

AMHERST PLANNING BOARD
Wednesday, October 5, 2011 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair; Jonathan O’Keeffe, Rob Crowner, Richard Roznoy, Connie Kruger and Stephen Schreiber

ABSENT: Bruce Carson and Sandra Anderson

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

Mr. Webber opened the meeting at 7:05 PM. He announced that the meeting was being recorded by town staff and by Amherst Media and was being broadcast live and would be rebroadcast by Amherst Media.

I. MINUTES September 21, 2011

Mr. Schreiber MOVED to approve the September 21, 2011. Mr. O’Keeffe seconded and the vote was 6-0.

II. PUBLIC HEARING

A-02-12 Form-Based Village Center Rezoning (Planning Board)

To amend the Official Zoning Map for North Amherst Village and Atkins Corners, and to amend the Zoning Bylaw, including Articles 2, 3, 5, 6, 7, 8, and 12, as well as Section 3.3, Use Classification and Standards (the Use Chart), and Table 3, Dimensional Regulations, and to add a new Article 16, Form-Based Zoning.

Mr. Webber read the preamble and opened the public hearing. He invited Mr. O’Keeffe to summarize the proposed zoning amendment and to give a report on the Zoning Subcommittee’s discussions about the amendment.

Mr. O’Keeffe presented the proposed zoning amendment and summarized the process leading up to the current proposal. The Zoning Subcommittee (ZSC) has been working on Form-Based Zoning for a long time, with the purpose of strengthening the village centers. The ZSC retained the services of a consultant, The Cecil Group to help with this endeavor. Public workshops were held in May followed by a series of meetings. The ZSC received the official draft proposal at the end of August.

Mr. O’Keeffe stated that current zoning is mostly about use. The Master Plan had called for a modernization of the way in which we do zoning in Amherst. One of the objectives of the Master Plan is to concentrate new development in the Village Centers in order to preserve open space in other parts of town. The zoning amendment proposes to create two new zoning districts – the North Amherst Village Center District (NAVC) and the Atkins Corners Village Center District (AC). One part of the proposed amendment will change the table of use categories by adding columns for these two new zoning districts and providing specific standards and conditions for how different uses will be regulated within these districts. A second part of the proposed amendment will be the addition of form-based requirements, having to do with design, patterns, street types, and guidelines about building types.

The ZSC has most recently been reviewing the proposed use regulations. The proposed regulation of the use categories in the proposed new NAVC and AC districts was modeled on how the same uses are regulated in the downtown (B-G) and existing business village centers (B-VC). Additional standards and conditions have been added to limit the size of new developments.

The zoning amendment is also proposing new overlay districts, which are shown on the maps that accompany the zoning amendment. The form-based overlay districts will regulate the form of development in transitional areas around the edges of the village centers. There are also proposals to change some of the underlying zoning. Mr. O’Keeffe described how the new NAVC zoning district would extend up Sunderland Road. He also explained that the underlying zoning along part of Montague Road would change from R-N (Residential Neighborhood) to R-VC (Residential Village Center).

Mr. O’Keeffe noted that there would be two nights of Planning Board public hearings on the proposed rezoning [October 5 and October 19]. Mr. O’Keeffe reported that the ZSC had, after discussion regarding its readiness, recommended that the zoning amendment appear on the Warrant for Fall Town Meeting.

Mr. Crouner noted that the form-based zoning amendment would supplement current zoning. It would create new zones and would apply the Form-Based Code to these two new zones. The ZSC had reviewed the latest version of the use chart and had made some changes with respect to the way different uses would be regulated in the new zoning districts. At upcoming meetings the ZSC plans to review the dimensional table and the form-based standards.

Members of the public offered comments and asked questions.

Hilda Greenbaum of 298 Montague Road suggested that the town look at the traffic patterns in North Amherst, particularly where five roads come together in the Village Center. She recommended that townhouses and apartments be allowed by Special Permit in all districts except in the B-G district. Ms. Greenbaum asserted that allowing townhouses and apartments by Site Plan Review in the NAVC and AC zoning districts would not permit neighbors to have as much input into the process. She also asserted that most houses in the neighborhood are either single story or 1 ½ story, rather than the three stories proposed to be allowed in the NAVC district. Ms. Greenbaum recommended giving more “power” to the neighbors and giving them the ability to appeal a decision to the court system, by allowing these uses via Special Permit. She noted that the proposed zoning amendment would allow the permit-granting body to have more flexibility, which is reason to allow the neighbors to have more input.

