

AMHERST PLANNING BOARD
Wednesday, March 7, 2012 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair; Jonathan O’Keeffe, Rob Crowner, Bruce Carson, Connie Kruger, Sandra Anderson

ABSENT: Richard Roznoy, Stephen Schreiber and Kathleen Ford

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

Mr. Webber opened the meeting at 7:02 PM. He announced that the meeting was being broadcast live by Amherst Media and recorded by Amherst Media and town staff.

I. MINUTES February 15, 2012

Ms. Anderson MOVED to approve the Minutes of February 15, 2012. Ms. Kruger seconded and the vote was 6-0.

II. PRESENTATION

Local Historic District Study Committee – Preliminary Study Report for the Proposed Dickinson Historic District – Presentation, review and discussion

Phil Shaver, President of the Amherst Historical Society and member of the Local Historic District Committee (LHDC), and Jim Wald, Select Board member and member of the LHDC, appeared along with Nate Malloy, Associate Planner and staff liaison to the LHDC. Mr. Malloy presented an overview of the LHDC process. He noted that the formation of a Local Historic District (LHD) had been included among the tools and techniques recommended in the Amherst Historic Preservation Plan. Local Historic Districts have been around for decades, the first having been established in the 1930’s. LHD Commissions have the authority to develop guidelines and regulations for Local Historic Districts. Unlike the Design Review Board, whose role is advisory, a Local Historic District Commission is a regulatory body, with permitting authority. The Local Historic District review process can occur in conjunction with the regular permitting process. The designation of an LHD can be a tool to promote cultural tourism and can also help in obtaining federal grant funding. Ten percent of federal funds are required to be reserved for “Certified Local Governments”. Upon the establishment of an LHD, Amherst can apply to become a Certified Local Government.

Mr. Malloy noted that the LHD designation is tailored to each community. Research is done to see which areas of a community are suitable for the designation. In Amherst the Emily Dickinson National Historic Register District was selected for study because it is a destination for those visiting from out of town, it is an identifiable neighborhood and it is a unique cultural and social district. Properties were studied with an eye to their relevance to and connection with Emily Dickinson’s life and family.

Mr. Wald stated that he had been the chair of the Historical Commission. Although we already have National Historic Register Districts and National Landmarks, these designations are largely “honorific” and carry no protection. Local Historic Districts carry the strongest protection of all historic districts. Usually they are established as overlay districts. Their establishment requires a 2/3 vote of Town Meeting. There are over 200 LHDs in Massachusetts. Many were established as early as the 1950’s when architectural heritage was being lost. LHDs regulate as much or as little as a community decides should be regulated. LHDs regulate major architectural features that are visible from a public way. Most changes to architectural features already require permits, he noted. This would be a “modest” additional step. An LHD designation won’t require people to make changes in their

properties, but if they do make changes, these changes may be subject to review by the LHD Commission. Not everything in the district is required to be historical. Mr. Wald stated that in his opinion most objections to LHDs come from people who don't understand the districts. People are concerned about property values, but LHD designation usually contributes to the maintaining and enhancing of property values. Citizens of Amherst wish to protect Amherst as a "living town". An LHD would put in place tools to preserve the parts that people value. Demolition Delay is only good for 12 months [and after that historic structures can be lost].

Mr. Malloy noted that an LHD is like a zoning district but that LHD designation is not the same as zoning. A Building Permit application will trigger LHD review. In Northampton, the Elm Street Local Historic District was established after threats to historical structures. There are no current threats to the Emily Dickinson District. The efforts to establish an LHD in Amherst are "proactive" rather than "reactive".

Mr. Shaver referred to the book Lost Amherst, compiled by the Amherst Historical Commission, to support his point that buildings have already been lost or demolished or altered badly. Over time there is a chance that we could lose the best buildings, he said. Amherst has nine National Historic Register Districts. Mr. Shaver hopes that all nine will eventually be included in Local Historic Districts. The LHDC proposes that a seven member Local Historic District Commission be established to review changes in the LHD and that the Commission will adopt its own design guidelines. Design guidelines are not part of the current proposal. Mr. Shaver noted that establishment of design guidelines would establish a "stability of expectations" on the part of property owners, which would be a good thing. The most common request is replacement of windows, he said.

