

AMHERST PLANNING BOARD
Wednesday, October 3, 2012 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair; Jonathan O’Keeffe (7:05 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

Mr. Schreiber MOVED to approve the Minutes of August 15, 2012. Mr. O’Keeffe seconded and the vote was 7-2 (Ford and Roznoy abstained).

Mr. Roznoy MOVED to approve the Minutes of September 5, 2012. Mr. O’Keeffe seconded and the vote was 9-0.

Mr. Webber noted that there were no Minutes for September 19, 2012 because there had been no meeting. The meeting was canceled due to the lack of a quorum. Mr. Webber reported that he and Ms. Brestrup had appeared in the Town Room to continue the public hearings and that he had signed three ANR plans.

II. OLD BUSINESS

A. Zoning

1. Zoning Subcommittee – Report

Mr. Crowner reported that the Zoning Subcommittee was working on zoning amendments that were a piece of the larger puzzle, dealing with residential rentals. The efforts of the ZSC will help but will not solve all of the problems. The ZSC made recommendations on some of the articles but the members are open to input from the larger Board. The ZSC discussed “may” versus “shall” because this is an important issue. The ZSC received excellent input from the public on the zoning amendments.

Mr. Crowner noted that the ZSC was ready to recommend withdrawing the Rental Registration zoning amendment on advice of Town Counsel. Town Counsel is concerned that including this language in the Zoning Bylaw will potentially allow some non-registered properties to be “grandfathered”.

In the single-family, two-family and converted dwelling zoning amendments there is reference to a requirement for on-site property management. At the ZSC meeting there was discussion about whether the word “may” or “shall” should be used when referring to the Special Permitting Granting Authority (SPGA) or the Permit Granting Authority’s (PGA) authority to require site management. The ZSC recommends “shall”.

The ZSC discussed the question of which body (ZBA or Planning Board) should be reviewing applications for two-family dwellings or any form of residential use that includes two dwelling units. There may be good reason to have one Board look at all applications for residential uses, whether they are owner-occupied or not and then issue either a Site Plan Review approval or a Special Permit, as appropriate.

Mr. Webber acknowledged receipt of letters from Attorney Farber, Cinda Jones and Mr. Bloom.

Mr. Crowner noted that the ZSC was developing another warrant article having to do with Residential Zoning Definitions.

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

VII. FORM A (ANR) SUBDIVISION APPLICATIONS

The Board endorsed the following ANR plans:

ANR2013-00006 – KH Amherst PE, LLC – 290 Lincoln Avenue

ANR2013-00007 – You-Pan Tzeng – 328 Lincoln Avenue

ANR2013-00008 – Ellen Chechile – 326 – 330 Pelham Road

There was discussion about the fact that there had been a Demolition Delay hearing by the Historical Commission on a barn at 290 Lincoln Avenue and discussion about the difficulty that neighbors have in figuring out the jurisdictions of the various boards and committees involved with permitting. Ms. Kruger noted that the ANR process simply makes a statement about whether a Subdivision review process is required to split a parcel of land or not.

III. PUBLIC HEARING – ZONING AMENDMENTS

A-05-13 Converted Dwellings

To amend Section 3.3241 and Article 12, Definitions, of the Zoning Bylaw to clarify the definition of converted dwelling as a residential use category, to modify selected dimensional requirements for conversion of existing residential buildings and outbuildings, and to adjust permitting requirements for converted dwellings containing different numbers of dwelling units.

Mr. Webber read the preamble and opened the public hearing. Mr. Crowner presented the ZSC report. The reason for this article is to clarify what a converted dwelling is and the difference between converted dwellings and two-family dwellings. He explained that the new definition for a converted dwelling involves a structure that is essentially the same as the existing structure, with no more than 20% new or demolished and rebuilt interior area (or no more than 40% in certain circumstances). There are also changes proposed to the permitting standards. Currently a converted dwelling is only allowed by Special Permit, in all districts where it is allowed. Most conversions are from one to two dwelling units and two-families are proposed to be regulated under two different use categories – owner-occupied and non-owner occupied. Therefore the ZSC suggests that the Planning Board should issue the permits for converted dwellings with two dwelling units – Site Plan Review (SPR) for owner-occupied dwellings and Special Permit (SPP) for non-owner occupied dwellings in R-VC and R-G zoning districts, as proposed in the zoning amendment.

Mr. Tucker explained that a Special Permit (SP) would still be required for conversions to three or more units. The ZSC is trying to make the permitting of owner-occupied and non-owner occupied single-family, two-family and converted dwellings consistent “across the board”.