John Coull of 20 Sheerman Lane urged the Planning Board to vote to put this zoning amendment on the Warrant. He characterized the amendment as being “complicated but not mysterious”. Form-Based Code will add a layer of constraint. Every town grows and changes, he observed, and the Form-Based Code will provide a method to control the changes. Mr. Coull noted that there are many things in the Zoning Bylaw that people don’t understand. The town is not making zoning that will keep students out; although we can zone to encourage certain kinds of dwellings. This type of zoning provides a useful tool. It might have prevented a development of the type represented by the Bank of America on Triangle Street, which has no form and no village-center look. This is an example of “highway style” development, he said. He also noted the existence of an awkward strip-mall plaza in North Amherst.

Yuri Friman, a Precinct 10 Town Meeting member, asserted that this Form-Based code will not change the current zoning but will supplement it. It represents an inherently positive change and would help to maintain the quality of life in Amherst. The zoning amendment will still need to go through Town Meeting and any new projects must be reviewed by either the Planning Board or the Zoning Board of Appeals. There are many different levels of understanding about this proposal, he said.

John Fabel of 120 Pulpit Hill Road stated that he is a strong advocate of Form-Based Code. He has seen it being very effective in Harwich, Massachusetts. Having been professionally involved in Form-Based Code (FBC), he supports the town moving forward with FBC. It will be an enhancement to the Zoning Bylaw.

Elissa Rubenstein, a Precinct 10 Town Meeting member, noted that she wished there had been more progress in the discussion at the ZSC meeting. She would like to see more work done on Section 16. Town Meeting begins on November 7th, she noted. Ms. Rubenstein asked when Town Meeting members would receive a draft of the proposed zoning changes. She expressed concern about Town Meeting members being able to understand this proposal before Town Meeting begins.

Mr. O’Keeffe stated that the Warrant will be signed by the Select Board on Friday [October 7th]. The version of the Form-Based Code that will be contained in the Warrant will include any changes made tonight. Changes made after that must be within the scope of the Warrant article.

Mr. O’Keeffe stated that “tonight’s version” will go to Town Meeting. The ZSC will continue to meet and discuss the zoning amendment. Town Meeting members can make motions to amend the article. The ZSC would like to limit the number of changes that it proposes. Changes proposed by the ZSC from now on will be part of a motion made at Town Meeting. Mr. Tucker noted that there had been changes made at the ZSC meeting on Monday [October 3rd] as well.

Ms. Rubenstein observed that it would be valuable to make the changes before the document goes to Town Meeting.

Nina Shandler of Summer Street questioned the statement that there would be “no substantial changes in the zoning” as a result of this amendment. She asserted that the zoning will change “quite a bit”. The Cows property is currently in COM and R-N, and will change substantially, she said.

Mr. Crowner explained that the town would retain its conventional way of zoning. The town will still have the same kind of zoning and will also have Form-Based Code.

Mr. Tucker added that in the Commercial zone, developers can currently propose mixed-use developments. The difference is that with Form-Based Code the town would have control over the form of the development. There will not be a significant increase in density, he noted.

Larry Kelly of 596 South Pleasant Street urged the Board to move this zoning amendment forward and take a vote to support this article. As an ARA [Amherst Redevelopment Authority] member, he has seen this article and he supports it. Mr. Kelly noted that “both sides” would study the article and put out materials pro and con to convince Town Meeting members one way or the other.

Janet Keller of 120 Pulpit Hill Road would like to see examples of Form-Based Code that have been applied to a small town. She referred to the fact that the Lincoln Land Institute has been promoting Form-Based Code. She noted that it tends to be used in more urban settings. Ms. Keller stated that Amherst has a precious set of resources in North Amherst that should be protected. She did not think that concerns about transportation had been addressed.

