

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

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

**ABSENT:** Sandra Anderson

**STAFF:** Jonathan Tucker, Planning Director  
Christine Brestrup, Senior Planner  
Mr. Webber opened the meeting at 7:15 PM.

**I. MINUTES**

Mr. Schreiber noted that there was a discrepancy between the time the meeting began, the arrival time of one of the Planning Board members and the time that member moved to approve a set of Minutes. The times should be corrected. Ms. Brestrup agreed to correct the times.

Mr. Schreiber **MOVED** to approve the Minutes of October 3, 2012 as amended. Mr. Roznoy seconded and the vote was 8-0.

Mr. Schreiber **MOVED** to approve the Minutes of October 17, 2012. Mr. Carson seconded and the vote was 7-0-1 (Roznoy abstained)

**II. PUBLIC HEARING – ZONING AMENDMENTS**

**A-09-13 Two Family Dwellings (petition)**

To amend the Standards and Conditions of Section 3.321, Two Family Detached Dwelling, of the Zoning Bylaw to reclassify certain categories of two family dwellings as Converted Dwellings (Section 3.3241) or Supplemental Apartments (Section 5.011).

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

Denise Barberet of 67 North Whitney Street, member of the Coalition of Amherst Neighborhoods (the Coalition) and a proponent of the article, spoke in support of the article. If someone starts with a single-family home and wants to renovate, expand or add to the home to create a duplex, one should get a Special Permit from the Zoning Board of Appeals (ZBA). This amendment takes advantage of existing language in the Bylaw by treating such a renovation as a Converted Dwelling (under Section 3.3241) or as a Supplemental Apartment (under Section 5.011) of the Zoning Bylaw. Members of the Coalition of Amherst Neighborhoods proposed this amendment because of growing concerns about the unintended consequences of another amendment passed at the Fall Special Town Meeting of 2008 that changed the permitting requirements for duplexes in the R-G and R-VC zoning districts from Special Permit by the ZBA to Site Plan Review by the Planning Board.

Ms. Barberet noted that the 2008 change had been an outgrowth of the Master Plan and its aim to increase density in a modest way in central residential districts. People wanted to protect the integrity and character of central residential neighborhoods. But this has not been the result. She noted that single family homes are being purchased and renovated and divided or added to in a manner that creates two-family houses. There have been increased police visits to these houses, more cars, more problems with parking and more activity at all hours. The Coalition would like to see two-family homes returned to the Special Permit process with the ZBA. The ZBA can decide if the use is appropriate in the neighborhood, regardless of whether it is owner-occupied. This will bring permitting of duplexes more in line with permitting of converted dwellings and supplemental (or “mother-in-law”) apartments which are by nature smaller and have less impact visually or in terms of activity level. Ms. Barberet asked “If Article 13 passes would Article 16 be moot?”

Mr. Crouner noted that the Zoning Subcommittee was unable to reach a resolution on Article 16 and did not have a recommendation for the Planning Board. Some ZSC members found value in Article 16. The Planning Board articles are trying to address the same problems.

Ms. Barberet stated that Article 16 is an alternative to Article 13. In creating two classes of two-family dwellings, which Article 13 would do, the town would create a lot of fluidity between the two classes. Houses could easily change from owner-occupied to non-owner occupied. There is nothing in Article 13 that would prevent this from happening. She asserted that there are problems with Article 13 that have not been resolved.

Mr. O'Keefe pointed out that Article 13 sets up two different use categories with different permitting requirements. If a property changes from one use category to another the property is subject to the permitting requirements of the new use. If the property owner does not obtain the proper permit for the new use, he or she would be in violation of the Zoning Bylaw. There are consequences for violating the Zoning Bylaw.

Mr. Tucker noted that there is a requirement for recording at the Registry of Deeds any decision having to do with a Site Plan Review or a Special Permit. Either decision would be found during the purchase of the property.

Ms. Barberet posed a case of someone receiving Site Plan Review approval for an owner-occupied two-family house. The person needs to move and decides to rent out the unit in which he has been living. Mr. Webber responded that the person would need a Special Permit to rent out the formerly owner-occupied unit because of the change of use from owner-occupied to non-owner occupied. Failing to apply for and obtain a Special Permit and continuing to rent both units would be a violation of the Zoning Bylaw.