Mr. Webber clarified that a Special Permit from the ZBA would still be required for converted dwellings in other districts. He asked whether the change would make permitting of these types of uses easier or harder. Mr. Tucker stated that the change would make it easier to permit owner-occupied converted dwellings (from one to two units) in certain districts.

Mr. Crowner explained proposed changes and questions related to the standards and conditions as follows:

- Condition #3 – should the total number of dwelling units allowed in the R-G district be 6 as it is now, or 4 as some people have proposed?
- Condition #5 – how many of the criteria should be met (2 or 3) in order to go up to 40% change in habitable space?

- Condition #9 – currently the exterior footprint of a detached structure must be 500 square feet. It is unclear whether the structure must be 500 square feet prior to or after conversion. Should this number be changed to 350 square feet upon completion and should the sentence refer to habitable space rather than exterior footprint?
- Condition #13 – should the word “shall” rather than “may” be used in referring to the requirement for management of rental properties?

There is also a proposed amendment to the definition of a converted dwelling. The definition will remain attached to the zoning amendment rather than being pulled out and put into the new article on Residential Zoning Definitions, because it relates to the main part of the article.

Mr. Webber noted that there had been discussion about deletion of the Rental Registration Requirement. Mr. Tucker explained that Town Counsel was concerned that this amendment could create a class of non-conforming unregistered uses that were grandfathered. Town Counsel recommends that the requirement should be included in the General Bylaw for rental regulations in the spring, not in the Zoning Bylaw.

Mr. Webber explained the terms “pre-existing non-conforming uses” and “grandfathered” uses.

There was discussion about the potential benefits of having rental registration in the Zoning Bylaw, i.e. the potential for more strict enforcement, including higher penalties. Mr. Tucker explained that anything legally existing prior to the effective date of a zoning amendment is grandfathered.

Mr. Tucker reported that Town Counsel had suggested that the Planning Board and ZBA could add a requirement for rental registration to its current list of standard conditions.

Ms. Brestrup suggested that the Planning Board might wish to reconsider the vote that it had taken to recommend Rental Registration to Town Meeting.

Elissa Rubinstein of 38 Fearing Street asked if these changes (going from SP to SPP or SPR) would make the permitting process easier or harder. It was her opinion that the ZBA provided a more rigorous and more difficult permitting review process because all three members had to agree on the decision. She had just witnessed [what she thought was a] Site Plan Review [it was in fact an ANR review] and noted that the process did not allow for any public input. She noted that the ZBA refers to a lengthy set of criteria (Section 10.38 of the Zoning Bylaw) when making its deliberations. Ms. Rubinstein listed several of the criteria. She asked what the SPP would do and how it is different from the ZBA Special Permit process and how many members there are on the SPP board and whether they all have to agree.

Mr. Tucker explained that the Planning Board Special Permit decision (SPP) requires a “super-majority” of the 9 members and a minimum of 6 members to agree and that there is a public comment period. He noted that the SPR process is the same as SP but that it presumes that the use is “by right”.

Mr. Webber stated that the period for public comment during the SPP process is at the discretion of the chair and that the process would be very similar to the Site Plan Review process.

Ms. Rubinstein asked “Why not just continue with the ZBA?” She stated that she does not want her neighborhood to be labeled as a “neighborhood in transition”, but rather preserved as a “stable family neighborhood”.

Mr. Schreiber explained that the term “ANR” stands for “approval not required”. There is no hearing involved. The process is governed by state law. Other states would require a public hearing. He reiterated that the SPP and SP processes are not “by right”. The Site Plan Review (SPR) process is “by right”. The Planning Board is attempting to have the same body to hear both owner-occupied and non-owner occupied cases.

Ms. Rubinstein recommended that the R-G zoning district should have requirements “as tight as” those in the R-N district.

Mr. Schreiber noted that duplexes are currently allowed in the R-G zoning district by Site Plan Review.

There was further discussion about two unit dwellings and the distinction between owner-occupied and non-owner occupied dwellings and whether they should be regulated by SPP or SP.

Maurianne Adams of 14 Beston Street stated that whichever board reviews a permit application, the criteria in Section 10.38 of the Zoning Bylaw should be vigorously applied. She noted that the “fairly superficial and external” Site Plan Review criteria do not address usage concerns. She protested the authorization for 6 dwelling units in R-G and suggested that it should be treated the same as R-N with respect to number of units allowed, especially because of the smaller lot size in R-G. She recommended a maximum of 4 units in R-G. She recommended the use of the word “shall” rather than “may” when referring to the requirements for site management.