Mr. O’Keeffe stated that the Board recognizes that there is a need to do educational outreach in the community. There will be a session to explain Form-Based Code to the community before Town Meeting. Form-Based Code is not “brand new”. Lots of communities have implemented it, he said. He offered to provide examples.

Niels la Cour, of North Whitney Street, stated that Saratoga Springs is a good example of a town that has implemented Form-Based Code. It has a population of about 25,000 people. He referred to the streetscape, the historic areas and the two colleges in the downtown. He expressed a sense of urgency and importance about the proposed zoning change, noting that the 1973 SCOG report had talked about village centers with protected open space around them. He noted that about 50% of the land mass in Amherst is not taxed or is taxed at a low rate. Village centers are where we can “do what needs to be done”. He noted that the town had received a Smart Growth Technical Assistance grant at the end of the Master Plan process to study Form-Based Code. FBC makes the development process more predictable. It is not a new concept. Mr. la Cour stated that he had managed the Master Plan process, when he worked in the Amherst Planning Department. The town needs and wants more density in the village centers along with protected open space. Proposed projects will still need to be examined by town staff and by the Planning Board and Zoning Board of Appeals. This is a great opportunity for the community to move forward, he said.

Melissa Perot, of Summer Street, stated that she is confused about the statement that “the original zoning still exists” when we are proposing two new zoning districts. She asked, “Why wasn’t the Form-Based Code put on top of the existing zoning?”

Mr. O’Keeffe responded that the zoning in place in North Amherst is not well-suited to a vibrant and robust village center. The Commercial zone is intense in terms of what it will allow. It is retail-oriented and strip-mall oriented, like Route 9 in Hadley. It is not appropriate for a village center since it is too “car-friendly”.

Ms. Perot stated that “nice-looking commercial” development could occur under current zoning.

Mr. O’Keeffe noted that the proposed zoning would allow for mixed-use residential zoning. The existing zoning allows for a broad range of activities that are not compatible with the village center.

Ms. Perot stated that at the charrette the residents stated that they did want mixed use. They are not objecting to Form-Based zoning. She expressed frustration that the viewpoint of the residents was not being heard. Although conflicting opinions were expressed at the workshops, there was a large consensus of people who wanted to leave the North Amherst Village Center as it is, she said. The opinions expressed at the charrette are not being reflected in what is being proposed, she asserted. North Amherst wants a “real community” not transient people. The residents want a market, a café, and mixed uses in the core of North Amherst Village Center.

Mr. Tucker noted that there is a difference in planning law between the United States and Great Britain where Ms. Perot is from. In the US the rights of property owners are much more strongly protected. Zoning can guide them but cannot completely control them. He asserted that the proposed zoning will achieve what the residents desire. There is no unanimity in North Amherst as to what North Amherst should be like. There is a need to balance everyone’s needs. “Balancing is never perfect”, he said.

Ms. Perot asserted that the desires of residents could be achieved without changing the zoning.

Mr. Tucker gave a summary of the zoning proposal. It doesn’t change the fundamental way that zoning operates. It creates two new zoning districts and two overlay districts. It would still have regulation of uses and dimensions. It adds a layer of regulation for Form-Based districts, addressing street types and building types. The proposed amendment:

- 1) Creates a new Section of the Bylaw (Section 16) Form Based Districts;
- 2) Creates four new districts, two village center districts and two overlay districts;
- 3) Makes changes to existing districts around the edges of the Village Center;
- 4) Makes revisions to other parts of the Bylaw;
- 5) Makes changes to Article 12, Definitions, adding new terms and new definitions for townhouses and apartments.

Phil Gosselin, of Summer Street, spoke in opposition to the proposed amendment. He referred to the consultant's workshops as a "sham" and asserted that developers would have "carte blanche" on Montague Road. In reality it will be like a "mini-mall", he said. He asserted that the change will be destabilizing for the neighborhood.