Mr. Webber explained the Planning Board's Article 13, Two Family Dwellings, which had its public hearing on October 17<sup>th</sup>. He noted that the Petitioners' Article 16 would make all two-family dwellings resulting from renovation, expansion or addition, into either Converted Dwellings or Supplemental Apartments.

Ms. Barberet stated that with Article 13, if an owner-occupied duplex is created via Site Plan Review and then the property needs to obtain a Special Permit because of a change in use, it will be difficult for the ZBA to deny the Special Permit, because the duplex will already have been built and there will be precedent in the neighborhood for having a duplex.

Vincent O'Connor of Summer Street encouraged the Planning Board to look at Article 16. He stated that conversions of single-family dwellings into two-family dwellings would revert back to the Converted Dwelling section of the Bylaw (Section 3.3241). But the construction of an entirely new two family house by itself would remain under the Two-family section of the Bylaw (Section 3.321). In his opinion Articles 16 and 13 are complementary.

Mr. Tucker noted that if both Planning Board articles (13 and 14) were to pass, Article 16 would restrict the creation of a two-family house. It would no longer be possible to add an entire new unit to an existing house to create a duplex. He summarized that the principle purpose of Article 16 is to turn the conversion of a two-family house by renovation, expansion or addition from Site Plan Review (in certain districts) to Special Permit (in all districts). This could more easily be done by changing the permitting requirement for two-family houses. Article 16 doesn't take into account the preservation of the existing dwelling unit when one is converting from a single-family to a two-family. It creates an incentive for demolition of the existing unit [to make it possible to build a Two-family entirely new under Section 3.321]. Part of the intent of Articles 13 and 14 is to create a distinction between a duplex and a converted dwelling. The combination of Articles 13 and 16 will create confusion, he stated.

Ms. Kruger stated that the Zoning Subcommittee (ZSC) had a slightly different presentation of Article 16 by the Coalition. Article 16 was drafted before Article 13 was in its current form. There had been

discussion that if Article 13 passed Article 16 might be withdrawn. There was a suggestion of eliminating reference to Supplemental Apartments. The ZSC did not see Articles 13 and 16 as complementary, changes were being made to the article and therefore the ZSC did not develop a recommendation on Article 16.

Mr. Crowner stated that Article 16 is in conflict with Article 14. It suggests an alternative approach. He plans to move that if Articles 13 and 14 do not pass, then the Planning Board will support Article 16.

Mr. Schreiber MOVED to close the public hearing. Mr. Roznoy seconded and the vote was 8-0.

Mr. Crowner MOVED that the Planning Board support Article 16 in the event that Articles 13 and 14 do not pass, otherwise that the Planning Board not support Article 16. Mr. Schreiber seconded. The vote was 7-1-0 (Kruger opposed).

**A-10-13          Converted Dwellings (petition)**

To amend the Standards and Conditions of Section 3.3241, Converted Dwelling, to require owner occupancy in all instances, to require screening of associated parking lots, and to establish specific methods of enforcement for violation of the owner occupancy requirement.

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

Maurianne Adams of 14 Beston Street presented the proposed zoning amendment [Article 17]. She referred to her written explanation of the petitioners' articles that had been distributed to the Board. The Coalition is trying to reconcile an apparent conflict in the Master Plan between increased density in the central neighborhoods and preserving the integrity and character of these residential neighborhoods. The Coalition is proposing to allow modest increases in density without sacrificing the quality of life. For any properties that are to be converted to two or more dwelling units one of the units must be owner-occupied.

Ms. Adams stated that the Coalition plans to withdraw Item 10 of this article on the Town Meeting floor. They are considering deleting Item 12, which some consider onerous and difficult to implement.