Vince O’Connor of Summer Street commented as follows:

- Members of the ZSC should meet with citizens to work on zoning amendments;
- A proposal with more restrictions will have a better chance of passing at Town Meeting;
- A less complicated Bylaw will also have a better chance of passing;
- Leave permitting [for converted dwellings] in the hands of the ZBA;
- The petition article addresses issues of affordability and management;
- In every case where single family homes are converted to multi-family, owner-occupancy should be required to assure adult supervision of students;
- A requirement for owner-occupancy will allow families to compete for purchasing of property with speculators; this will strengthen neighborhoods;
- The best features of the Planning Board article should be combined with the best features of the citizens’ petition article to address issues of site control and affordability;
- Separate out the definition for converted dwelling from the rest of the article;
- Goals of increased density, on-site supervision, giving families a “leg up” with respect to competition with speculators, affordability and owner-occupancy can be met by working together.

Greg Stutsman of 1325 South East Street stated that there was still confusion about the difference between converted dwelling and duplex. He asked if there was precedence in the Zoning Bylaw for regulating a use based on what existed before – i.e. a converted dwelling is regulated based on the fact that there is a proposed change to the existing use or building.

Mr. Schreiber noted that the term “converted dwelling” appeared in model zoning codes around the time of World War II to deal with homes that were too large for modern use. The converted dwelling could help to bring back economic vitality to communities. The houses needed to be already in existence in order to be “converted”.

Mr. Crouner also expressed concern about the fact that “conversion” is deemed to be a use in the Bylaw and not a “method” of development. He suggested that “conversion” should be taken out of the use chart and placed elsewhere in the Bylaw. He acknowledged that the Bylaw now contains the existing use category of “Converted Dwelling” and the zoning amendment represents an attempt to make that section of the Bylaw better than it currently is.

Mr. Tucker explained the difference between converted dwelling and duplexes.

Mr. O’Connor presented historical information on the conversion of detached structures and the limitation that structures must be 500 square feet or more in footprint. The 500 square foot regulation was based on research done on detached structures in Precincts 9 and 10, particularly historic barns. He noted that 350 square feet of “habitable space” is not the same as 350 square feet of “footprint”. He was opposed to the change to 350 square feet and doubted that the change to 350 square feet of “habitable space” would pass at Town Meeting. With respect to Condition #13 in the standards and conditions, owner occupancy should be required, not just professional management.

Mr. Roznoy asked how the article under consideration relates to the petition article on converted dwellings. Mr. Crouner explained that the ZSC has not yet had a chance to study the petition articles, which were only submitted two weeks ago, and he noted that public hearings had already been scheduled for the ZSC/Planning Board articles. He also noted that there is a fundamental difference in the goals of the two articles.

Mr. Tucker observed that the petition article would require owner-occupancy of all converted dwellings and that it adds a mandate for enforcement responses. Mr. Webber reported that citizen petitions had been introduced that are alternatives to the Planning Board zoning amendments. They are available on the website.

Ms. Kruger stated that it will be more difficult to do conversions if there is an owner-occupancy requirement. She is interested in protecting options for renters across the spectrum of renters.

Mr. Roznoy asked to be assured that each petition article will be reviewed by the Planning Board and will be separately presented to Town Meeting. Mr. Tucker assured him that this would be the case.

Mr. Crouner noted that any consensus reached with citizens would need to involve the whole Board, not merely the ZSC.

The Board discussed continuing the public hearing to allow time for consensus. There was discussion about holding an interim Planning Board meeting on October 10th. Board members decided by consensus not to hold an October 10th meeting. Board members were not ready to recommend the article in its current form. Discussion continued.

Mr. O’Keeffe stated that he did not support SPP as the permitting method for converted dwellings, but preferred to keep the SP (by the ZBA). He supported requiring the services of professional property management, not having site management be optional.

Mr. Webber supported Mr. O’Keeffe’s statement. He also supported leaving the use table as it currently stands and not making any changes to the permitting methods for converted dwelling and limiting the number of units in the R-G zoning district to 4 per property.

Mr. O’Keeffe questioned how an on-site property manager would work for a building with two units. He asked if this would essentially consume one of the units. Mr. Schreiber suggested that one of the residents would be deputized as the property manager. The Planning Board could look for the designation in the lease and the Management Plan to determine who is designated as the property manager.

