

**AMHERST PLANNING BOARD**  
**Wednesday, December 19, 2012 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

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

**ABSENT:** Sandra Anderson

**STAFF:** Jonathan Tucker, Planning Director  
Christine Brestrup, Senior Planner  
Mr. Webber opened the meeting at 7:08 PM.

**I. MINUTES**

In reviewing the Minutes of November 19<sup>th</sup> Mr. Schreiber noted that he had been present for the meeting but he was tardy. He was not present for the vote to go into Executive Session, but he was present for the vote to come out of Executive Session and he voted “Aye”.

Mr. Schreiber MOVED to approve the Minutes of November 19, 2012, as amended. Mr. O’Keeffe seconded. The vote was 7-0-1 (Kruger abstained).

In reviewing the Minutes of November 26<sup>th</sup> Mr. Schreiber noted that he had been present for the meeting and had not been tardy. He was present for the vote to go into Executive Session and for the vote to come out of Executive Session. He had voted “Aye” in both instances.

Mr. Schreiber MOVED to approve the Minutes of November 26, 2012, as amended. Mr. O’Keeffe seconded. The vote was 7-0-1 (Kruger abstained).

Mr. Webber reported that the Minutes of December 5<sup>th</sup> were not ready for review.

**II. PUBLIC HEARINGS – SITE PLAN REVIEWS**

**SPR2013-00004/M15477 – 42 Shumway Street – KH Amherst LLC**  
*(request to withdraw application)*

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)

Ms. Ford MOVED to approve the applicant's request to withdraw the application. Ms. Kruger seconded and the vote was 8-0.

**SPR2013-00005/M16139 – 768 North Pleasant Street – Daniel Johnson for The Amherst Project**

Request Site Plan Review approval to establish a non-profit take-out café under Section 3.330.0 of the Zoning Bylaw (Map 8C, Parcel 10, R-N Zoning District)

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

Daniel Johnson presented the application. The proposal is for a take-out coffee shop that will serve coffees and teas. The purpose is to encourage a community of fellowship for people interested in ending human trafficking. The clientele will be mainly UMass students. The organization is non-profit. Any proceeds from the café will go to the cause of another non-profit called Jubilee Market. That organization establishes and runs vocational centers in India for victims who are rescued and restored from the sex industry and given the opportunity to learn a new trade and start a business. There will be a sign placed out in front of the café to attract students to the café. The café will be donation based. There will be no costs posted. The employees will be volunteers. It will be operated as part of a non-profit

religious organization.

Mr. Webber reviewed the materials that had been provided to the Planning Board. He reviewed the Site Visit Report for the site visit that had occurred on December 13<sup>th</sup>.

Mr. Webber stated that the café would operate in half of the former two-car garage at the rear of the house. The existing sliding glass doors will be replaced with French doors and the threshold will be removed to allow for handicapped accessibility.

There are four tenants who live in the building. A sunroom on the south side of the building provides office space for The Amherst Project.

Mr. Webber reviewed the Development Application Report prepared by town staff. Waivers requested by the applicant include the following waivers, for the reasons outlined below:

- Landscape Plan – the property is already landscaped and no additional landscaping is proposed
- Lighting Plan – no exterior lighting is proposed
- Soil Erosion Plan – no excavation or filling is proposed
- Traffic Impact Statement – vehicular traffic to the site will be minimal.

Mr. Webber noted that one of the issues revolves around parking. Two parking spaces are required by the Zoning Bylaw for the dwelling unit that exists in the house. The Site Plan proposes 7 parking spaces, including 4 standard sized spaces and 3 compact spaces. Mr. Webber read the parking requirements. He noted that there was room for one more parking space behind the fence for a total of 8 parking spaces on site. Eight parking spaces may not be enough to meet the requirements for all of the uses (residential, office and café) in the building, he stated. The Board may need to grant a waiver from the parking requirements.

Mr. Webber noted that there is metered parking across the street and there is a crosswalk. Two employees of The Amherst Project are UMass chaplains and therefore eligible to obtain parking passes to park in the UMass lot across the street.