The initial purpose of this article is to allow owners to convert larger homes to multi-family dwellings to live in one unit and to rent the added units, to make it affordable for families to own and live in these large houses. The Coalition wants to preserve the mix of students and families in these neighborhoods. There is pressure by LLC's to convert the houses. They will become unaffordable to families because of pressure by the LLC's to buy and convert them. The money invested by the LLC's can be recouped through rental use. The owner-occupied rentals are not problem houses. Non-owner occupied houses are nuisances. In the R-G zoning district, when an owner moves and the property becomes a rental there are problems. In the case of a home being converted to two or more units, one of the units should remain owner-occupied. Management Plans for rental houses do not seem to work. Houses that are managed by management companies are not always managed appropriately. For conversions of single-family houses to two or more units, one of the units should remain owner-occupied.

Mr. Crowner reported that although the ZSC had begun a discussion of this article, the ZSC did not come to a recommendation.

Ms. Adams stated that the distinction between Articles 14 and 17 really focuses on paragraph 6 in Article 14 and paragraph 5 in Article 17. In Article 17 one unit would remain owner-occupied no matter where the house is located.

Ms. Brestrup noted that Article 17 would present problems for institutions such as Amherst College, which currently owns single-family homes. The College is in the process of

converting some of their single-family homes to two-family homes to provide housing for rental to faculty members. The College would no longer be able to convert these houses to two-family homes because the institution would not be able to occupy one of the units.

Mr. Crowner noted that the ZSC had discussed the possibility of building in a waiver for institutions. However, the ZSC did not come to any conclusions about this issue.

Mr. Webber stated that the Planning Board had considered its own version of a change to the converted dwelling section of the Bylaw, Article 14, Converted Dwellings, a few weeks ago and had recommended by a vote of 9-0 that Town Meeting pass Article 14. The Planning Board version only requires owner-occupancy if the property is not close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use. Article 17 [the petitioners' article] requires owner-occupancy of one unit for all converted dwellings.

John Fox of Precinct 10 stated his support of Article 17 and the notion that owner occupancy should be required for all converted dwellings. He stated that there is confusion in the existing Bylaw with regard to owner occupancy. The Bylaw could allow a waiver of this requirement in some cases, such as the case of Amherst College.

Vince O'Connor stated that the Planning Board's approach to Section 3.321 was to reduce the level of scrutiny on conversions to two-family houses and he asserted that it was not successful. He stated that Article 17 will have three positive effects:

- 1) It will increase the level of adult supervision of rental units;
- 2) It will help to increase affordability in that houses will remain available and/or affordable to families;
- 3) It will allow an increase in density around the university and the downtown and village centers and will provide the best way to ensure a positive reaction to increased density with more acceptance by neighbors.

Lawrence Farber spoke in opposition to Article 17. He is a local attorney (but not a town resident) who represents many local land owners and is himself a landlord in town. He expressed sympathy with the petitioners' issues, but stated that Article 17 is wrongheaded because it is too restrictive by requiring that all converted dwellings be owner-occupied. Mortgagees will not fund the purchase of properties if the properties have to be owner-occupied. The restriction is too onerous. It would make more sense to address behavior, maintenance and sanitary issues. He represents 1500 units. There are better ways to address the problems, he asserted.

Steve Bloom of Precinct 10 asked for a list of the landowners represented by Mr. Farber. He disagreed with Mr. Farber's arguments. He asserted that rentals are doing well and existing rentals will be grandfathered. We need to anchor the town with single-family homeowners who are "self-policing" he said. We should stabilize the neighborhoods. Landlords are doing fine, but single-family homeowners are not.

Cinda Jones of W.D. Cows stated that she respects the reasons for the petition articles and regrets the cause of the petition articles. She has been working with Larry Farber's clients to address the problems related to rental properties. Her mother lives at the corner of Lincoln Avenue and Amity Street in a large house with 3 acres and 4 outbuildings. She would like to maintain the ability to convert that property to a use that might include more dwelling units. She referred to Barry Roberts work on the former Amherst Funeral Home property which now accommodates multiple dwelling units. The landlords are dedicated to fixing the problem, she said.

Mr. Tucker noted that the articles under consideration are aimed at properties with a small

number of dwelling units. They are not aimed at apartments or townhouses, but just single-family homes and duplexes for now.

Mr. Webber asked what the effect would be if Article 17 passes after Article 14 passes.