After discussion the Board made the following amendments to the proposed Converted Dwelling zoning amendment, which were summarized by Mr. Tucker, Mr. Roznoy and Mr. Webber:

- 1) In paragraph #3 of Standards and Conditions, move R-VC and R-G zoning districts to the first part of the second to last sentence, so that it reads as follows: *“Further the total number of dwelling units on a given property shall not exceed 4 in the R-VC, R-G, R-N, R-O and R-LD districts and shall not exceed 6 in the B-G, B-L and B-VC districts.”*
- 2) In paragraph #9 of Standards and Conditions, leave the wording as the ZSC has proposed [in the 9/11/2012 draft] with *“350 square feet of habitable space”*.
- 3) In paragraph #13 of Standards and Conditions, the word *“may”* in the second line should be changed to *“shall”*.
- 4) In paragraph #5 of Standards and Conditions, third subparagraph, change the requirement to meet *“three (3)”* criteria to *“two (2)”* criteria.
- 5) In paragraph #5 of Standards and Conditions, paragraph c, in the second line the phrase should read *“under the provisions of Sections 15.12 or 15.13”*. There will also be added references to the statues that the paragraph refers to.
- 6) Eliminate paragraphs #2 and #14 and renumber the remaining paragraphs

There was discussion about the inconsistency of permit requirements between converted dwellings

and two-family dwellings. There was discussion about the possibility of eliminating the “Converted Dwelling” section of the Bylaw entirely and having all units that are currently considered “Converted Dwellings” re-categorized either as two-family dwelling or “multi-family” dwellings.

Mr. Schreiber MOVED to close the public hearing. Mr. Roznoy seconded.

Mr. Crouner MOVED to continue the public hearing to October 17th. Mr. Carson seconded.

Mr. Roznoy announced that he may not be able to attend the Planning Board meeting on October 17th.

The vote on the motion to close was 5-4 (Crouner, Carson, Ford and O’Keeffe opposed) and the motion passed.

There was no vote taken on the motion to continue.

Mr. Schreiber MOVED to recommend this article, as amended, to Town Meeting. Mr. Roznoy seconded.

Mr. O’Keeffe and Mr. Tucker clarified that the amendments included leaving the Use Chart as it exists today. Ms. Ford clarified that paragraph #9 would remain as proposed by the ZSC (with 350 square feet of habitable space). There was further discussion.

Mr. O’Keeffe CALLED the question. The vote was 9-0.

The vote was 9-0 to recommend the article as amended to Town Meeting.

Board members discussed continuing the other zoning amendment public hearings to October 17th.

Attorney Lawrence Farber asked if the Board was tabling the remaining zoning articles noting that he was here to speak about the residential zoning amendments, particularly the Lodging House Definition.

Maurianne Adams of Beston Street stated that continuing the zoning amendments might mean that the Board would lose the public. She was in attendance to speak about Two-family Dwelling.

Board members decided by consensus to take up the Lodging or Boarding House Definition tonight and to continue the other two zoning amendments to 7:05 and subsequently on October 17th.

Mr. Schreiber MOVED to hold the public hearing for Lodging or Boarding House Definition tonight. The vote was 8-0. (Ms. Kruger had stepped out of the room temporarily.)

IV. PUBLIC HEARING – SITE PLAN REVIEW

SPR2013-00001/M14917 – 4 Boltwood Avenue, Town of Amherst *(continued from September 19, 2012)*

Request Site Plan Review approval for renovation of the parking lot behind Town Hall, including location of a new generator to support emergency communications, new lights and restriping, under Section 3.342 of the Zoning Bylaw (Map 14A, Parcel 304, B-G zoning district)

Mr. Webber read the preamble and opened the public hearing. He noted that the public hearing, originally scheduled for September 19th, had been opened on the 19th, but due to the lack of a quorum had been continued to October 3rd.

Paul Dethier of the Department of Public Works presented the application. The project involves the installation of a 10' x 17' generator pad and an emergency generator powered by natural gas. It also involves redoing the existing drainage structures and installing new piping, removing the existing asphalt, regrading and repaving the parking lot and restriping the parking spaces. The new parking spaces will be 9' x 18'. There will be 18 parking spaces in total, including two handicapped parking spaces with appropriate signage.

There had been one existing cobra-head light pole. It has been replaced with two smaller lights with 55 watt fixtures mounted on the new decorative-style poles that are now used in

the downtown area.

New light heads have been installed on the building and the fixtures have been painted black.

The trash removal and dumpster location will remain unchanged. Snow removal will also remain unchanged. Snow is plowed into a portion of the parking lot and then the DPW comes and removes it.

Lighting will be downcast. It is not shielded, but it can be adjusted. The person adjusting the light can determine the extent of the lighted area. There will be no light going upwards. Mr. Dethier passed around photographs of the lights that have been installed.