Barbara Puffer, a landowner in North Amherst, listed all of the properties that she and her family own on Montague Road. She noted that she had participated in the charrette. She would like to have North Amherst return to the way it was when she was young. At that time there was a variety of services and stores in the neighborhood. Taxes are high, she noted. If the town allows controlled projects it will benefit the town. She noted many of the good things that her family had done for or given to the town. Ms. Puffer referred to the Mill River Recreation Area and Puffer's Pond. Her family gives back to the town, she said. She would like to see the Mill River Recreation Area connected to the rest of North Amherst Village Center. She advocates "pocket neighborhoods" and a river walk. She supports mixed use and clusters.

Paola Di Stefano of Montague Road agreed with Ms. Perot and Mr. Gosselin's views. The new zoning will ruin the precious and loved neighborhood, she said. She asserted that it reflects the special interests of a few people. She asked why the town would want to change a thriving community so greatly.

Mr. O'Keeffe pointed out that the proposed zoning amendment will keep Montague Road residential by rezoning it to R-VC, allowing limited uses other than residential.

Mr. Crouner noted that people seem to be asking for a specific type of residential use along Montague Road.

Ms. Perot asked that Montague Road be left as R-N (Residential Neighborhood). R-VC is different, she said. The proposal should be to put the Form-Based Code overlay district over the existing R-N district.

Mr. Crouner stated that the reason R-VC had been proposed for properties along Montague Road was that the properties are part of the Village Center. If the town wants a Village Center in North Amherst, then it includes Montague Road, he asserted.

Janet Keller urged people to look at the map. Residents want Montague Road to be kept in the same character as it is now. It is a "loving" neighborhood and residents take exquisite care of their houses. The residents would like to see the civic core of the Village Center revitalized, and see the interior triangle (formed by Sunderland, Montague and Cows Roads) developed. They would also like to see the protection of the Flood Prone Conservancy (FPC) zone. Ms. Keller sees threats to the area at the north end of the Village Center. She would like to know what resources will be protected.

Sarah la Cour of North Whitney Street and an employee of W.D. Cows agreed that many people at the charrette had wanted Montague Road to remain residential. However, she noted that the west side of the road already contains several multi-unit buildings rented to students. R-VC is an excellent choice for this area, she asserted. It will allow live-work units with

owner occupation. Under Commercial zoning the only type of residential use that is allowed are mixed-use buildings. The new NAVC zoning will allow townhouses by right. She provided an example of dense housing units in her own neighborhood. Townhouses would not be required to have commercial uses on the first floor.

In response to a question from Ms. Keller, Mr. Tucker stated that the reason that the new NAVC district extends so far to the west is to control the development of any new riverwalk. The area would largely not be built on, he said. The condition of the land itself and the existing environmental regulations already protect most of this land. He noted that the town doesn't yet have a historic district in North Amherst north of the Mill River, but it does have a Demolition Delay Bylaw which requires Historical Commission review. The Form-Based Code will add controls on top of existing controls.

Mr. la Cour noted that Amherst already has a lot of protected open space as well as property owned by colleges and the university. Amherst has the fifth highest tax rate in the state. We haven't allowed much development in 30 years. Our educational institutions will suffer without development, he asserted. Graduate students and visiting faculty cannot find a place to live. Our village centers are precious. Mr. la Cour referred to European examples of dense village centers, which exist immediately adjacent to farmlands.

Ms. Greenbaum observed that the town has spent the last five years rezoning. She said that the rezoning of Research Drive has been successful and she mentioned the village center at College Street and South East Street. There are so many requirements under the FBC zoning that it will make development expensive. She asked "Who will come to Amherst when they can build [more cheaply] in Hadley?" Grad students and young faculty won't be able to afford these new units. More regulations will get in the way, she said.

Mr. Roznoy MOVED to continue the public hearing to October 19th.

Mr. Webber noted that the primary focus of the October 19th session would be on Atkins Corners. A member of the audience noted that the first session [October 5th] had conflicted with the Open House at Wildwood School and that many residents of North Amherst had been unable to attend. They would most likely attend on October 19th.

Ms. Kruger seconded the motion.

Mr. Roznoy noted that since the public hearing had been advertised for two nights the Board would not be able to preclude people from speaking about either of the Village Centers.

The vote was 6-0.