Mr. Tucker noted that Article 17 (with items 10 and 12 dropped out) would require owner-occupancy for all cases of converted dwellings. This would create many non-conformities which is not a situation that is to be preferred. The Planning Board's article would not amend paragraph 6 with regard to owner occupancy.

Ms. Brestrup noted that Article 17 does not reduce the total number of units allowed in the R-VC, R-G, B-G and B-VC zoning districts from 6 to 4 as the Planning Board's article proposes to do.

Mr. Schreiber stated that Article 16 and 17 might create an incentive for entrepreneurial landowners to tear down existing houses so that the property owner could build on a clean site and thus have his proposal considered as a Two-family Dwelling rather than a Converted Dwelling, and not have to live there.

Mr. O'Keeffe agreed with Mr. Schreiber's assessment. He noted that the ZBA could already impose a condition that a property be owner-occupied under the Special Permit process. It is best to let the ZBA make judgments on the owner-occupancy requirement on a case-by-case basis rather than having a blanket requirement for owner-occupancy.

Ms. Adams stated that during the development of Article 14 she and others had requested that owner occupancy be included as an option for management under standards and conditions. The Planning Board had not included this option and therefore the petitioners had developed their own article.

Mr. O'Connor noted that the Amherst College and institutional situation could be dealt with by adding language referring to educational institutions that house their staff and faculty. Mr. O'Connor noted that there were about 4,900 rental units in Amherst, representing more than 50% of the total dwelling units in town.

Gretchen Fox of Fearing Street, which she noted was a heavily trafficked street, stated that the residents would like to promote the stability of a family neighborhood. Owner occupancy would be more likely to promote the ideal of long-term tenancy. Owner occupancy would also promote moderate-income housing.

Steve Bloom of Precinct 10 referred to an absentee landlord who had purchase over 20 properties in town, none of which are owner-occupied and many of which were problem properties. The town needs to protect and stabilize the neighborhoods, he said.

Bob Greeney of McClellan Street stated that he appreciates the daunting task that the Planning Board is undertaking. He stated that most residents like students and don't mind living around them as long as the atmosphere is family-friendly, but students should not comprise over 30% of the population of a neighborhood. At some percentage beyond 30% even well-managed student housing destroys a neighborhood. Neighborhoods are hard to bring back once they are lost. Houses are renovated differently by developers than they are by the people who reside in them.

Jennifer Taub of Precinct 10 stated that if a neighborhood is going beyond the tipping point of 30% students then homeowners can't sell their properties and property values are ruined.

Patricia Stacey of Precinct 10 stated that she lives near the corner of Lincoln Avenue and Fearing Street. There were parties three nights in a row lately and the noise was "terrifying". The people in her house couldn't sleep. Trash is a problem. The situation is unsafe, unwholesome and not neighborhood friendly. The town has a moral obligation to the residents and also to the students. There are no adults supervising them.

Priscilla White of 318 Lincoln Avenue stated that she bought the house as a single-family home and created a supplemental apartment in the back of the house. The house is owner-occupied. Until recently it has been a wonderful place to live. In June an absentee landlord purchased three houses in the neighborhood. These properties had been owner-occupied. The owner is mis-representing that he lives there. There is constant noise and traffic. Six students moved in next door into a single-family house. There was a party of 40 people that lasted until 8:30 a.m. The quality of life has deteriorated severely in the last few months.

Ms. Adams suggested substituting paragraph 5 in Article 17 for paragraph 6 in Article 14, in order to require owner occupancy for all Converted Dwellings.

Ms. Kruger MOVED to close the public hearing. Mr. O’Keeffe seconded and the vote was 8-0.

Mr. Crouner stated that his view of this amendment is changing. He disagrees with the Converted Dwelling as a use, since it is really more of a method of changing a structure than a separate use. He suggested referring Article 17 back to the Planning Board for further study and consideration to see if there is some way to condition owner occupancy, to make it preferential rather than required.

Mr. Carson suggested substituting paragraph 5 from Article 17 for paragraph 6 in Article 14. Mr. Tucker noted that this would be outside of the scope of Article 14.