Ms. Brestrup reported that she had spoken with Fred Hartwell, the town's electrician. Mr. Hartwell had told her that the light was the same as that used to illuminate the front façade of the Grace Episcopal Church. There is no light spill and it is a very soft light.

Ms. Kruger asked about the location of the new lights. She expressed frustration that the lights had already been installed given the importance of lighting in the Town Hall parking lot. Mr. Webber agreed that lighting was the biggest problem in the Town Hall parking lot and that it was the one issue about which he had been really concerned.

Ms. Brestrup reported that the Building Commissioner had sent this project to the Planning Board primarily because of the location of the new generator. The project was already begun when the Building Commissioner became aware of it. He stopped the project and referred it to the Planning Board. Ms. Brestrup apologized for the confused sequence of events regarding this application.

Mr. Carson asked about the possibility of installing a small light fixture next to the parking meter. Mr. Dethier offered to ask about this possibility.

Mr. Webber reviewed the Site Visit Report.

The two existing driveways are proposed to remain one-way. The parking lot will be paved with asphalt. Only the base course will be installed this year.

Mr. Carson reported that there had been discussion at the site visit about painting the generator dark red to match the noise-dampening enclosure.

The Board viewed a proposed site plan of the parking lot. [The site plan had been inadvertently left out of some of the Planning Board's packets for October 3rd.]

Ms. Anderson asked if the spaces could be numbered on an upright surface so that the numbers can be seen in the snow. She suggested painting the numbers on the guardrail or fence on the east side of the lot and installing a pole that faces both ways in the center of the lot with numbers. She acknowledged that such poles could have a negative impact on snow removal. Ms. Kruger suggested installing a diagram near the meter showing the numbers of the spaces.

Vincent O'Connor of Summer Street made the following comments:

- Because of the reconfiguration of the parking spaces, headlights will now be shining into the second floor windows of the adjacent residential structure to the east; he recommends installing a vertical barrier in the form of vegetation or fencing to shield this property from headlights;
- The alleyways leading into and out of the parking lot need to be adequately lit to serve pedestrians who will be walking into and out of the parking lot;
- Lighting should be on motion sensors after 11:00 p.m.;
- The source of illumination should not be visible from adjacent structures;

- The generator should not be installed at Town Hall to power town offices; a generator is needed at the Police Station and at the Bangs Center, to provide food for the elderly in an emergency, but not at Town Hall.

Ms. Brestrup clarified that the intention of installing a generator at Town Hall was not for the purpose of providing power for town offices, but to establish a second “command center” in the Town Room, in case of an emergency. The Town Room and the ground floor (where IT is located) would be powered by the new generator, but not town offices. There is a need for two emergency command centers in town, the Police Station and Town Hall. The new generator at Town Hall will be powered by natural gas, with an unlimited supply of power to the generator allowing it to run for a long time, unlike many generators which are powered by a limited supply of fuel in a tank and can therefore only run for a few days.

Mr. Schreiber noted that the decision as to whether or not to install a generator at Town Hall was not under the jurisdiction of the Planning Board. The Planning Board’s duty is to review the Site Plan. Ms. Kruger made a plea to members of the public to be respectful of the Planning Board’s time and to limit comments to those that are relevant to the subject at hand.

Mr. Roznoy MOVED to close the public hearing. Mr. O’Keeffe seconded and the vote was 9-0.

The Board found under Section 11.24 of the Zoning Bylaw, Site Plan Review, as follows:

11.2400 – The project is in conformance with all appropriate provisions of the Zoning Bylaw and with the goals of the Master Plan;

11.2401 – N/A;

11.2402 – Abutting properties will be protected from detrimental site characteristics resulting from the proposed use; conditions will require the installation of a screen at the east end of the parking lot to prevent light from headlights from shining onto adjacent properties;

Board members discussed imposing a condition that would require that a Lighting Plan be submitted. Mr. Dethier noted that there are lights mounted on the building on the south and east sides that have just received new fixtures and the bodies of which have just been painted. Mr. Webber noted that there had been no request for a waiver from the requirement for a Lighting Plan.

