

**AMHERST PLANNING BOARD**  
**Wednesday, September 5, 2012 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** David Webber, Chair; Jonathan O’Keeffe (7:10 PM), Bruce Carson, Rob Crowner, Connie Kruger, Stephen Schreiber, Kathleen Ford, Sandra Anderson and Richard Roznoy

**ABSENT:** none

**STAFF:** Jonathan Tucker, Planning Director  
Christine Brestrup, Senior Planner  
Mr. Webber opened the meeting at 7:05 PM.

**I. MINUTES** none

**II. OLD BUSINESS**

**A.** Zoning – Mr. Webber introduced the topic of zoning amendments and summarized the scheduled leading up to Town Meeting.

1. Zoning Subcommittee – Report

Mr. Crowner reported that the Zoning Subcommittee was working on residential rental issues. The ZSC has reached consensus on some issues while respecting the right of the full Board to go in a different direction. In addition to the public hearings tonight, the ZSC is ready with the amendments for Two-Family Dwellings and Lodging or Boarding House definition. The ZSC is still working on Converted Dwellings and Single Family Dwellings. The ZSC may not be ready with Functional Family definition for this fall’s Town Meeting.

2. Review of Zoning Amendments in Progress

a. Residential Rental Amendments

Regarding the Lodging or Boarding House definition, there are no changes proposed to the Use Chart. However it will be useful to have a definition for this use. Often houses where large numbers of people are living are erroneously referred to as Lodging or Boarding Houses. The phrase Lodging or Boarding House has a specific meaning in the Bylaw which will be clarified with the proposed definition.

The proposed language is similar to the language that is already in the Use Chart, in Article 5 (Accessory Uses) and in Massachusetts General Laws. The number of lodgers/boarders will be 6 to 10 for this principal use and there will be a requirement that an owner or manager be in residence.

The ZSC is also proposing an amendment to the Duplexes or Two-Family Dwellings section of the Bylaw. The proposal would create two different use categories for duplexes – one owner-occupied and one non-owner-occupied. For Owner-Occupied Duplexes the requirements would be the same as they are now, with Duplexes being allowing in some zoning districts via Site Plan Review and in others with Special Permit. For Non-Owner-Occupied Duplexes a Special Permit would be required in every zone where the use is allowed. For Non-Owner-Occupied Duplexes there would be the potential for a condition requiring a residential manager.

The ZSC is reluctant to remove the by-right Site Plan Review approval from

all duplexes or to require owner-occupancy for all duplexes and the ZSC is also reluctant to require a Special Permit for all duplexes, since the Master Plan encourages that there be slightly more density in some zoning districts, for reasons of energy-efficiency and principles of land use.

In addition to the aforementioned changes, there would be standards established for a duplex. One standard would require that the two dwelling units that constitute a duplex should appear as a single, cohesive structure.

This amendment would also add several definitions to the Zoning Bylaw including a definition for an On-site Resident Manager and for Principal Residence, to clarify who qualifies as an owner-occupant.

Questions about duplexes that remain to be answered are:

- Should there be two kinds of duplex use (owner-occupied and non-owner-occupied) that are regulated differently?
- Should any duplex be allowed by Site Plan Review?
- Should any duplex be allowed by Special Permit?
- Should a resident manager be absolutely required or should it be an option for the permit granting authority?
- Are the requirements for “principal residence” written tightly enough or could they be exploited?

The ZSC worked on the Converted Dwelling zoning amendment. With both converted dwellings and duplexes there has been an assumption that the building is owned by a single owner, but ownership could be split between two [or more] owners, as in a condominium.

The ZSC is considering expanding the definition of a single dwelling unit in order to accommodate the possibility of two owners in a converted dwelling or duplex. There was discussion about a single dwelling being attached or detached.

The ZSC considered, but is not proposing, that the Planning Board be the permit granting body for any two-unit proposal. Consistency of review and the workload of the ZBA would be good arguments for considering this change, but the ZSC did not want to distract from the main point of the article.