There was discussion about whether to move forward with putting this zoning amendment on the Warrant. Mr. Crowner noted that the ZSC had not yet taken a vote on whether to recommend the article to the Planning Board. Mr. Roznoy expressed reservations about moving forward with the article. The document was just presented to the public. There are enough changes and not enough time to incorporate them that he is uncomfortable moving ahead at this time. He was also uncomfortable with the fact that the decision to move forward with the article was being taken while the public hearing was still open. He recommended a more orderly process, in which the document would be brought to a final state and then presented as a Town Meeting Warrant article. One of the members of the ZSC had already recommended that this article not be on the Fall Town Meeting Warrant, but rather be the subject of a Special Town Meeting this winter.

Mr. Schreiber stated that, despite its imperfections, he would like to move forward. Zoning is imperfect, he said. This zoning amendment represents an improvement over what is there

now. He expressed support for moving ahead and making revisions through the proper process. The issues can be debated on the floor of Town Meeting.

Mr. Webber noted that Bruce Carson, who was unable to attend tonight's meeting, had sent an email strongly recommending that the article be delayed until a Special Town Meeting early in the new year.

Mr. O'Keeffe observed that the ZSC had been aware of Mr. Carson's viewpoint. However, the ZSC had met on Monday and Wednesday and the sessions had been very productive. Mr. O'Keeffe now felt that it was right to move forward.

Mr. Webber stated that he felt rushed and was also uncomfortable with moving forward. The Board members need to deliberate among themselves and the document is still a "moving target". The document cannot be added to but can only be made less than it is now, keeping changes within the scope of the Warrant article.

Mr. O'Keeffe acknowledged the concerns of the Board members, but noted that there is no perfect process. He described the process for moving forward.

Ms. Kruger shared the concerns of previous speakers but opted to have the article on the Warrant as a "placeholder". The issue of whether to move ahead could be reconsidered when the Board votes on whether to recommend the article to Town Meeting. The public hearing in two weeks will be more robust, she said. She was concerned about the time that was available to do public education on the proposal.

Mr. Roznoy reminded the Board members of the difficulties faced by the Development Modification article that was defeated one year ago. What we present to Town Meeting must be vetted from all sides, he said. He expressed concerns that the present article had not been thoroughly prepared.

Mr. Tucker suggested that the Board would have a better sense of whether this article is ready when the next session of the public hearing is conducted [on October 19th]. Then the Board can make a recommendation as to whether to approve, dismiss or refer the article.

Mr. Schreiber MOVED to advance the article to the Town Meeting Warrant to be signed on Friday. Ms. Kruger seconded.

There was discussion about whether the recent changes that the ZSC had proposed would be included in the Warrant article.

Mr. Webber clarified that the Board was voting about whether to put the article on the Town Meeting Warrant, without recommendation on the article itself.

The vote was 5-1 (Roznoy opposed).

III. OLD BUSINESS

A. Master Plan Implementation – Mr. O'Keeffe asked if the board members had any comments or recommendations on the draft Charge for the Master Plan Implementation Committee. Mr. Webber suggested changes as follows:

Paragraph 1 – after the word "Monitor" add the words "relevant issues before town boards and committees and";

Paragraph 2 – after discussion about the word "bi-annual" it was decided to leave the text as originally drafted;

Paragraph 4 – eliminate paragraph 4;

Paragraph 5 – delete the words “with oversight by the Planning Board” and substitute the words “at 5-year intervals with input from the Planning Board”. Delete the last sentence.

Mr. Schreiber MOVED that the Planning Board send a letter to the Select Board recommending the establishment of a Master Plan Implementation Committee, along with the amended draft Charge for the Master Plan Implementation Committee. Mr. Crowner seconded and the vote was 5-0-1 (Roznoy abstained).

- B. Planning Board Signatory Authority – Ms. Brestrup explained that the Board needed to vote to give the officers of the Planning Board authority to sign documents related to the Subdivision Control Law and that Board members needed to sign two letters, one to the Land Court and one to the Registry of Deeds regarding this authorization.