11.2403 – N/A;

11.2410 – N/A;

11.2411 – Proposed methods of refuse disposal are described in the Management Plan and on the plans; they are considered to be adequate; the dumpster will stay where it is currently located;

11.2412 – N/A;

11.2413 – The ability of the proposed drainage system within and adjacent to the site to handle the increased runoff resulting from the development has been found to be adequate; existing drainage structures will be replaced and new piping will be installed; the new drainage system was designed by the Engineering Division of the Department of Public Works; the square footage of paved area does not change;

11.2414 – Provision of adequate landscaping, including screening of adjacent residential uses, will be adequate; a condition of the approval will require installing a vegetative buffer to screen the new generator from view from Boltwood Avenue and to submit information about the proposed vegetative buffer on the final revised site plan;

11.2415 – N/A

11.2416 – N/A

11.2417 – Protection of adjacent properties by minimizing the intrusion of lighting has been

discussed; a condition of the approval will require the submission of a Lighting Plan showing the locations of all light fixtures; the Lighting Plan may be shown on the final revised Site Plan;

11.2418 – N/A

11.2419 – N/A

11.2420 – N/A

11.2421 – The development is consistent with respect to placement of parking, entrances and exits with surrounding buildings and development;

11.2422 – N/A

11.2423 – N/A

11.2424 – Screening will be provided for the generator and the east end of the parking lot and will be shown on a final revised site plan;

11.2430 – The site has been designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties; the new parking lot layout has been found to be satisfactory;

11.2431 – N/A; no change is proposed;

11.2432 – The location and design of parking spaces, bicycle racks and drive aisles will be provided in a safe manner; a bicycle rack is provided at the front of Town Hall;

11.2433 – N/A

11.2434 – N/A

11.2435 – N/A

11.2436 – The requirement for a Traffic Impact Statement will be waived;

11.2437 – N/A

Waivers

- Landscape Plan (information will be incorporated into revised final site plan)
- Soil Erosion Plan
- Sign Plan
- Traffic Impact Statement

The Board agreed to waive any applicable parking requirements under Section 7.9 of the Zoning Bylaw for reasons of site design and because the building is located in the downtown business district, surrounded by on-street parking, within walking distance of the parking garage, close to bus routes and because the building was built at a time when parking was not required.

The Board approved the site plan with **draft** conditions as follows.

[These draft conditions were later modified by Planning Department staff and modified again by Planning Board members at the subsequent October 17th Planning Board meeting. The conditions of October 17th have been included in the Site Plan Review decision.]

- 1) Provide a low barrier (approximately 3 foot high fence or plantings) along the east edge of the parking lot to screen headlights from shining into windows of the adjacent property. Show the location of this barrier on the site plan. If the barrier is a fence, submit a photograph or sketch of the proposed fence. If the barrier is in the form of plantings, submit information on the number, size and species of plants to be installed.
- 2) Submit a lighting plan showing the locations of the two pole-mounted lights and any light fixtures mounted on the building (in the alley going out to Main Street and in the alley going out to Boltwood Avenue, if there are any lights there). The lighting plan should include a lumen plan that indicates where the light falls on the ground and the brightness of the lights shining on the ground.
- 3) Install a small light next to the parking meter so the meter can be read at night.
- 4) Paint the numbers of parking spaces 12 through 18 on the barrier or fence along the

east edge of the parking lot so that the numbers can be read if there is snow on the ground. Consider installing bollards or posts for spaces 1 through 11 with numbers of parking spaces written so that they can be read if there is snow on the ground. Alternatively, consider mounting a site plan of the parking lot showing the numbers of parking spaces near the parking meter.

- 5) Paint the generator to match the noise dampening enclosure (brick red).

Ms. Anderson MOVED to approve the Site Plan with conditions and waivers as noted. Mr. Carson seconded and the vote was 9-0.

V. NEW BUSINESS

- A. Chapter 61 Removal Request – Flat Hills Road – Lot 4 – W. D. Cowls, Inc. – The Board decided by consensus to consider this topic at a subsequent meeting.
- B. Roadway Acceptance – Recommendation to Select Board on acceptance of Olympia Drive and Authority Way as public ways

Rudy Perkins, staff attorney and project manager at HAP, Inc., the developer of the Olympia Oaks project, and Chris Stidsen of Doucet Associates, site engineer, presented information about the roadway. The proposal is to have the town accept Olympia Drive, the piece of roadway that connects East Pleasant Street with the Olympia Oaks site, accepted as a town way.

Mr. Perkins provided some context for the proposal. The Olympia Oaks housing development originated in a Request for Proposals issued by the Town. HAP was selected to develop the site. The Town of Amherst owns the land at the end of Olympia Drive where the affordable housing development will occur. Olympia Drive runs across land owned by the University of Massachusetts. The town has an easement across the land owned by UMass to access its parcel at the end of Olympia Drive. HAP has a 99 year ground lease over the town-owned parcel and has a land development agreement with the town. The land development agreement contains a condition that the town shall lay out and accept Olympia Drive as a town public way. As part of its agreement with the Town HAP will resurface and improve Olympia Drive.