Mr. Webber suggested that the Board could limit its approval of Article 17 to paragraph 5.

Ms. Ford asked for a clarification that any amendment that is approved only applies to new units. Mr. Tucker and Mr. Webber agreed that this was true.

Ms. Kruger expressed concerns about the dueling warrant articles related to Converted Dwellings. She suggested a clarification in language that would make it clear that owner-occupancy was required in both conditions in paragraph 5 of the existing Converted Dwelling section of the Bylaw. There was discussion about this interpretation. Mr. Tucker explained that the owner-occupancy requirement currently only applies to conversions from one to two units in areas that are not close to heavily traveled streets, close to business, commercial and educational districts or already developed for multi-family use. He noted that the petitioners’ Article 17 would require owner occupancy in all cases of Converted Dwellings.

Mr. Webber explained that the Planning Board had several choices:

- Recommend the article to Town Meeting;
- Recommend the article in part to Town Meeting;
- Recommend that the article be referred back to the petitioners for further work;
- Recommend against the article.

Mr. Carson MOVED to recommend to Town Meeting that paragraph 5 in the petition article be adopted. Ms. Ford seconded.

Mr. O’Keeffe stated that he couldn’t support the motion. He would support a motion to refer.

Mr. Crouner clarified the meaning of paragraph 5 in the existing Bylaw. He stated that Article 17 would be a significant change to the existing language of the Converted Dwelling Bylaw.

The vote was 3-5 (Kruger, Schreiber, O’Keeffe, Roznoy and Crouner opposed). The motion was defeated.

Mr. Crouner MOVED to recommend referral to the Planning Board for further work. He noted that the Article has worthy goals. Ms. Kruger seconded.

Mr. Roznoy questioned whether this sent a mixed message to Town Meeting since the Planning Board had already developed Article 14.

Other Planning Board members agreed that Article 14 may not be complete and that Article 17 may be better considered in the context of the passage of Article 14. Student behavior goes far beyond what zoning can cover, Mr. O'Keefe noted.

The vote was 6-2 (Carson and Ford opposed).

Ms. Adams asked if the ZSC and Planning Board would continue to meet and whether some compromise could be worked out prior to Town Meeting. Mr. Webber responded that articles can be amended to do less but not more than they are proposed to do in the Warrant. Article 14 can't be amended to require owner-occupancy but Article 17 can be amended to do less than it is currently proposed to do. Mr. Tucker stated that he would be happy to continue working with the petitioners.

### **III. PUBLIC HEARINGS – SITE PLAN REVIEW**

#### **SPR2013-00004/M15477 – 42 Shumway Street – KH Amherst LLC**

Request Site Plan Review approval to create a two-family dwelling by constructing a new four-bedroom, two story unit behind the existing house and connecting the two structures with an enclosed foyer/breezeway under Section 3.321 of the Zoning Bylaw. (Map 14B/Parcel 202; R-G Zoning District)

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

Attorney Tom Reidy of Bacon and Wilson appeared for the applicant, KH Amherst LLC. Carlos Nieto of The Berkshire Design Group was also present.

Mr. Reidy noted that the two-family detached dwelling was permitted by right in the R-G zoning district with Site Plan Review.

Mr. Nieto described the existing conditions on the site. He noted that there is a one-story single family home with an attached garage. There is an existing driveway, a grassy area in front and in back and a wetland/wooded area behind the house. The applicant is proposing an addition with four bedrooms, connected to the existing structure by a breezeway. Six new parking spaces would be added, with two existing parking spaces in the garage. There is one parking space proposed per bedroom. The waivers that have been requested are as follows:

- Lighting Plan (there will be lights on the garage and at the entrances that will be controlled by the tenants);
- Sign Plan (no signs are proposed);
- Traffic Impact Statement (the use will not have a terrible impact to the area in terms of traffic);
- Waiver from the restriction against parking more than two cars within the front setback (the plan calls for parking 2.5 cars within the front setback).

The applicant has fixed the property which was overgrown and dilapidated. He has painted and fixed up the house. The proposal would add new plantings to the front and a solid fence to screen parking from the neighbors to the north. There would be an expanded concrete patio at the rear of the existing house that would be shared by tenants of both units.