Mr. Webber summarized the presentation. The LHDC has outlined a proposed Historic District which centers on the Emily Dickinson Homestead. There would be a seven member citizen commission that would review the appearance of changes to properties.

Mr. Malloy stated that there would be exemptions to the review process. Things that are typically reviewed by a Local Historic District Commission include roofing, siding, windows, doors and porches. Mr. Malloy reported that changes have already been made to the proposed administrative process to make it more palatable to property owners. The Building Commissioner will determine quickly if review by the Commission, with a public hearing, will be required.

Mr. Shaver noted that the Commission would decide to issue one of the following:

- Certificate of Non-applicability;
- Certificate of Appropriateness;
- Certificate of Hardship.

If an applicant disagrees with a decision, the applicant may appeal the decision to the Pioneer Valley Planning Commission, which has staff with historical expertise, or to the court system.

Mr. Webber asked if the LHD would have control over the function or use of the property or just the design. Mr. Wald stated that the parameters are all set forth in state law, where the process of setting up an LHD is explained. There is no control over function or use. Belchertown and Granby are two local communities that have LHDs.

Mr. Malloy stated that the LHDC is looking for comments or suggestions from the Planning Board and that a vote of support or approval would be helpful. There will be a public hearing on the LHD; it is currently scheduled for Thursday, April 26. The LHDC would like to bring this proposal to spring Town Meeting. Mr. Malloy clarified that the LHD would only regulate what is visible from a public way.

Ms. Kruger pointed out that the review process can take up to 60 days. A maximum of 45 days is allowed from the time of application to the opening of a public hearing. The

Commission would then have 14 days to issue a Certificate. She asked if the Commission would draft its own guidelines.

Mr. Malloy stated that the Commission would develop guidelines. These would be sent to the Massachusetts Historical Commission for review. The guidelines could also go to the Planning Board for review, he said. Guidelines would be specific to each district.

Mr. Wald noted that many things are excluded from review. He referred to Section 9.1 of the Draft Bylaws for exemptions and Section 3.7 of the Rules and Regulations for Decision Guidelines.

Mr. Shaver noted that in Springfield there are different design guidelines for each historic district and this is why design guidelines are usually not included when towns and cities initially establish Local Historic Districts. Other towns do not include design guidelines in their legislation.

Mr. Malloy explained that the Design Review Board reviews the patterns of fenestration on buildings and the massing of buildings. The Local Historic District Commission would review similar types of things. He stated that there could be general and generic guidelines and he referred to Nantucket as a community that has more guidelines and fewer exclusions than a typical community.

Mr. Crouner asked if the money available as a result of being designated a Certified Local Government is specific to historic districts or whether it could be used throughout town. Mr. Malloy explained that the money can be used for projects town wide and it is not limited to historic districts.

There was discussion about how an LHD designation would impact the development of the lots on Main Street.

Mr. Malloy explained that an LHD can guide development of properties but usually cannot prevent properties from being developed. In terms of demolitions, LHDs can require that plans be submitted to show what will be built after a demolition. Such a submittal is currently not required by the Demolition Delay Bylaw that is in effect in Amherst.

Mr. Wald referred to the Hills properties and noted that the owners had acted responsibly in developing the land. If there had been other owners, they may not have acted responsibly, he asserted.

Tom Ehrgood, a resident of 94 Lessey Street in the proposed district, and his wife, Missy Ehrgood, testified in opposition to the formation of an LHD. Mr. Ehrgood stated that he is a member of the Zoning Board of Appeals and Town Meeting and was a regulatory lawyer in Washington, D.C. and he understands the permitting process in Amherst. He asked that Planning Board members consider today's residents of the proposed district. He asserted the following:

- The scope of the LHD is too broad;
- The mechanics of the permitting process are unworkable and burdensome;
- There are no guidelines;
- The procedure for challenging decisions is complicated and costly.

Mr. Ehrgood presented a series of photographs of the existing neighborhood. He noted that the area is a tourist destination and that the gateway to the neighborhood is on Main Street. He noted the "profound diversity" among the structures in the neighborhood.