Mr. Webber observed that some of the parking proposed on the site at 768 North Pleasant Street is not paved. Paving is required. Parking on bare earth is not allowed. He recommended that Planning Board members discuss pedestrian access to the café and a turnaround for parked cars. Mr. Webber recommended that the Board members consider whether lighting is needed on the site or whether the hours of operation should be limited to daylight hours.

Mr. Webber noted that in the R-N zoning district permitted non-residential uses are limited to two signs (visible from off-site), not to exceed 12 square feet in total. The applicants are proposing two signs, one at the front of the property (6 square feet) and one on the fence at the rear (smaller than the one at the front). There is a third sign proposed for the door, but that will not be visible from off site.

Mr. Webber stated that the Board had received drawings of the proposed signs. A Management Plan and lease have been submitted. There is no proposed landscaping but the Board may consider requiring screening of the parking lot.

Mr. Johnson and the Board offered comments on the following topics:

#### Parking

The customers will be primarily students walking past the site, since UMass students live all around the property; the applicants don't anticipate vehicular traffic and they request a waiver from the parking requirements; this is a small-scale operation and there is not an expectation of vehicular traffic entering the site; the parking space behind the fence was only a temporary measure to provide enough parking spaces for visitors on the day of the site visit; this space

will not be used on a regular basis.

#### Lighting

The applicants proposed changing the hours of operation so that they do not need to provide lighting; this would also help with the safety issue of pedestrians using the driveway to access the café.

#### Deck

Ms. Kruger asked whether people would sit on the outdoor deck in warmer weather.

Mr. Johnson stated that the café will not be open during the summer since there are no students on campus at that time. One-half of the deck was removed to provide room for the walkway. There is no intention of having seating space outside.

#### Costs/Donations

Mr. Crowner asked for clarification about whether the café would operate on sales or donations. Mr. Johnson stated that no donations would be required. No costs will be posted. There are no rules. There will be a sign inviting people to donate to the cause.

#### Hours

Mr. Johnson stated that he would change the hours of operation to closing at 4:00 p.m. because most people drink coffee in the morning and early afternoon.

There was discussion about whether the hours should be more flexible. The applicant explained that the café will be open during the school year and they are happy to close at 4:00 p.m. Board members stated that they would be satisfied if the café closed by sundown.

#### Uses

Mr. O'Keeffe asked about the issue of multiple principal uses on the property – the single-family house and the non-profit religious use including the café. Are these uses "complementary" as described in Section 3.01 of the Zoning Bylaw?

Ms. Brestrup stated that the Building Commissioner had looked closely at the issue of uses on this property and had determined that these uses would be included under the category of religious non-profit use. She suggested that the Board inquire about whether the tenants were affiliated with the religious non-profit use.

Mr. Crowner expressed concern about whether or not this is a use that should be categorized under Section 3.330.0 of the Zoning Bylaw. He was hesitant to accept this use category. He asked if a secular organization that wished to do the same would it be classified under the same category? He recommended that the Board be clear about the use category under which they were considering this proposal.

Allan Carpenter of 40 Farview Way offered general comments as follows:

- He and his wife have lived in this area (one block from North Pleasant Street) for many years.
- The current occupants are better than previous occupants.
- In the past the house was a student rental and the Carpenters called the Police and Fire Departments at night many times.
- This has not happened with the current occupants.

Mr. Carpenter commented on safety matters as follows:

- North Pleasant Street is a two-lane roadway with bike lanes and sidewalks on both sides.
- There is a parking lot on the east side for commuters.

- There are two crosswalks across North Pleasant Street in the vicinity of this property.
- There is a roundabout down the road and a lot of signage pertaining to the roundabout.
- There are no signs prohibiting parking along North Pleasant Street.
- Students walk along the street from 7:00 a.m. to 9:30 p.m.
- He expressed concern that people may park on the sidewalk or drop someone off to get a cup of coffee.
- There is no turnaround on the property so cars that enter the property need to back out onto North Pleasant Street.

Mr. Johnson stated that there is a sufficient turnaround space for the four cars that currently park on the site. They are able to turn around before exiting onto North Pleasant Street.

Mr. Webber asked about the type of curbing along North Pleasant Street. Mr. Carpenter stated that there is granite curbing along the street with the sidewalk adjacent to the curb.