Doucet Associates did an assessment of Olympia Drive and developed plans to bring the road into a state of good condition. The road will stay in the same location. The work on the roadway will be done in September of next year, if all goes according to plan, after construction is well along on the development itself.

Ms. Brestrup explained that the Planning Board was being given the opportunity to make recommendations about the roadway acceptance to the Select Board. It is the Select Board's task to lay out the road, put it on the Town Meeting Warrant and recommend (or not recommend) acceptance of the road to Town Meeting. The Planning Board is not required to make a recommendation to the Select Board.

Mr. Perkins clarified that the town is not being asked to accept the larger piece of Authority Way, but only Olympia Drive, from East Pleasant Street to the property line of the HAP development site.

Mr. Stidsen noted that the roadway improvements and acceptance of the roadway would only include the area shown as "Easement Area 1" on the plan entitled "Roadway Acceptance Plan of Olympia Drive and Authority Way, Amherst, MA" prepared by Doucet & Associates, Inc., dated August 23, 2012.

Mr. Stidsen stated that the proposed work includes reclaiming the existing pavement to create a stronger sub-base and repaving the roadway with 4" of new pavement.

New curbing and new sidewalks will be installed. The location of the roadway will not change. The plans have been reviewed by the Engineering Division of the DPW. There will be cable service installed in the roadway. New drainage will be included. New crosswalks and new signage will be installed to Town of Amherst standards. The turning radius at the intersection with East Pleasant Street will be increased to accommodate buses.

Mr. Roznoy asked about bicycle lanes. Mr. Stidsen stated that bicycle lanes are not proposed at this time. However, there seems to be adequate roadway width for bike lanes. He is not sure if the roadway will be striped. It is a low volume roadway. The Planning Board can make a recommendation to the Select Board that bicycle lanes should be included.

Mr. Carson asked about extending the sidewalk along East Pleasant Street. There is a missing piece, he noted. Ms. Brestrup reported that the Town would like to extend that sidewalk to Olympia Drive, but there is a question as to whether there is enough right-of-way along that side of the road to add a sidewalk. The DPW is looking into this and will make it happen if it is possible.

Mr. Stidsen noted that the infrastructure for the development is already in place. The Town installed the loop road on the Olympia Oaks site.

Mr. Roznoy asked if there had been a report from the Fire Department. Mr. Stidsen and Mr. Perkins reported that the Fire Department had reviewed the plans for Olympia Oaks and accommodations had been made in response to its comments.

Mr. Schreiber MOVED to recommend to the Select Board that Olympia Drive be accepted. Ms. Kruger seconded.

Mr. Roznoy MOVED that the motion be amended to include a recommendation that the Select Board consider the installation of designated bike lanes. Mr. Carson seconded the amendment.

There was discussion about the need for bike lanes. Mr. Tucker suggested that the Planning Board make a recommendation to the Select Board that the Town consider the installation of bike lanes in the future.

The vote was 9-0 to approve the amended motion.

- C. CPTC Brochure – no discussion
- D. Planning Board schedule – Including zoning amendment public hearings – no discussion
- E. Agenda for upcoming Planning Board meetings – no discussion
- F. Topics not reasonably anticipated 48 hours prior to the meeting – none

III. PUBLIC HEARING – ZONING AMENDMENTS

A-04-13 Lodging or Boarding House Definition *(continued from September 19, 2012)*

To amend Article 12, Definitions, of the Zoning Bylaw to add a definition for Lodging or Boarding House.

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

Mr. Crouner reported that the zoning amendment would add a definition to the Zoning Bylaw that we don't already have. Members of the public often incorrectly refer to a place that houses students as a "Lodging or Boarding House". He summarized the meaning of lodging or boarding house as a residential use where an owner [or manager] lives on the

premises and rents rooms to between 6 and 10 people and provides meals to the lodgers. Mr. Webber read the proposed definition.

There was discussion about whether to lower the number of lodgers to between 4 and 10. Mr. Crowner reported that the number of 4 to 6 lodgers is already covered by the accessory use categories. The Zoning Subcommittee recommended against lowering the number to between 4 and 10.

Mr. Tucker reported that Town Counsel had advised against using the word "commercial" when referring to a residential use. Mr. Tucker recommended taking out the word "commercial" from this definition.

