

**AMHERST PLANNING BOARD**  
**Wednesday, April 6, 2011 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Jonathan Shefftz, Chair, (7:10 PM), Jonathan O’Keeffe, Rob Crowner, Stephen Schreiber, and David Webber and Sandra Anderson

**ABSENT:** Bruce Carson and Richard Roznoy

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

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Mr. O’Keeffe opened the meeting at 7:08 PM. He announced that the meeting was being recorded by Planning Department staff and was being recorded and broadcast by ACTV.

**I. MINUTES**

Mr. O’Keeffe asked the Board members to consider the Minutes of March 16, 2011. Ms. Brestrup announced that the Minutes had been amended since the Planning Board packets were mailed, by adding a sentence stating that the Board members had signed the Certificate of Performance for the Amherst Hills Subdivision.

Mr. Shefftz arrived (7:10 PM).

Mr. Schreiber MOVED that the Minutes of March 16, 2011 be approved as amended. Ms. Anderson seconded and the vote was 6-0.

**II. PUBLIC HEARING – ZONING AMENDMENTS**

**A-13-11 Filling of Land Permitting (Planning Board)**

To amend Section 5.10 of the Zoning Bylaw in order to allow the permit-granting body for a principal use to also grant any associated Special Permit for accessory filling of land over established thresholds.

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

Mr. O’Keeffe stated that this is a minor technical change, but is complicated procedurally.

The Zoning Bylaw currently permits filling as an accessory use by Special Permit if the filling exceeds one of two thresholds that each amount to about 10,000 cubic feet of fill. The two thresholds are as follows:

- Filling a portion of a property that is 5,000 square feet in area and an average of 2 feet deep;
- Filling a portion of a property that is 2,000 square feet in area and an average of 5 feet deep.

Currently the Special Permit for filling must be issued by the Zoning Board of Appeals. There might be a case where the principal use is allowed by right (by Site Plan Review by the Planning Board) and an applicant would currently be required to apply to the ZBA for a Special Permit for filling. The proposed zoning amendment is an attempt to simplify the permitting process. The amended zoning would continue to require a Special Permit for the filling, but would allow the Special Permit to be issued by the body that grants the permit for the principal use. If the principal use is allowed by Site Plan Review by the Planning Board, the applicant would be able to apply to the Planning Board for a Special Permit for the associated filling. The town has made similar changes in other parts of the Bylaw.

Mr. O’Keeffe explained that these changes to Section 5.10 of the Zoning Bylaw are only part of the changes that need to be made regarding filling. The other part of the amendment has to do with a problem that was discovered in Article 3 of the Zoning Bylaw, having to do with filling of land as a principal use. The language is deficient because it doesn’t mention Site Plan Review and there is a problem with the submission requirements. Under Sections 3.1215 and 3.1216 the applicant is required to submit a plan with contours shown at 5 foot intervals. This contour interval has not been in use for some time in Amherst, since the GIS system allows for greater accuracy with a contour interval of 2 or even 1 foot. The proposed change would require submission of a plan with contours shown at 2 foot intervals. In addition the words “Site Plan Review” would be added to the first paragraph to clarify what the Planning Board would be doing in the case of a principal use.

The changes to Section 3.12 are complicated by the fact that they were added at the last minute, after the notification for this public hearing was sent out. Therefore the Planning Board is not allowed to consider the changes to Section 3.12 at this public hearing.

Mr. O’Keeffe stated that it would be worthwhile to consider changes to Section 3.12 at the Annual Town Meeting this spring, rather than waiting until fall. He stated that, although the Zoning Subcommittee did not have a quorum this evening, those present had agreed that the changes to Section 3.12 should be advertised and that a public hearing should be held on April 27<sup>th</sup>.

Mr. Tucker recommended that the Board discuss both sections at tonight’s meeting and close the public hearing and take no action. The Board could then hold a second public hearing on April 27<sup>th</sup> and solicit input from the community at that time.

There was discussion about different thresholds that might amount to approximately 10,000 cubic feet of fill, but which would not fit the descriptions outlined in Section 5.10. Mr. Webber noted that an applicant could propose that a portion of a property that is 1,000 square feet in area be filled to 10 feet in depth and that this wouldn’t be captured by the thresholds outlined.

Ms. Brestrup noted that there is no specific reference to 10,000 cubic feet in the existing Zoning Bylaw.

Mr. Schreiber asked if there should be a corollary Bylaw for cutting.

Mr. Tucker noted that there is a use category for “mining” regulated under the Use Chart.

Ms. Brestrup noted that Mary Streeter had asked her to relay Ms. Streeter’s opinion that this zoning amendment should be postponed until the fall. There might be unintended consequences associated with this change and there are currently instances in town where filling is being done in a manner that is not in the town’s best interests.

Mr. Tucker stated that there are always worries about unintended consequences and acknowledged that there are instances of illegal filling in town. The proposed zoning changes won’t change the amounts of the thresholds for filling but will only change the body that does the regulating.

Board members asked about instances where large amounts of filling had been done. Ms. Brestrup referred to a property on Summer Street that had recently been developed for single-family homes where a Special Permit from the ZBA was required for filling. She noted that the filling around the new house is not obvious a few years after construction, because the site has been well-graded.

Mr. Schreiber noted that there can be drastic consequences if filling causes stormwater to be redirected to property owned by others.

Mr. O’Keeffe reiterated that the proposed zoning amendment merely talks about which permitting body the applicant is required to go to for permission to fill.

Mr. O’Keeffe MOVED to close the public hearing. Mr. Webber seconded and the vote was 6-0.