There is a proposal for a definition of Converted Dwelling that would clearly differentiate it from a Duplex. Mr. Crouner explained the proposed definition of Converted Dwelling. It would consist of an existing structure with up to 20% new or reconstructed habitable space. More than that and it would be permitted differently.

Mr. Crouner described some dilemmas in determining “what is a converted dwelling” and “what is a duplex” and how they would be regulated under the proposed amendments. There is also a question about whether institutionally owned, non-owner-occupied duplexes or converted dwellings should be treated differently (if they are owned by a non-profit educational institution). The consensus of the ZSC is that there should be no “carve out” for these institutions.

The current language of the Converted Dwelling section of the Bylaw allows up to 6 dwelling units in some zoning districts. Residents of neighborhoods,

concerned about increased density, have suggested that this number be lowered. The ZSC is not proposing this change at this time.

With regard to the Functional Family Definition, it is important to provide an outlet for the diversifying structure of households. The definition would provide a balance to the restrictions based on the “Four Unrelated” section of the Bylaw which is intended to be more strictly enforced in the future. However there are examples of unrelated households that consist of more than four that should be allowed to live together. This zoning amendment is unlikely to be finished in time for the Fall Town Meeting and the ZSC recommends putting it “on the back burner” for now.

Mr. Webber noted that the Planning Board had four public hearings on the agenda and that therefore public comment on the work of the Zoning Subcommittee would be limited. There was discussion about releasing the ZSC from further work on the Functional Family Definition at this time. The Board members noted that there may be instances where the Functional Family Definition is embedded in other zoning amendments that are moving forward for Fall TM and that these instances should be eliminated if the Definition itself will be postponed. The Board members agreed by consensus to defer work on the Functional Family Definition until after Fall Town Meeting.

Mr. Webber noted that the Duplex and Lodging and Boarding amendments were ready to move forward.

- b. DEP Surface Water Supply Protection – no report
- c. Other – none

3. Public Comment Period

Mike Dietrich of Precinct 10 thanked the Zoning Subcommittee for taking on these zoning amendments but it’s too little too late. He stated that he and his wife had lived on McClure Street for seven years. They have decided to sell their house. The conditions have become intolerable. Other houses are being sold. There are now only two families left in the immediate neighborhood. These houses are completely surrounded by rental units. There are health and safety issues involved. Large lots with rentals use large portions of the property for parking. One lot had 18 cars parked on it. Fences have been run through by cars. The parking areas are close to his house and close to his children’s play area. The homes and parking lots are not safe or healthy and are completely unregulated. The lot coverage requirements in the Bylaw allow for a large number of cars to be parked on these properties. The town needs to do something about student rental parking. He supports a rental permitting system with strong enforcement.

John Fox of Precinct 10 noted that the town needs to look at the zoning that we have now and have a discussion about how the current and proposed regulations are likely to play out over time. The town needs a game plan and a vision. The current regulations are inadequate to stop student rentals from taking over residential areas. With a converted dwelling containing up to 6 units there is a potential for over 24 students to live in one house. Mr. Fox noted that student tenants behave better in owner-occupied buildings. There are problems with absentee ownership. He noted that there is nothing in the Bylaw that requires the owner to be there most of the time. The owner occupancy distinction may have no value unless the owner is required to be

there physically.

Steve Bloom of Precinct 10 stated that the zoning amendments are confusing. He and his neighbors are considering having the neighborhood declared a historical district. The Planning Board should devote its time to rental permitting. We need a system that includes the option to revoke a rental permit. There should be fees and fines and parking passes. Revocation of a rental permit should be required after a certain number of infractions. He referred to a book entitled College Town which gives examples of how other towns deal with student misbehavior. He does not think that the owner-occupancy requirement will be passed by Town Meeting. He asked whether a rental permitting system is being considered by the town.

Mr. Webber stated that a rental permitting system is being put together by town government. It began with a mailing being sent out to determine which properties are being rented. The effort is being worked on by the Building Inspector, Code Enforcement Officer and the Health Director, all of whom gave a presentation to the Planning Board during the summer.

Mr. Bloom encouraged the Planning Board to make rental permitting rather than zoning amendments the priority.