Attorney Lawrence Farber identified himself as not being a resident of Amherst but as representing 2,000 units of rental housing in town. He listed some of his more prominent clients who are landlords. He cautioned against the confusion that might occur with the definition the way it is proposed. He noted that the town already has a Bylaw that allows 4 unrelated people to live in a unit. In order to avoid confusion with apartments he suggested the following changes:

- The number of people living in a Lodging or Boarding House should be "no fewer than 5 or 6" (not 4);
- The end of the second to last sentence should read "or apartments where 4 or less individuals live as a single unit or under a single lease" or alternatively "or apartments occupied by a family as defined in Section 12.142".

Mr. Tucker stated that this zoning amendment is not about dwelling units. The Bylaw currently allows as an accessory use to a single family house the taking of up to 3 lodgers or boarders by right and from 4 to 6 by Special Permit. Many other communities begin with the number 4 for lodging or boarding houses. The following words could be added to the first sentence for clarification: "where no fewer than six (6) but not more than ten (10) unrelated persons are let or sublet lodging in private *rooms or other* quarters *not constituting dwelling units* . . ."

Attorney Farber noted that in Mass General Laws Chapter 140, Section 22, the requirement for sprinklers starts at 6.

Mr. Tucker further noted that there had been a change in the state Building Code that stated that for rental of more than 3 rooms, each community can decide about whether or not to require sprinklers.

Mr. O'Connor made the following comments:

- The town should encourage landlords who rent rooms in single family homes to put everyone on the same lease and not rent rooms to individuals; this will prevent landlords from being able to enter rented homes unannounced by claiming that they are lodging or boarding houses;
- Change the word "shall" to "may" with regard to the existence of common kitchen facilities;
- Leave out the words "and where there are no overnight stays by transient guests" because this is unenforceable;
- Delete the words "and no meals shall be provided to persons other than lodgers or boarders" because people invite guests including family members.

Mr. Tucker suggested changing the word to "and no meals shall be provided *by the establishment* to persons other than lodgers or boarders". This is about the use and not what the individual tenants do. The intent of the language is that the establishment doesn't turn into a restaurant. With regard to overnight stays by transient guests, the intention is that the

establishment doesn't turn into a hotel or motel. It doesn't mean that someone can't spend the night if they are a friend or a family member. Language may need to be added to clarify these points.

There was discussion about the difference between the principal use "Lodging or Boarding House" versus the accessory use [described under Section 5.010 of the Zoning Bylaw].

There was discussion about:

- Whether the upper limit should be 12 lodgers or boarders;
- The meaning of the words "lodging" and "boarding" and whether one implied that meals were served and one did not; Mr. Roznoy referred to a traditional use of the word "boarding house" as a place where people came just for meals;
- The fact that this use requires that an owner or manager lives on the premises.

Mr. Tucker noted that it was important to read this definition along with the standards and conditions listed in the use chart for Lodging or Boarding House.

There was further discussion about whether the change in wording was needed. Mr. Tucker encourage the changes for the sake of clarity.

Mr. O'Keefe MOVED to close the public hearing. Mr. Roznoy seconded and the vote was 9-0.

Mr. O'Keefe MOVED to recommend the zoning amendment as amended to Town Meeting. Mr. Carson seconded and the vote was 9-0.

A-06-13 Single Family Dwelling

To amend Section 3.320 of the Zoning Bylaw to create two separate categories of single family dwelling and to regulate single family dwellings being rented to groups of unrelated persons under different permitting requirements as a commercial enterprise.

A-03-13 Two Family Dwellings *(continued from September 19, 2012)*

To amend Section 3.321 and Article 12, Definitions, of the Zoning Bylaw to create two use categories for duplexes on the basis of owner occupancy and to amend existing definitions and add new definitions pertaining to residential uses.

Mr. Webber MOVED to continue the public hearings for Single Family Dwelling and Two Family Dwellings to 7:05 p.m. on October 17, 2012. The vote was 8-0 to continue. (Ms. Ford had left at 11:14 p.m.)

VI. ELECTION OF OFFICERS AND PLANNING BOARD REORGANIZATION – no action

VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VIII. UPCOMING ZBA APPLICATIONS – none

IX. UPCOMING SPP/SPR/SUB APPLICATIONS – none

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS – none

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
Housing and Sheltering Committee – Constance Kruger
Safe and Healthy Neighborhoods – Sandra Anderson
Other Boards and Committees

XI. REPORT OF THE CHAIR – none

XII. REPORT OF STAFF – none

XIII. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

Respectfully submitted: Approved:

Christine M. Brestrup,
Senior Planner

David Webber, Chair

DATE: _____