The Board members agreed by consensus to go along with Mr. Tucker’s recommendation to hold a public hearing on proposed changes to Sections 3.12 and 5.10 of the Zoning Bylaw on April 27<sup>th</sup>.

Mr. Tucker announced that the public hearing on filling that would occur on April 27<sup>th</sup> would be held in the Community Room of the Amherst Police Station.

Mr. Schreiber announced that he would not be able to attend the Planning Board meeting on April 27<sup>th</sup>.

Mr. Shefftz asked if a new member had been found to fill the vacant seat on the Planning Board. Mr. Tucker stated that the Town Manager is working on finding a new member.

### **III. OLD BUSINESS – none**

### **IV. NEW BUSINESS**

A. Warrant Review – Mr. Tucker announced that there is a spot on the agenda for the Select Board meeting for discussion of Warrant articles, on Monday, April 11<sup>th</sup>. There is also an opportunity to discuss Warrant articles with the Town Meeting Coordinating Committee (TMCC) at the Warrant Review meeting on Thursday, April 14<sup>th</sup>. He asked if any Planning Board members would be free to attend either meeting.

Mr. O’Keeffe stated that he had already been asked by the League of Women Voters to participate in the Warrant Review meeting and he had accepted the invitation. He volunteered to attend the Select Board meeting as well.

Mr. Tucker suggested that Planning Board members who are voters in a specific precinct may wish to attend Town Meeting precinct meetings to explain zoning articles to Town Meeting members and to the public. He announced that the TMCC will also be holding a bus tour for Town Meeting members. Mr. Crowner stated that he planned to attend the bus tour.

Planning Board members did not review Warrant Articles 1 through 27. Mr. Shefftz asked how many meetings it would take to get through these articles. Mr. O’Keeffe recommended that Board members keep an eye on the progress of Town meeting and he suggested that the Planning staff or the Planning Board chair could communicate with Board members to let them know when it is likely that the zoning articles will be considered.

B. Movers and Speakers – Ms. Brestrup stated that the list of Movers and Speakers is due in the Town Manager’s Office by noon on April 13<sup>th</sup>. The following Planning Board members are Town Meeting members and thus are able to make motions at Town Meeting:

- Jonathan O’Keeffe
- Stephen Schreiber
- Richard Roznoy.

Board members volunteered as follows to be movers and speakers on the zoning articles:

	<u>Mover</u>	<u>Speaker</u>
Article 28 – Duplexes	O’Keeffe	O’Keeffe
Article 29 – Residential Parking	O’Keeffe	O’Keeffe
Article 30 – Watershed Protection	O’Keeffe	O’Keeffe
Article 31 – Permit Submission Requirements	O’Keeffe	O’Keeffe
Article 32 – Filling of Land	O’Keeffe	O’Keeffe
Article 33 – Accessory Livestock or Poultry (Petition)	Petitioner	Crowner
Article 34 – Animal Welfare (PB Alternative)	Schreiber	Crowner
Article 35 – Animal Welfare (Petition)	Petitioner	Crowner

Mr. O’Keeffe explained that there had been a proposed change to the General Bylaws regarding residential parking that had been considered by the Zoning Subcommittee, but that this proposed change never made it onto the Warrant for the Annual [Spring] Town Meeting.

Mr. O’Keeffe noted that Mr. Carson and/or Mr. Roznoy might be interested in speaking to Articles 28 through 32. If that is the case, Mr. O’Keeffe would yield his place as speaker to them. He asked staff to contact Mr. Carson and Mr. Roznoy to determine if either of them were interested in speaking to these articles.

Mr. O’Keeffe noted that if Article 34 passes, the petitioners have stated that they will withdraw Article 35.

Board members acknowledged that Mr. Roznoy may wish to present a Minority Report on Articles 33 through 35. Mr. Roznoy is advised to contact the Town Moderator to ask to be recognized to present his report.

- C. Review of Draft Town Meeting Reports – no discussion
- D. Other New Information – Ms. Brestrup noted that Amherst College would like to have an opportunity to make a presentation about its New Science Center to the Planning Board. The Board members decided by consensus to wait until after Town Meeting was over to schedule a date for the presentation.

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

**VI. UPCOMING ZBA APPLICATIONS – The Planning Board declined to review the following application:**

ZBA FY2011-00019 – TMD, Inc., d/b/a Old Towne Tavern, 1-3 Pray Street – Class II Restaurant or Bar

**VII. UPCOMING SPP/SPR/SUB APPLICATIONS**

SPR 2011-00007 – Mango Mango, 61 Main Street – Request approval to place tables and chairs for seasonal outdoor dining – public hearing scheduled for April 27, 2011.

**VIII. PLANNING BOARD SUBCOMMITTEE REPORTS**

Zoning – no report

**IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – no report

Community Preservation Act Committee – Ms. Anderson stated that information on the CPAC could be found on page 4, Article 20, of the Town Meeting Warrant.

Agricultural Commission – no report

Public Transportation and Bicycle Committee – no report

Amherst Redevelopment Authority – no report

**X. REPORT OF THE CHAIR – no report**

**XI. REPORT OF STAFF – no report**

Ms. Anderson announced that she would be absent from the Planning Board meetings on April 13<sup>th</sup> and May 4<sup>th</sup>. She will try to watch the recordings on Amherst Media [formerly ACTV].

**XII. ADJOURNMENT**

The meeting was adjourned at 8:03 p.m.

Respectfully submitted:

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Christine M. Brestrup, Senior Planner

Approved:

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Jonathan Shefftz, Chair

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