Ms. Ehrgood showed photographs of her home at 94 Lessey Street. She commented on the expected consequences of the establishment of an LHD on the homeowners of historic properties. She noted that there is already a high cost of upkeep for these structures and there are already state laws regarding lead paint and asbestos. She noted the need for special skills

and materials for upkeep of historic houses and estimated that she has already spent several 100,000 dollars on the repair and upkeep of 94 Lessey Street. Owners of these homes are there because they “revere and respect the houses and they take care of them as best they can” , she said. Greater expenses will make it impossible to live there. Regulations are a financial burden on people who live there. Ms. Ehrgood noted that she has a business in her home and needed to go through the Special Permit process to have the business permitted. The Special Permit process and the accompanying conditions were expensive for her.

Mr. Ehrgood noted that repairs to homes will require review by the LHD Commission. He characterized the list of exclusions as “parsimonious” and noted that the Elm Street District in Northampton had more exclusions than are proposed for Amherst. He commented on the time it takes to get repairs made to houses and the fact that LHD Commission review will extend the time it takes to repair homes. He expressed concern that the Commission would be under the direction of the Massachusetts Historical Commission and not under local control. He is worried that routine repairs will require review by the LHD Commission.

Ms. Anderson spoke about her experience in dealing with a Historic District Commission in another town in Massachusetts. She owns a house that was built in the 1860s. The application for a Building Permit in that town includes an application for Historic District Commission review as well as the guidelines for LHD review. She described her experience in renovating her house and concluded that it “wasn’t a big deal”. Routine maintenance is not reviewed. Replacement of items is reviewed. Conformity is sought, but not identity, she said. Her experience was positive. She noted that the Planning Board was being asked to endorse the concept of a Local Historic District and not the details.

Mr. Malloy stated that the LHD Commission in Amherst could be a separate body or it could be the Historical Commission that is already in existence. The Select Board would be the appointing body.

Mr. Shaver read from the draft Bylaw who the appointees would be.

Mr. Carson asked about arbitration in the case of a disagreement with a decision and who would bear the expense of review of a decision by the PVPC.

Mr. Shaver explained that there would be no expense to the property owner for PVPC review and that the PVPC currently has one historic preservation specialist who would do the review. He noted that there have been few appeals from decisions of Local Historic Districts.

Ms. Kruger commented that the Local Historic District is not quite ready to be adopted. She expressed concern for the evolving commercial district in the neighborhood. She noted that the proposed district seems large and asked how the boundaries were chosen and why certain properties were included. She would be more comfortable if the boundaries were tighter.

Mr. Webber agreed that there were missing pieces and details that needed to be ironed out in order for the Planning Board to give a recommendation.

Mr. Wald responded that appearances would be reviewed, but not uses. The size of the district has been carefully thought out and the boundaries of the LHD follow the boundaries of the National Historic Register District. The LHD would not enforce uniformity. It is a broad area with neat boundaries and a heterogeneous array of structures. The regulations that are being proposed are close to the regulations that exist elsewhere in Massachusetts.

Mr. Webber asked that the topic of the Local Historic District be put on the Planning Board agenda for the March 21st meeting.

III. OLD BUSINESS

A. Village Center Rezoning – Update on the status of Village Center Rezoning and

Form-Based Code

Mr. O’Keeffe reported that the Zoning Subcommittee has been working on Village Center Rezoning since the fall. The ZSC met tonight and will meet again next week. He distributed a summary of the ZSC’s “Progress to Date” that had been prepared by Mr. Tucker. Minor changes have been made to the boundaries of the Form-based Overlay district in North Amherst. Changes have been made to Section 16.91 that have strengthened it. In order to meet the qualifications for Alternative Compliance, four specific criteria must be met. Section 16.2, Street Types, has been changed in response to comments by Mr. Roznoy regarding the need to incorporate transportation infrastructure. Changes have also been made to clarify the fact that the street designs shown in Section 16.2 are advisory guidelines. The ZSC had discussions about multi-family residential buildings. Townhouses and apartments will be allowed by Special Permit. Language has been added to prevent monolithic rows of apartments or townhouses from being built and to promote the development of a mix of uses along the roadways. The ZSC is proposing that townhouses and apartments contain a mixture of 1, 2 and 3 bedroom apartments. Three-bedroom apartments are attractive to families and seniors, not just to students. A mixture of housing types will lead to a mixture of tenants. Changes have been made to the dimensional regulations. Building coverage and lot coverage requirements have been changed to match those in the B-VC zoning district. The ZSC plans to meet each week for the next several weeks.