Mr. Webber noted that the site plan shows that there appears to be room for a "hammerhead" turnaround on the property and that the applicant has represented that there is room to turn a car around on the property but a member of the public has stated that there is no room to turn around.

Mr. Roznoy, a Board member who attended the site visit, stated that in the area where there are four perpendicular spaces shown on the site plan there is sufficient room to make a "K" turn so that a car can exit onto the street going forward.

Board members discussed uses and questioned whether there were two principal uses being proposed on the site. Mr. Johnson stated that some of the tenants are associated with The Amherst Project. Some are there to pay rent and to live there. All of the tenants support the cause and understand that part of their rent is going to the support of the café. The tenants are renting directly from The Amherst Project which, in turn, rents the building from the owner. The Amherst Project is a religious 501 (c) 3 non-profit organization. Lynda Elgers is the owner of the property. She leases the property to The Amherst Project.

Ms. Kruger asked whether the Site Plan Review approval, if granted, could go to a subsequent renter or owner of the property if the new entity was not a religious non-profit organization.

Ms. Brestrup explained that if the use changed so that it was no longer part of a 501 (c) 3 organization, then the Site Plan Review approval would be no longer valid. These types of uses have an exemption under Section 3 of Chapter 40A of Mass General Laws. These types of uses are all allowed by Site Plan Review in all of the zoning districts in town. Although the Planning Board cannot deny the use, it can put conditions on the approval related to sizes of things and numbers of things related to the site plan, such as parking.

Mr. Carson asked why some of the parking spaces appeared to be smaller than others on the site plan. Mr. Johnson explained that the reason for the difference in sizes was because of the shrub on the south side of the property. The smaller spaces could be made larger, he said.

Ms. Brestrup noted that the three parking spaces shown closest to the road were on bare earth. The other (four) parking spaces further into the property and the driveway itself had a surface of loose gravel. The three parking spaces closest to the road were in a sense "ephemeral" and the Board could require that these parking spaces be paved. The plan merely indicates that it would be possible to park in that location.

Ms. Ford asked for clarification of the issue of use and if it were related to the "Dover Amendment". She received confirmation that the issue of use was covered by the Dover Amendment and therefore the use was not an issue in this application.

Mr. Schreiber expressed concerns about traffic coming in and out of the property. He was concerned about the width of the driveway and the fact that some of the parking was not on a prepared surface. A 10' wide driveway may work for a private, single-family house, but it will not work where strangers are coming and going, he said. Mr. Schreiber stated that he was inclined to rely on the metered parking across the street to provide parking for the café and have fewer than 7 or 8 parking spaces on site.

Mr. Carson suggested installing a sign that would read "tenant parking only" or else add pavement to the three front spaces. If there is going to be parking it should be done properly.

Mr. Johnson stated that the concept was to have people walk to the site. He agreed to the installation of a sign that would state "please park across the street at meters". This would not have a negative impact on the café, he said. He noted that the driveway appears to be about 12' wide at the entrance and that it tapers to about 9' wide further into the site.

The Board discussed the option of leaving the four parking spaces that already exist on the site that are being used by the tenants and allowing the other parking requirements to be satisfied by the metered parking located across the street. The members agreed by consensus to support this option and to grant a waiver from the parking requirements.

The Board members agreed by consensus to the other waivers that had been requested.

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 – Town amenities and abutting properties have been protected through minimizing detrimental or offensive actions;
- 11.2402 – N/A;
- 11.2403 – N/A;
- 11.2410 – N/A;
- 11.2411 – Proposed methods of refuse disposal have been described in the Management Plan; there is trash pick-up for the tenants already; trash pick-up for the café will be combined with that of the tenants; there will be minimal trash associated with this use since the café is a take-out operation;
- 11.2412 – The proposed sewage disposal and water supply systems within and adjacent to the site are adequate to serve the proposed use; these systems are currently in existence; the Town Engineer did not express any concerns about this issue;
- 11.2413 – The ability of the proposed drainage system within and adjacent to the site to handle the runoff resulting from the development has been found to be adequate; the Town Engineer did not express any concerns about this issue; as a result of the Planning Board's discussion there will be no parking added to the site;
- 11.2414 – N/A;
- 11.2415 – N/A;
- 11.2416 – Protection of adjacent properties has been provided for in the application; there will be only a small amount of pedestrian traffic coming and going;
- 11.2417 – Protection of adjacent properties by minimizing the intrusion of lighting has been provided for in the application; no exterior lighting is proposed; the café will operate only during daylight hours;
- 11.2418 – N/A;
- 11.2419 – N/A;
- 11.2420 – N/A;
- 11.2421 – N/A; the development is consistent with respect to placement of parking, entrances and exits with surrounding buildings and development; no changes will be made to these site features;
- 11.2422 – N/A;