Dan Newbury of The Homestore presented information about what the new unit would look like. He stated that the new unit would be modular. The siding of the existing house has been painted to match the proposed new unit. From the road it will look like a single-family house, he asserted. The home will be energy-efficient and will have the latest window technology.

Mr. Nieto reviewed items in the Management Plan. Trash will be stored in the existing garage which is large. Landscaping will be maintained once a month. The owner will do

intermittent landscaping between the monthly visits by a landscaping contractor.

Mr. Nieto reviewed the letter from Town Engineer, Jason Skeels, dated October 19, 2012 and went through the applicant's answers to the letter point by point. Some of the items relevant to Planning Board review were addressed as follows:

- Driveway width and radii – the existing driveway is wide and the radii are large and are proposed to remain as they are;
- The 18" maple close to the driveway is proposed to be removed;
- Snow will be pushed to the front yard and also to the area between the house and the northern property line;
- Proposed screen plantings will be at the edge of the town right-of-way;
- The applicant is requesting a waiver from the requirement that no more than 2 cars can be parked in the front setback;
- No screening is proposed for parking spaces #5 and #6;
- Parking space #6 will be at least 6 feet from the building wall;
- The 1.5" HDPE drain line will be relocated and a new catch basin will be added in the street to avoid damaging tree roots;
- The erosion control barrier will be relocated to the edge of proposed grading.

Mr. Nieto reported that the project has been reviewed by the Conservation Commission which has issued an Order of Conditions approving the proposed work. A fence and sign will be added at the edge of the wooded area behind the house to prevent people from intruding on the wetlands.

The project has been informally reviewed by the Design Review Board, which found that the proposed arrangement of the two units with respect to one another was the preferred arrangement of the two shown to the Design Review Board.

Mr. Webber asked for the names of the principal of KH Amherst LLC. Mr. Nieto stated that You-Pan Tzeng was the principal. Mr. Webber asked where Mr. Tzeng resides.

Attorney Reidy stated that Mr. Tzeng resides at 321 Lincoln Avenue. Mr. Webber noted that there was a representation by the residents of the area that Mr. Tzeng does not reside at 321 Lincoln Avenue. Mr. Reidy acknowledged that this was a topic of discussion with the Building Commissioner.

Mr. Webber asked "if the information presented on other properties owned by the applicant is not correct, how can the Board believe the information in this application?" Attorney Reidy stated that the information in the application was true to the best of his knowledge.

Mr. Crowner asked about the connection between the garage and the house. Mr. Nieto described the connection and stated that there will be a new "breezeway" that will provide the main entrance for the second unit.

Mr. Webber reviewed the Development Application Report.

Mr. Schreiber asked about the Design Review Board review of the project.

Ms. Ford stated that the Development Application Report provided a good summary of the Design Review Board's comments. The DRB had considered another layout. There was concern about the discrepancy between the proposed two-story structure and the existing one-story structure. The DRB understood that there were limitations imposed by the wetlands. The DRB had commented on the need to choose materials and consider window proportions to make the structure look like one structure. At the point that the DRB reviewed the proposal there were no clear elevations available.

Mr. Schreiber asked why the DRB had reviewed the project. Ms. Brestrup explained that the applicant had requested an informal review by the DRB because he thought the DRB had

been helpful during the review process for a property that he owns at 79 Taylor Street.

Mr. Webber read the waiver requests. With regard to the issue of proposing more than two parking spaces in the front setback, he suggested eliminating one of the parking spaces. He stated that the waiver of the Sign Plan would no longer be possible because the Conservation Commission was now requiring a sign.

Mr. Crouner stated that there was way too much parking proposed for the site. He suggested limiting the parking to that required in the Bylaw – 2 spaces per dwelling unit.

Mr. O’Keeffe agreed in principle but noted that there had been feedback from the public about parking problems along the street. He asked if restricting the number of spaces on the property would push parking out into the street. Ms. Brestrup noted that there is a restriction on parking along the street at night during the winter.

Ms. Kruger acknowledged that she was not inclined to approve this much parking, but questioned whether two spaces in the garage and two in the driveway would be adequate.