Rolf Karlstrom of Precinct 10 spoke in support of a strong rental permitting system. He expressed appreciation for the Planning Board's discussions and responsiveness to citizen input, but it is "too little, too late". He stated that we have a vibrant family neighborhood next to a large university which is in danger of becoming a "student ghetto". He questioned the town's apparent desire to sacrifice family neighborhoods in the interest of infill.

### III. PUBLIC HEARING – ZONING AMENDMENTS

#### 7:30 PM      A-01-13      Rental Registration Requirements

To amend the Section 3.32, Residential Uses and Section 5.011, Supplemental Apartments of the Zoning Bylaw by adding a requirement for registration of all rental dwelling units and operation of those units in conformance with rental regulations of the Town of Amherst.

Mr. Webber read the preamble and opened the public hearing. He read the proposed language for the rental registration zoning amendment and explained that the purpose of this amendment was to put in place in the Zoning Bylaw a reference to the current rental registration system which doesn't have a strong enforcement mechanism. By putting this requirement in the Zoning Bylaw the enforcement will be strengthened. Reference to rental registration will be added to each of the different residential uses.

Mr. Crouner noted that while this is not a "magic bullet" it is an important step towards a rental registration and permitting system that will be enforced and will help to control rental problems in town. All residential rental properties will be required to be registered.

Mr. Roznoy asked how the new system would be enforced.

Mr. Tucker noted that putting this requirement in the Zoning Bylaw will increase the fines for non-compliance. He noted that the town is developing a rental permitting system that will be ready for consideration by Town

Meeting next spring. It will be enforced by the Health Director, the Building Inspectors and the Code Enforcement Officer. Landlords who do not comply with the system can be taken to court. There was a discussion about timing. Mr. Tucker noted that the town needs to put in place the people to administer and enforce the system. The operating budget for town government will need to be adjusted to accommodate this new system.

Mr. Roznoy stated that this is a diffuse approach. He noted that it would be better if the system were implemented by one particular office, program or individual. A more focused approach is necessary.

Mr. Tucker stated that the Building Commissioner will have primary responsibility for this program and that the Code Enforcement Officer is the principal enforcer. The other Building Inspectors will also be able to enforce this permitting system.

John Fox recommended that for every rental unit, the landlord should be required to obtain a vehicle registration number for every vehicle that will be parked on the property and give that information to the town.

Lawrence Farber, an attorney who represents a large number of landlords in Amherst, recommended that in developing the rental permitting system the town should form a committee, including landlords, to work with the Code Enforcement Officer and other staff. The system should be established to punish those who cause problems but not others who act properly and who meet the requirements to provide safe and reasonable housing and who address the wrongful actions of their tenants.

Denise Barberet of 67 North Whitney Street expressed caution about this zoning amendment. She identified herself as a renter. She asked Board members to consider what they would like to accomplish with this zoning amendment. She noted that renters make up 55% of the total population of Amherst, whereas homeowners make up only 45% of the population. She also noted that there are all ages of renters, not just student-age renters. She asserted that the proposed system will acquire enormous amounts of data about all renters and she questioned what the town would do with all of this data. Ms. Barberet stated that the town already knows what the problems are and still the town can't "get a handle on" the problems of behavior, visual blight, trash and cars with the tools that we have now. This new data system may turn into an "unwieldy monster", she warned.

Mr. Webber noted that we now have the Code Enforcement Officer and the new Building Commissioner in place. He asked if the budget surplus that we had from this past year could be used to hire more staff to enforce the rental registration and permitting system.

Mr. Tucker stated that the budget surplus was the result of "one-time costs" that were avoided. Staff will look at what other communities are doing in terms of personnel and enforcement and how much it costs.

Ms. Kruger agreed that the data collection is not what is driving this amendment. This rental registration system is anticipating a more rigorous rental permitting system. It will help the town to identify who the property owners are and who rents his or her property. She noted that the Planning Board was receiving a lot of citizen input about rental permitting and problems in the neighborhoods. She suggested that the Planning Board and other interested parties consider sending an emissary to the Town Manager

and the Select Board to make sure that they understand the urgency of the problem.