Mr. Webber asked that the whole draft document be made available as soon as possible and that the Planning Board receive revisions as they are made available to the ZSC.

Ms. Kruger expressed concern about the previous proposal to limit apartments and townhouses to 1 and 2 bedroom units. The Amherst Housing Authority administers 413 rental voucher certificates. State and federal regulations do not allow families with rental vouchers who have male and female children to rent apartments with fewer than three bedrooms. She asked if studio apartments were the same or different from 1 bedroom apartments.

Mr. O’Keeffe agreed that the new Bylaw should allow for, but not require, studio apartments.

Board members asked if there were a way to indicate which portions of the proposed Bylaw have been changed since last fall. Mr. Tucker offered to include that information in the Planning Board’s report to Town Meeting.

Mr. Webber expressed his hope for a consensus Planning Board report to Town Meeting on the topic of Form-based Code and Village Center Rezoning. He asked that the Zoning Subcommittee bring copies of what was available to the next meeting of the Planning Board.

Mr. Tucker reported that public hearings on proposed zoning amendments would be starting soon. The first public hearing would be on March 21st, on Residential Parking Design. He encouraged Board members to think about which portions of Form-based Code/Village Center Rezoning they would like to speak about at Town Meeting.

- B. Topics not reasonably anticipated 48 hours prior to the meeting – none

IV. NEW BUSINESS

- Topics not reasonably anticipated 48 hours prior to the meeting – none

V. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VI. UPCOMING ZBA APPLICATIONS – Planning Board members declined to review the following ZBA applications:

ZBA FY2012-00015 – Michael Ben-Chaim – To convert a dimensionally non-conforming single family dwelling to a three family dwelling, as a subdividable dwelling, under Section 3.3240 and 9.22 of the Zoning Bylaw, at 28 Shays Street (Map 20A, Parcel 15, R-N Zoning District)

ZBA FY2012-00016 – Simon Lesser – To re-establish a flag lot under Section 6.3 of the Zoning Bylaw at South East Street (Map 26B, Parcel 61, R-O, R-LD, ARP Zoning Districts)

ZBA FY2012-00017 – Stanley Ingertson - To create a two family dwelling under Section 3.321 of the Zoning Bylaw, at 539 Pulpit Hill Road (Map 3C, Parcel 98, R-O Zoning District)

VII. UPCOMING SPP/SPR/SUB APPLICATIONS – Ms. Brestrup reported that the Planning Department was expecting the submittal of two Site Plan Review applications from Amherst College, for properties at 67 Northampton Street and 79 South Pleasant Street.

VIII. PLANNING BOARD SUBCOMMITTEE REPORT

Zoning – Report had been given previously.

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – none

Community Preservation Act Committee – Ms. Anderson reported that there was information in the Planning Board packets regarding the Hampshire County Courthouse in Northampton and the request to use CPAC money for its preservation. Amherst had been asked to contribute the largest amount to the preservation of the Courthouse based on population. The Historical Commission was “lukewarm” to the idea of using CPAC money for the Courthouse project and voted not to recommend using CPAC funds in this manner. CPAC has finished its deliberations. The Committee had received \$1.2 million in requests and had about \$600,000 to distribute. CPAC was able to meet most of the requests with modifications. CPAC will meet again on March 15th to discuss its recommendations to the Select Board.

Agricultural Commission - none

Transportation Plan Task Force – Mr. Roznoy reported that he and Ms. Anderson are on the Transportation Plan Task Force (TPTF). The TPF has developed a vision and is putting together an RFP to hire a consultant to prepare a Transportation Plan.

Amherst Redevelopment Authority – Ms. Kruger reported that the ARA has not met for a few months.

Design Review Board – none

Other Boards and Committees – none

X. REPORT OF THE CHAIR – Mr. Webber congratulated Ms. Kruger on the recent article in the Amherst Bulletin about her Bed and Breakfast business and her efforts to help others with the permitting process.

XI. REPORT OF STAFF – none

XII. ADJOURNMENT

The meeting was adjourned at approximately 8:55 p.m.

Respectfully submitted:

Approved:

Christine M. Brestrup,
Senior Planner

_____ DATE: _____
David Webber, Chair