Mr. Roznoy MOVED to authorize Mr. Webber, Chair, Mr. O’Keeffe, Vice-chair and Mr. Carson, Clerk, to sign documents related to the Subdivision Control Law. Mr. Schreiber seconded and the vote was 6-0.

The Board members signed the letters of authorization.

- C. Topics not reasonably anticipated 48 hours prior to the meeting – Ms. Brestrup reported that the Attorney General’s Office had approved Article 32, Filling of Land, which had been passed by the 2011 Annual Town Meeting in the spring.

IV. NEW BUSINESS

- A. CPTC Workshops Brochure – Mr. Webber acknowledged receipt of the CPTC Workshops Brochure and stated that a number of good courses were being offered. Ms. Brestrup reported that, unfortunately, the Planning Department did not have the funds in this year’s budget to pay for Planning Board members’ registration fees.
- B. Topics not reasonably anticipated 48 hours prior to the meeting – Mr. O’Keeffe asked Planning Board members if they would be interested in forming a team to participate in the Trivia Bee which is a fund-raiser in support of the Amherst Education Foundation. The event will occur on Thursday, October 27th. Mr. Schreiber, Mr. Crowner and Mr. O’Keeffe expressed interest in being on the team. Mr. Carson’s name was put forth as someone who might also be interested, although he was absent from this meeting and could not speak for himself. Mr. O’Keeffe noted that costumes for team members were a tradition.

V. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VI. UPCOMING ZBA APPLICATIONS

The Board declined to review the following ZBA application:

ZBA FY2012-00005 – Alpha Chi Omega – Appeal of the Building Inspector’s Cease and Desist Order – 38 Nutting Avenue

VII. UPCOMING SPP/SPR/SUB APPLICATIONS – Ms. Brestrup reported on two new Planning Board applications with public hearings scheduled for November 2nd, as follows:

SPR2012-00001 – Amherst Inn Company (The Lord Jeffery Inn) – Site Plan Review application to amend SPR2010-00008 to extend hours of operation and

SPP2012-00001 – Amherst Inn Company (The Lord Jeffery Inn) – Special Permit application for live and pre-recorded entertainment.

VIII. PLANNING BOARD SUBCOMMITTEE REPORTS

Zoning – none

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – no report; the PVPC will meet next week.

Community Preservation Act Committee – no report

Agricultural Commission – Mr. Webber reported that he missed the last Ag Com meeting and that he will miss the next meeting which is scheduled for Tuesday, October 11th at 7:00 p.m.

Transportation Plan Task Force – Mr. Roznoy reported that there has been no action on the Transportation Plan Task Force.

Amherst Redevelopment Authority – Ms. Kruger reported that the ARA had met last night [October 4th] and talked about a traffic study. UMass is conducting a traffic study with consultants, Vanasse Hangen. The town is considering asking UMass to extend the traffic study to include the Gateway Corridor area. The ARA also discussed a request for funding (\$40,000) for a market study for housing needs. This study will also be related to the Gateway Corridor. The ARA also discussed a request for funds for consulting services for the Gateway Corridor and Downtown areas, for work on a zoning amendment to include Form-Based Code. This last request will not go forward at this time. There was also discussion about Form-Based Zoning. The ARA received a report from Mr. Tucker on the Conversion of the Official Zoning Map to the electronic GIS map. Then the ARA went into Executive Session.

Mr. Roznoy asked if the traffic study would be a “typical” traffic study or whether it would be a comprehensive transportation study. Ms. Kruger did not know.

Design Review Board – Mr. Schreiber reported that he has had conversations with people who might be interested in serving as the Planning Board’s representative on the Design Review Board.

Mr. Webber reported that he had recently been informed that there was an application under review for the open position on the Planning Board. He noted that Jonathan Shefftz had officially resigned. He requested that Mr. Shefftz’ letter of resignation be sent to all Planning Board members.

Other Boards and Committees – no report

X. REPORT OF THE CHAIR – none

XI. REPORT OF STAFF – none

XII. ADJOURNMENT

The meeting was adjourned at 9:36 p.m.

Respectfully submitted:

Christine M. Brestrup,
Senior Planner

Approved:

David K. Webber, Chair

DATE: _____