Mr. Schreiber noted that the zoning amendment will relate only to new applications. The Planning Board does not have the authority to impose this regulation retroactively on all those who rent property.

Mr. Bloom asked the Planning Board to tell him and other residents whom they should speak with besides that Planning Board.

Mr. Tucker noted that rental registration is required if someone moves out of town and then rents his house.

Ms. Anderson reminded everyone that she is the Planning Board liaison to the Safe and Healthy Neighborhoods group. She will communicate what the Planning Board is hearing to the Safe and Healthy Neighborhoods group. She suggested that people communicate with the Health Director regarding ideas for the rental permitting system.

Mr. O’Keeffe asked if the Safe and Healthy Neighborhoods group would be bringing forward the rental permitting system. Mr. Tucker stated that the SHN group members (who are primarily town staff) will do the research and the initial drafting of the system but that it should be reviewed by a public body before it goes to Town Meeting.

Ms. Kruger expressed concern that the SHN group had only met one time in four weeks. She noted that the Planning Board hears from concerned citizens at every meeting. The Select Board has a public comment period. The urgency of the problems in the neighborhoods needs to be made known to the Select Board. Otherwise this topic will fall to a lower position on the list of the town’s priorities.

Mr. Schreiber MOVED to close the public hearing. Ms. Kruger seconded and the vote was 9-0.

Mr. Crowner MOVED that the Planning Board recommends to Town Meeting that the article entitled “Rental Registration Requirements” be adopted. Mr. Schreiber seconded and the vote was 9-0.

#### **IV. PUBLIC HEARING – SCENIC ROAD – JOINT HEARING WITH TREE WARDEN**

##### **7:45 PM Proposed Driveway Construction – 130 Leverett Road (Map 3C/7) – Trees proposed to be removed, pruned or trimmed:**

Public Shade Trees potentially impacted by this project include the following:

1. 4” Hickory
2. 6” Hickory
3. 6” Hickory
4. 5” Hickory
5. 4” Hickory
6. 5” Hickory

Impacts include removal or root damage

Mr. Webber read the preamble, opened the public hearing and read the list of trees to be removed.

Mr. Roznoy recused himself from the public hearing citing a potential

conflict of interest.

Roy Johnson of Jones Realty presented the application. He represents the owner of the property. He was hired by Mindy Stowell, Trustee for Bernie Mikelis (who has since passed away), to sell the 5.25 acre property at 130 Leverett Road. The owner would like to be able to install a driveway to one of the frontage lots that is proposed to be created. In order to install the driveway the listed Hickory trees need to be removed.

Mr. Johnson distributed photographs of trees in the vicinity that are proposed to be disturbed. There will also be two dead trees that will be removed.

During the site visit the Tree Warden, Alan Snow, discovered that there was what appeared to be a stone wall near or on the property line.

Ms. Brestrup explained that the Board members who attended the site visit became aware that there was something that resembled a stone wall along the property line. The stone wall will be disturbed by construction of the proposed driveway. Mr. Johnson stated that the builder may wish to uncover the stone wall. He distributed photographs of the stone wall.

Ms. Brestrup reported that she had contacted the surveyor who prepared the ANR plan for the site and had inquired about whether the stone wall was on public property or private property. The surveyor, Randy Izer, of Harold Eaton Associates, had visited the site and determined that the stone wall appear to be essentially on the property line. In Mr. Izer's opinion what is there does not constitute a wall. Ms. Brestrup noted that over the years what had been a wall could have collapsed into a pile of stones and become covered with debris.

Ms. Brestrup stated that the Planning Board has jurisdiction over a stone wall that lies within the town right of way as part of the Scenic Roads Act. The Planning Board needs to determine if it wishes to engage in further investigation about whether there really is a wall there or merely a pile of stones thrown up by someone clearing the adjacent field. The Board may wish to conduct another site visit to view the wall. Staff could find someone who is knowledgeable about stone walls who could advise the Board.

She summarized that the Board had found something that appears to be a stone wall but they are not sure, it appears to be on the property line, which would give the Board jurisdiction over the "wall" and the Board may wish to investigate further or not. The Board needs to determine if there is a wall there and if there is a wall the Board needs to approve disturbance and/or removal of a portion of the wall under the Scenic Roads Act, so that the driveway can be constructed.

