

AMHERST PLANNING BOARD
April 13, 2011
TRAINING SESSION
7:00 PM
First Floor Meeting Room, Town Hall

PRESENT: Jonathan Shefftz, David Webber, Rob Crowner, Jonathan O’Keeffe, Stephen Schreiber and Bruce Carson

ABSENT: Sandra Anderson and Richard Roznoy

STAFF: Christine Brestrup, Senior Planner

Mr. Shefftz opened the meeting at 7:05 PM and announced that the meeting was being recorded and broadcast by Amherst Media and recorded by staff.

Ms. Brestrup asked Planning Board members if they would be willing to facilitate discussion groups during the Gateway Visioning process to be held April 28, 29 and 30. Mr. Carson and Mr. Crowner volunteered to act as facilitators.

Joel Bard, Town Counsel, provided information on the following topics.

New Open Meeting Law amended as of July 1, 2010:

- Reviewed the Top Ten Changes as outlined by Kopelman and Paige;
- Stated that putting information about a public meeting on the town’s website is considered to be sufficient notice;
- Noted that email discussion between even two Board members is prohibited; discussion between two members of a Board about a topic that will foreseeably come before the Board should not occur outside of a public meeting; a Board member should not discuss issues of substance with another Board member;
- The last sentence in Item #6 on the list of Top Ten Changes as outlined by Kopelman and Paige only applies to state agencies;
- Made the distinction between the “due process” required for the quasi-judicial application process and the process that relates to zoning amendments, which is a bit more flexible; with a zoning amendment there are no due process issues; the Planning Board’s role is to make a non-binding recommendation to Town Meeting; while the rules are not as strict in the case of zoning amendments, it is better to discuss zoning amendments at a public meeting.

Mr. Shefftz left at 7:30 PM.

Public Records:

- Emails received by Board members regarding an issue that will be brought before the Board are part of the public record;
- The public can ask to see any and all documents sent or received by Planning Board members regarding issues that will be taken up by the Board;
- Documents can be distributed in advance of a meeting, but there can be no deliberation about the documents outside of a public meeting;
- Documents related to a public meeting need to be retained, but do not necessarily need to be kept with the Minutes;
- The Planning Board and its subcommittees can give authority to the Chair to release Minutes of Executive Sessions.

Question from a Board member:

- How does the Board respond to strongly-held feelings of applicants or opponents of a project?
 - Some property rights are constitutionally protected (laws against improper seizure, for instance);
 - Zoning is different; there are no constitutional rights involved;
 - However, there is a constitutional right to due process;
 - Abutters have a right to be heard;
 - However, if an application meets the criteria set forth in the Zoning Bylaw, it is within the Board's prerogative to say "yes" to the application.

Conduct of Public Meetings:

- There should be an agenda;
- The Chair should exercise a strong hand and avoid allowing things to get out of control;
- The Chair is the referee, keeping the public and also members of the Board or Committee in check;
- The Chair should remind the Board what criteria will be applied;
- The Chair should indicate when the public hearing is about to be closed;
- After the public hearing is closed the Board can begin deliberation.

Question from Board member about denial:

- Do you need to go into great detail as to why an application was denied?
 - The Board can only deny a Site Plan Review approval if the application is insufficient;
 - There is a fine line between denial and very stringent conditions;
 - However, no one is entitled to a Special Permit; and
 - With regard to Site Plan Review, no one is entitled to a waiver of a requirement.

Roles and Responsibilities:

- The Planning Board prepares the Master Plan and drafts the Zoning Bylaw;
- There are no recent changes in state laws affecting Planning Boards.

Zoning:

- Where visual impact is specifically referred to in the Zoning Bylaw, it can be used as a criterion for evaluation and can "convey standing" to an affected party;
- Standing = parties in interest; anyone who receives notice about a public hearing is considered to have standing.

The meeting was adjourned at 8:35 PM.

Respectfully submitted,

Christine M. Brestrup, Senior Planner