation** – Discussion of potential use of appropriated Master Plan Implementation funds for consultant services for North Amherst planning and rezoning project.

Mr. O’Keeffe reported on the discussion of this topic at the most recent Zoning Subcommittee (ZSC) meeting immediately preceding this Planning Board meeting. The proposal that has been discussed is to use some of the \$50,000 previously approved by Town Meeting for implementation of the Master Plan to hire a consultant to assist with the zoning projects for North Amherst and South Amherst. One central idea for rezoning these areas is the use of “form-based codes”. The consultant could conduct the public process. These are both big projects and involve a lot of work, probably beyond the scope of the staff, given the time that would be required. The idea of using state resources has been proposed. The ZSC has asked staff to explore this possibility.

Mr. Tucker stated that the names which had been proposed at the ZSC meeting were Eric Nakajima, formerly of the Donahue Institute at UMass and now working with the Mass. Executive Office of Housing and Economic Development (EOHED), and Ann Burke, Vice President of the Western Massachusetts Economic Development Council (EDC). Mr. Tucker will ask them how they can contribute to our efforts.

Mr. Tucker noted that there are two appropriations: 1) \$10,000 for general Master Plan implementation, and; 2) \$50,000 for comprehensive code revision (part of a multi-year project which has only received one year’s worth of funding).

There would be an RFP issued, if the Planning Board approves this use of funds.

Mr. Schreiber noted that the Pioneer Valley Planning Commission (PVPC) has a new “community design” section which may be of assistance. Mr. Carson suggested that PVPC may be able to provide a framework for a consultant to work within.

There was discussion about who would authorize the Planning Department to issue the RFP and who would award the contract. Mr. Tucker indicated that the Planning Board could review the RFP if it wished to do so and the Board could be involved in choosing the consultant.

Mr. O’Keeffe noted that the ZSC was not looking for action by the Planning Board at this time, but would bring this topic back to the Board at the next Planning Board meeting on August 4<sup>th</sup>.

Mr. Crowner asked about the “Four-unrelated” zoning amendment that was referred back to the Planning Board. Mr. Tucker stated that town staff from various different departments has been meeting and talking about what is working and what is not working in terms of housing code enforcement. The intent is that it will develop proposals and bring them back to the Planning Board for discussion.

**C. Subcommittees and subcommittee membership**

**Zoning Subcommittee** – Mr. Crowner stated that he has been attending Zoning Subcommittee meetings and would like to become an official member.

Mr. O’Keeffe MOVED to appoint Mr. Crowner as a member of the Zoning Subcommittee. Mr. Carson seconded and the vote was 6-0.

**IV. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

**V. UPCOMING ZBA APPLICATIONS** – The ZBA will be considering the Special Permit application of Dr. DeMaio to expand his orthodontics office on Pray Street.

**VI. UPCOMING SPP/SPR/SUB APPLICATIONS** – The Planning Board will be considering the Site Plan Review application of the Lumber Yard Restaurant, to be located at 381-383 Main Street, that will come before the Board on August 4<sup>th</sup>.

**VIII. PLANNING BOARD COMMITTEE REPORTS**

**B. Community Preservation Act Committee** – Ms. Anderson is considering becoming the Planning Board’s liaison on CPAC. She will let the Board know of her decision.

**C. Agricultural Commission** – The Board members acknowledged that Mr. Roznoy had resigned from the Agricultural Commission and that there was a need for a new Planning Board non-voting member on the Ag Com. Mr. Tucker gave a brief history of the Agricultural Commission, which had been the Farm Committee. The reason that the Planning Board member is non-voting is that if the Planning Board member voted on an Ag Com recommendation to the Planning Board on an application, that vote could be considered to be “double dipping” since the individual would then be voting on the application at a Planning Board meeting.

Mr. Schreiber asked about elections. Mr. Shefftz stated that this could wait until a new Planning Board member has been appointed.

Mr. Schreiber announced that he would not be attending the August 4<sup>th</sup> meeting.

Mr. Tucker stated that the Board could meet on August 18<sup>th</sup> if necessary.

Mr. Roznoy asked about the new fish restaurant that is proposing to open in downtown Amherst. He asked for a report on its progress towards opening. Mr. Tucker noted that the Town Commercial Relations Committee (TCRC) is the body that has been tracking the permit process.

**D. Puffer’s Pond 2020 Committee** – Ms. Brestrup reported that the Puffer’s Pond 2020 Committee has completed its work and has been dissolved.

**VII. PLANNING BOARD SUBCOMMITTEE REPORTS**

**Zoning** – Mr. O’Keeffe reported that the ZSC had discussed the use of a consultant for the rezoning projects in North and South Amherst [Atkins Corner], as previously noted. The ZSC has been having meetings focused primarily on one topic. This evening’s meeting had focused on North Amherst. People’s interest had been on the alignment of the roadways. The Development Modification amendment (a replacement for the Phased Growth Bylaw) is being reworked. The ZSC is exploring alternatives to the previous drafts of the Development Modification amendment, because the ZSC has concerns about the present draft being too complex. At the last meeting [on July 14<sup>th</sup>] Mr. Roznoy presented research that he had done in Colorado about a similar set of bylaws. The ZSC will decide whether to pursue the new alternative or go back to the old version and refine it.

**VIII. PLANNING BOARD COMMITTEE REPORTS**

**A. Pioneer Valley Planning Commission** – none

- D. **Save Our Stop Committee** – The SOS Committee has not met recently, but Mr. Tucker reported that there has been lots of work being done about the rail line. There will be a meeting on July 29<sup>th</sup> with the Town Manager and the Vermont state transportation officials, regarding the “Central Corridor” from Brattleboro to New London. The “Central Corridor” would go through the center of New England, linking UMass with UConn. It would make connections with all of the New England east-west lines. The idea will be presented to the PVPC Joint Transportation Committee on August 11<sup>th</sup>. The group hopes to get the project into the PVPC’s list of projects eligible for transportation funding.

**IX. REPORT OF THE CHAIR** – none

**X. REPORT OF THE DIRECTOR**- none

The meeting was adjourned at 8:42 p.m.

Respectfully submitted:

\_\_\_\_\_  
Christine M. Brestrup, Senior Planner

Approved:

\_\_\_\_\_  
Jonathan Shefftz, Chair

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