Mr. Schreiber commented that “there are too many potatoes for the bag”. He would hold the line on two cars within the front setback. There is also a problem with pedestrian traffic from the parking spaces to the front door. The pathway should be continuous and not be blocked by parked cars. There needs to be a walkway to access all the parking spaces. He recommended that the parking be reduced to allow for pedestrian access. He asked about the definition of a duplex and stated that there was an “awkwardness” about the connection between the two units. He suggested redesigning the building and site improvements. He noted that the 5 foot gap between the structures seems dangerous and acknowledged that the effort to detach the structures would result in a cheaper product. He stated that the design would be better if the structures were actually attached. Mr. Nieto stated that the rooflines would be hard to work out if the structures were attached.

Ms. Kruger noted that the area between the structures, proposed to be covered with gravel, will become dark and moldy. She asked if the driveway could be reduced in width, in accordance with the Town Engineer’s letter.

Ms. Brestrup stated that there needs to be room for cars to back up from parking spaces in order to exit the site, but the driveway could be narrowed as it approaches the street.

Mr. Nieto stated that there will be gutters on the house and that this will reduce the amount of water that flows into the area between the structures.

Ms. Ford asked about materials. Will there be clapboards on the new structure? The existing house does not have clapboards.

Mr. Newbury stated that the new structure would have vinyl siding. The siding on the existing house is in good condition and is not proposed to be replaced. The applicant had agreed to add shingles to the existing structure so that the roof will match the new structure.

Mr. Webber asked about lighting. Mr. Nieto stated that there will be lighting on the garage and at the entrances to the two units. Users will turn the lights on and off themselves. The lights on the buildings will consist of “wall packs” and will meet “dark sky” requirements.

Mr. Webber asked “what areas would be lit?” Mr. Nieto stated that there is some existing light in back of the house but none is proposed there. Mr. Webber asked about street lights. Mr. Nieto was not aware of any street lights.

Paige Wilder of Fearing Street in Precinct 10 presented information on other properties owned by the applicant and stated that one of them is in violation of the town’s Bylaws. She presented a packet of information detailing problems with various properties owned by the applicant. She asserted that the house is likely to hold 10 students rather than 8 as proposed.

Cars will be coming and going at all hours. She urged that Board not to grant any waivers and to put a lot of restrictions on the approval.

Rich O'Rourke of 47 Shumway Street stated that the house at 42 Shumway is known as a nuisance house, although he acknowledged that the current tenants had not caused too many problems. He asked that the house be left the way it is. He stated that Shumway Street already has too many cars. The Fire Department can't get through. He characterized the application as a "ridiculous idea" and not good for the neighborhood.

Charles Sweeney, a tenant at 42 Shumway, with 3 other roommates, stated that there wouldn't be enough space with the driveway as it is. The property is already overloaded. No one uses or goes into the garage. He does not see how the proposal would work. It is not fair to the current tenants to begin construction during exams. He requested that the work wait until the current tenants have moved out, in the summer.

Steve Bloom stated that there will be a story about another property owned by the applicant on Channel 22 News that evening.

Elissa Rubinstein of Precinct 10 stated that this public hearing demonstrates why this type of proposal should require a Special Permit from the ZBA. The proposal is too big. There is too much impact. There is already a lot of traffic on the street.

Vince O'Connor of Summer Street asked that the testimony of the neighbors with regard to the zoning amendments be incorporated by reference into the record of this public hearing. Mr. Webber acknowledged the request.

Mr. O'Connor stated that there are regularly more than 4 cars parked at this property. It is unrealistic to expect that the tenants will use the garage. There is no provision for bicycle parking. The proposal will create a snow removal and parking problem. He asserted that the project on Taylor Street had caused problems with cars on High Street. He stated that this site cannot accommodate what is being proposed. He asserted that there will be more than 4 tenants in the rear unit. He urged the Planning Board to deny the application and listed several criteria under Section 11.24 which could be cause for denial.

Mr. Webber suggested keeping the public hearing open to allow an opportunity to address the items that had been brought up during the public hearing. Mr. O'Keeffe recommended giving the applicant specific instructions on the items that need to be worked on.