Mr. Snow stated that he has looked at the trees that are proposed for removal. There is one other tree in addition to those listed – a 3" Shagbark Hickory. The intent of the Scenic Roads Act is to help maintain the scenic character of our communities and to control the way scenic byways in town are developed. He does not have any issues with the removal of these trees. There is no alternative access to the property. He will approve the removal of the trees if the owner follows through with inch per inch replacement value for the trees and if the applicant puts in place root zone protection for other trees in the area during construction.

Mr. Schreiber reported that the definition of a stone wall in Mass. General

Laws is essentially “stones arranged in a linear manner”.

Mr. Johnson stated that the driveway is proposed to go in the middle of the frontage for Lot 2 as shown on the ANR plan [ANR 2013-00003]. The lot has been on the market for 9 years. Mr. Johnson presented the ANR plan to show the location of Lot 2.

There was discussion about what might happen on the other three lots (two flag lots and another frontage lot) that are shown on the ANR plan. Mr. Schreiber asked about the “big picture”.

Ms. Brestrup explained that the lot that is the subject of the Scenic Roads hearing is Lot 2, a frontage lot. The Planning Board has little jurisdiction over frontage lots if they meet lot area, frontage and access requirements.

The ZBA has jurisdiction over flag lots. When the flag lots are reviewed by the ZBA that Board will require that there be one common driveway for the two flag lots. The location of a common driveway is not part of the discussion for this Scenic Roads public hearing.

Hope Crolius, Chair of the Public Shade Tree Committee, reported that several members of the committee had visited the site. They recommend that there be a common driveway to reduce the number of trees that will be lost during the development of the lots shown on the ANR plan. The trees proposed for removal are small, but they will grow and can be expected to have a long (80 to 100 year) lifespan. She gave numerous reasons for preserving trees. She recommended that all four lots share one common driveway. She noted that the Public Shade Tree Committee had submitted a letter to the Planning Board regarding the removal of these trees.

Barbara Ford of 300 Flat Hills Road stated that she was a member of the Planning Board when the Scenic Roads Act was adopted by Amherst. She stated that the town needs a method to make sure that the town maintains the value the scenic roads and of the trees and stone walls. She recommended trying to maintain the stone walls as they are rather than “gentrifying” them. She expressed concern about more building occurring in the R-O and R-LD zoning districts and the effect that this may have on scenic roads in town.

Ms. Kruger noted that discussion of a shared driveway is potentially beyond the scope of this public hearing. Ms. Brestrup agreed that since this is a public hearing about a frontage lot, the Board does not really have the authorization to require a common driveway.

Mr. Snow observed that the Shagbark Hickories are growing along the road to replace the Sugar Maples that are beginning to die.

Mr. Crouner suggested that if the Board approves the removal of the trees the Board should go beyond one to one replacement value.

Mr. Snow noted that he requires that the landowner submit a certain amount of money for the inch per inch replacement value of the trees that are proposed to be removed. He mentioned a figure of \$55.00 per inch. The new trees can be planted on-site or elsewhere. Mr. Snow would prefer to plant the replacement trees elsewhere.

The funds go into the Shade Tree Fund, managed by the Public Shade Tree Committee, and are used to purchase trees to be planted around town. He estimated that there were 33” of trees that are proposed to be removed.

Based on an inch per inch replacement that could represent 33 – 1” whips.

Ms. Kruger recommended crafting conditions. She agreed with the higher replacement ratio, she suggested that the stones in the wall from the portion that is removed should stay on the property and she agreed with Ms. Ford that the stone wall should not be “gentrified”. She agreed that the trees could be removed as proposed, including the additional 3” Shagbark Hickory, since the trees proposed to be removed were not especially important right now in the way the road looks. She is concerned about sight distance coming out of the driveway.

Mr. Webber listed possible conditions.

Mr. O’Keeffe suggested that the remainder of the wall could be exposed but not rebuilt. There was discussion about removal of existing trees and the impact that rebuilding of the stone wall would have on adjacent trees to remain.