Mr. Webber stated that the essence of the situation was that there is too much being proposed for this site. A four bedroom addition is too much. Adding four cars to the parking area is too much. The use is proposed to double the number of tenants and is incompatible with the Site Plan Review criteria. He is not ready to grant any of the waivers.

Ms. Kruger stated that none of the waivers should be granted, the roofing and siding materials needs to match on the existing and proposed structures.

Mr. Carson stated that the second floor is inappropriate. This is like a whole new house, he said.

Mr. Webber agreed with the previous speakers statements.

Mr. O'Keeffe stated that he and the Board are fundamentally unhappy with the design.

In response to the comments of the current tenants, Mr. Webber asked staff to consult with Town Counsel regarding whether the Board could determine when construction could begin.

Maurianne Adams of Beston Street stated that there are too many people proposed to be "crammed into a given space".

Mr. Schreiber referred to the proposed zoning amendment defining a duplex. He stated that

this proposal does not fit the definition of a duplex.

Mr. O’Keeffe MOVED to continue the public hearing to December 19, 2012, at 7:05 PM. Ms. Kruger seconded and the vote was 8-0.

**IV. TOWN MEETING**

**A. Warrant Review**

There was a brief discussion about the wording of Article 16. Mr. Webber recommended that Town Meeting should decide the question. He stated that Town Meeting would begin on November 19<sup>th</sup> at 7:00 PM, not at 7:30 PM. The Board members discussed meeting on the first two nights of Town Meeting, just before the TM sessions.

**B. Review of Planning Board Reports – none**

**C. Speakers for citizen petition articles – Mr. Crouner volunteered to speak on behalf of the Planning Board’s positions on the petition articles. He stated that he would like the Planning Board to take a position on Article 19. There was discussion about why this would be a good idea.**

There was discussion about revisions to Article 18 that were proposed by Mr. O’Connor at the Select Board meeting on November 5<sup>th</sup>. Mr. Carson offered to speak on Article 18.

Mr. O’Keeffe MOVED that the Planning Board recommends to Town Meeting that Article 19 be passed. Mr. Carson seconded and the vote was 8-0.

**V. OLD BUSINESS**

**A. SPR2010-00012 – Patrick Kamins – 321 Main Street – review of minor changes to site plan – Mr. Kamins will meet with the Board on December 5<sup>th</sup>.**

**B. Signing of Decision – The Board signed the following decisions:**

SPR2013-00001 – 4 Boltwood Ave, Town of Amherst (Town Hall Parking Lot)  
SPR2013-00002 – 25 South Pleasant Street – Oriental Flavor, LLC  
SPR2013-00003 – 271 South Pleasant Street – Amherst College

The Board requested that staff schedule a follow up discussion about the Town Hall parking lot in three months.

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

**VI. NEW BUSINESS**

**A. Chapter 61 Removal Request – Flat Hills Road – Lot 1 – W. D. Cowls, Inc.**

Mr. Roznoy MOVED that the Planning Board recommend to the Select Board that the town not exercise its right of first refusal on this lot. Mr. O’Keeffe seconded and the vote was 7-1 (Crouner opposed).

**B. Planning Board schedule – The Board decided to meet on November 19 and November 26 at the Middle School, at 6:00 PM prior to Town Meeting.**

**C. Topics not reasonably anticipated 48 hours prior to the meeting**

**VII. FORM A (ANR) SUBDIVISION APPLICATIONS**

**VIII. UPCOMING ZBA APPLICATIONS**

**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 Rob Crouner  
Amherst Redevelopment Authority – Constance Kruger  
Design Review Board – Kathleen Ford  
Housing and Sheltering Committee – Constance Kruger  
Safe and Healthy Neighborhoods Working Group – Sandra Anderson

**XI. REPORT OF THE CHAIR**

**XII. REPORT OF STAFF**

**XIII. ADJOURNMENT**

The meeting was adjourned at 10:57 p.m.

Respectfully submitted:                      Approved:

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

\_\_\_\_\_  
David Webber, Chair

DATE: \_\_\_\_\_