Mr. Snow suggested that fencing be installed to protect the remaining trees and their root zones during construction.

There was further discussion about sight lines and the value of dead trees as wildlife habitat. There was discussion about the particular value of Hickory trees and questions about the type of trees that would be planted to replace the Hickories.

Mr. Schreiber stated that there was not enough information to make a decision. There is no site plan showing the driveway. There are potential problems with sight distance. He would be more comfortable if the Board had a site plan with the clear sight triangle shown for the driveway.

Mr. Schreiber MOVED to continue the public hearing because the Board needs to see a site plan. There was no second.

Ms. Anderson MOVED to close the public hearing. Ms. Kruger seconded and the vote was 7-1 (Schreiber opposed).

There was further discussion about conditions and they were drafted as follows:

- 1) The trees shall be replaced in a ratio to be agreed upon, possibly 1 to 1.1, as suggested by Mr. Crowner.
- 2) That the stones from the wall shall remain on the site.
- 3) That the remaining portion of the wall shall be exposed to the extent that the Tree Warden deems is appropriate.
- 4) That the root zone of existing trees be protected with fencing during construction from damage by earthwork.

Ms. Anderson objected to the requirement for trees to be replaced at a higher than 1:1 ratio.

Mr. Crowner MOVED that the removal of trees be approved as proposed with the conditions as drafted including that the replacement be done at a ratio of 1 to 1.1. Mr. O’Keeffe seconded.

Mr. Snow explained that he usually requires a payment of \$55 per inch for trees to be removed. If the ratio is increased the town could have more or larger trees for replacements. Ms. Ford agreed with the higher ratio of 1 to

1.1 since the Board does not have a site plan for the other lots and it is likely that there will be more trees that need to be removed for development of the other lots.

The vote was 7-1 (Anderson opposed).

Ms. Brestrup noted that the Planning Board will have an opportunity to review the Special Permit application for the flag lots when it is submitted.

## II. OLD BUSINESS

### B. SPR2012-00006/M13239 – 249 South Pleasant Street, Amherst College

Review of issue regarding shutters in accordance with Condition #2 of Site Plan Review approval (Map 14C/Parcel 93; R-G Zoning District)

Tom Hartman of Coldham and Hartman Architects represented Amherst College. He noted that photographs had been submitted showing the building with and without shutters. College's intent is not to install shutters.

Ms. Brestrup reported that two members of the Planning Board, Ms. Kruger and Ms. Ford, had attended a site visit with a representative of Integrity Builders to view the building without shutters. In addition, a photograph from 2009 showed the front of the building without shutters. Tevis Kimball, Special Collections Librarian at the Jones Library, had found a photograph of the building from 1931 showing the building with shutters. The building was built in 1830 and there is no information about whether the building had shutters at that time.

Ms. Brestrup reported that the Historical Commission had informally reviewed the issue of shutters at 249 South Pleasant Street at its September 4<sup>th</sup> meeting. The Commission had voted unanimously to recommend that wood shutters be installed, the original wood shutters if feasible. However, if vinyl is the only option the building should be left without shutters. The Historical Commission has no formal jurisdiction in this matter, she noted.

Ms. Ford reported that she and Ms. Kruger had agreed at the site visit that the building looks fine without shutters. It fits in with the character of the other buildings in the surrounding area. Ms. Ford recommended leaving the building without shutters. Ms. Kruger agreed and stated that the lines of the façade and proportions of the house are more visible without shutters.

Mr. Webber stated that the applicants appear to have satisfied Condition #2 of the Site Plan Review approval. Board members asked that the shutter bolts be removed if no shutters are to be re-installed. Mr. Hartman and Peter Jessop of Integrity Builders agreed to remove the shutter bolts.

Mr. Crouner MOVED that Condition #2 (shutters) of the Site Plan Review approval had been met by removal of the hardware and removal of the shutters. Ms. Ford seconded and the vote was 8-1 (Carson opposed).

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

## III. PUBLIC HEARING – ZONING AMENDMENTS

### 8:00 PM A-02-13 Surface Water Supply Protection

To amend Section 3.1, Restricted Uses – All Districts and Section 3.24, Watershed Protection (WP) District of the Zoning Bylaw by adding a requirement that any use of land or related activities located near a public water supply source shall be subject to the provisions of 310 CMR 22, as

amended, and all such Amherst Board of Health regulations as may apply

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

Mr. Crouner stated that this amendment would align the Zoning Bylaw with state regulations as they relate to public water supply. The reference to DEP is no longer included in the title of the article. This amendment applies to all sorts of public water supply. Mr. Crouner further explained the amendment. He noted that the effect of not adopting the amendment would be a lack of clarity. It would not mean that the restrictions were not in place.

Mr. Webber noted that the Planning Board had received a letter from Cinda Jones in support of the amendment, provided that the WP zoning overlay district be removed or that a sunset clause be added to the WP portion of the Bylaw.

Mr. Crouner reported that the ZSC had discussed this recommendation. The WP overlay zoning district is similar to the state regulations but not the same. Removal of the WP overlay zoning district should be taken step by step. The ZSC will look at paring down the WP overlay zoning district at some time in the future, but not now.

Mr. Webber read the exact language of the proposed zoning amendment.

There was discussion about the need to refer specifically to 310 CMR 22.20 and 22.21. Mr. Tucker noted that these sections refer specifically to land use within the zones around public water supply.

The Board decided by consensus to send a letter of response back to Ms. Jones. Mr. Webber offered to draft the letter and will forward a copy of it to other Planning Board members through Planning Department staff.

Mr. O'Keeffe MOVED to close the public hearing. Ms. Ford seconded and the vote was 9-0.

Mr. Tucker noted that the WP district as it currently stands is vestigial and the map extent does not correspond to the state zone maps. By adopting this zoning amendment the town is reinforcing in zoning the existing protective zones that are already regulated under state law. These zones must be regulated for the town to get permits to operate public water supplies. He noted that the goal of this amendment is to support and coordinate with the Board of Health regulations that are being developed.

Mr. O'Keeffe requested that maps of state-regulated Zones I, II and III and Zones A, B and C be included in the Planning Board report to Town Meeting.

Mr. Crouner MOVED that the Planning Board recommend to Town Meeting the adoption of the article regarding Public Water Supply Protection. Mr. Carson seconded and the vote was 9-0.

## **V. PUBLIC HEARING – PLANNING BOARD RULES & REGULATIONS**

### **8:15 PM PBR-1-13 Planning Board Rules & Regulations (Planning Board)**

Amendments to Article II seeking to clarify submission requirements.

Mr. Webber read the preamble and opened the public hearing. He explained that these amendments had been proposed by the full Planning Board. They have to do with submittal requirements for Site Plan Reviews, specifically of

items related to property management and maintenance and, for rentals, submittal of leases and proof of rental registration.

There was discussion about when a lease should be required and how much detail should be included in a lease with regard to property management and such related to noise, vehicles, odor, lawn sofas, etc. There was discussion about whose responsibility it is to maintain a property.

Mr. Webber read the proposed language for paragraphs n) and o).

- n) *for any rental use, a proposed lease;*
- o) *for any multi-unit residential rental use, submittal of the following:*
  - i) *emergency notification information*
  - ii) *registration of all rental residential dwelling units in accordance with the applicable rental regulations of the Town of Amherst.*

There was further discussion about lawn and porch sofas and Board of Health regulations and state law. Mr. Tucker noted that the Safe and Healthy Neighborhoods group is working on assembling a set of good sample leases. There was discussion about whether the Planning Board needed to see commercial leases as well as residential leases. After further discussion it was decided to continue the public hearing.

Mr. O’Keeffe MOVED to continue the public hearing to September 19, 2012. Ms. Anderson seconded and the vote was 9-0 to continue.

## **VI. NEW BUSINESS**

- A.** Planning Board schedule – Including zoning amendment public hearings – no discussion
- B.** Agenda for upcoming Planning Board meetings – no discussion
- C.** Topics not reasonably anticipated 48 hours prior to the meeting

Board members asked about Elections and Planning Board reorganization. This topic had been inadvertently left out of the agenda for September 5<sup>th</sup>. Because some members of the Board would be absent at the next meeting, Planning Board members had an informal discussion about roles and responsibilities, noting that they would not vote tonight because the issue had not been on the agenda. Board members and officers agreed that they would be willing to remain in their current roles, including in their current committee, board and liaison assignments.

Ms. Brestrup reported that staff would be meeting with Chris Curtis of PVPC the next day about the topic of Transfer of Development Rights (TDR). She recommended that the Planning Board consider hearing a report about progress on TDR at one of its upcoming meetings. The contract with PVPC expires at the end of December. The Planning Board has been talking about TDR for several years and Planning Board members had asked staff to look into this topic. To show a good faith effort it would be worthwhile to have TDR on one or more of the Board’s upcoming agendas. Mr. Webber agreed. He also noted that the town had received a new letter from Chris Curtis of PVPC offering technical assistance for next year. Mr. Webber recommended that the town not request any help for the upcoming year, until we have completed the work that we are currently doing with PVPC.

## **VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

**VIII. UPCOMING ZBA APPLICATIONS**

The Planning Board declined to review the following ZBA applications:

**ZBA FY2013-00006 – Hampshire Athletic Club** – For a Special Permit to add a small addition and handicap accessible ramp thereby altering a pre-existing non-conforming building and use, under Section 9.22 of the Zoning Bylaw, at 90 Gatehouse Road (Map 18B, Parcel 62, R-N Zoning District)

**ZBA FY2013-00007 – Northland Boulders, LLC** – To modify a previous Special Permit, ZBA FY1968-48, and alter a pre-existing nonconforming structure, by renovating the exterior of six existing apartment buildings at The Boulders, under Sections 10.33 and 9.22 of the Zoning Bylaw, at 188 East Hadley Road (Map 16D, Parcel 11, R-N Zoning District)

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

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

Pioneer Valley Planning Commission – Stephen Schreiber

Community Preservation Act Committee – Sandra Anderson

Agricultural Commission – David Webber

Transportation Plan Task Force – Richard Roznoy and Sandra Anderson

Amherst Redevelopment Authority – Constance Kruger

Design Review Board – Kathleen Ford reported on the September 4<sup>th</sup> Design Review Board meeting. There were four items on the agenda – signs for a new downtown Chinese restaurant; signs for a new restaurant next to Froyo World; plans for the Town Hall parking lot, including a new generator and lights and an informal review of plans for the conversion of a single-family house on Shumway Street to a two-family house. She noted that the proposed zoning amendment to the two-family dwelling section of the Bylaw will determine what path the application for 42 Shumway Street takes – Site Plan Review or Special Permit. Ms. Ford also noted that the Design Review Board needs one more member.

Housing and Sheltering Committee – Constance Kruger reported that the Committee had a meeting scheduled with the consultant, Karen Sunnarborg, hired to work on the Housing Production Plan. The Committee would be meeting on September 13<sup>th</sup> and Planning Board members are invited to attend if they are available. Ms. Kruger noted that the HSC has agreed to hold a joint meeting with the Planning Board at a future date, which will incorporate a public comment period.

Safe and Healthy Neighborhoods – Sandra Anderson reported that the Safe and Healthy Neighborhoods group had not met recently. Mr. Carson asked when the SHN group might be ready to meet with the public. Ms. Brestrup noted that right now the SHN group is made up of town staff and the opportunity for the group's interaction with the public is limited.

Board members offered to go to a Select Board meeting to talk to the Board members about what the Planning Board is hearing from the public. Ms. Kruger recommended consulting with Attorney Larry Farber about sample leases. Mr. Carson requested a report to the Planning Board from SHN.

Other Boards and Committees

**XI. REPORT OF THE CHAIR – none**

**XII. REPORT OF STAFF – none**

**XIII. ADJOURNMENT**

The meeting was adjourned at 10:15 p.m.

Respectfully submitted:                      Approved:

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

\_\_\_\_\_ DATE: \_\_\_\_\_  
David Webber, Chair