- 11.2423 – N/A; there is only one building on the site;  
11.2424 – N/A;  
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; this was the primary issue that the Board discussed about this application; the applicant has agreed to rely on metered parking across the street to accommodate the needs of customers of the café; this will minimize vehicular traffic to the site and will minimize conflicts between pedestrians and vehicles on site; the Board members agreed by consensus to impose a condition that there be a sign installed at the entrance driveway that would say “No Parking” and “Parking Available Across the Street”;  
11.2431 – N/A; the location and number of curb cuts is not changing;  
11.2432 – The location and design of parking spaces, bicycle racks and drive aisles will be provided in a safe and convenient manner; parking spaces will not change, a bicycle rack will be added to the site; the drive aisle will not change but is considered adequate to serve the needs of a single-family house with a turnaround area at the end;  
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
- Lighting Plan
- Soil Erosion Plan
- Traffic Impact Statement
- Parking requirements for office and café use

Conditions

- 1) A bike rack shall be installed at a safe location.
- 2) The latest closing time of the café shall be either 4:00 p.m. or sunset, whichever is later. The café may close earlier if the applicants wish.
- 3) The sign near the street shall include the words “No Parking” and “Parking Available Across the Street at the Meters”.
- 4) Four copies of the final revised plans shall be submitted to the Planning Department.

The Board discussed whether to impose a condition that would require eliminating the ledge at the entrance to the café. This is a Building Code issue and will be dealt with by the Building Commissioner.

Mr. Webber stated that he understood that the Board would find that the café use is not a separate principal use. The whole property falls under Section 3.330.0, of the Zoning Bylaw, Non-profit educational or religious use.

Mr. Crouner expressed continuing reservations about the use category of the proposed café. He stated that he would abstain from voting on the application.

Mr. O’Keeffe observed that the other categories under which the use could be considered would be Church (Section 3.333) or possibly Philanthropic or charitable medical or residential facility (Section 3.336.1). These uses are also allowed by Site Plan Review in the R-N zoning district.

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

Mr. O'Keeffe MOVED to approve the Site Plan Review application with waivers and conditions as noted. Ms. Ford seconded and the vote was 7-0-1 (Crownier abstained).

Mr. Webber thanked the applicant for coming in and expressed the Board's support for the applicant's work against human trafficking.

### III. OLD BUSINESS

**A.** SPR2009-00001 – New England Environmental – 15 Research Drive – review of proposed decks

Bill Rock presented the proposal. The owners of the NEE building would like to install two decks on the south face of the building. These decks were drawn on the original plan (as two landings) and presented to the Planning Board at the time of the public hearing but there had been no specifications about the landings or decks and the proposed size of the landings or decks was not clear.

There are two doors exiting the building on that side. The door sills are 12" to 14" above grade. The area around the proposed decks is gravel. The owners of the building would like a place to sit outside at lunchtime.

One deck is proposed to be 12' x 16'. The other is proposed to be 12' x 20'.

Mr. Rock described the decks as being a step down from the doorways. The front door of the building provides handicapped access to the building, he said. The decks could be level with the door sills but this could be a problem with snow backing up against the doors.

Ms. Kruger noted that there might be staff members at NEE who have disabilities. She recommended that the decks be accessible from the interior.

Mr. Rock agreed to build the decks so that they are level with the door sills and that there would be a 12" drop from the top of the decks to the grade of the surrounding yard.

Board members agreed by consensus that the decks should be handicapped accessible from the interior of the building. Ms. Ford noted that this is really a Building Department issue.

Mr. Roznoy MOVED to approve the requested changes to the site plan and that the level of the decks shall be flush with the door sills. Ms. Kruger seconded and the vote was 8-0.

**B.** SPR2010-00011/M5254 – 1150 West Street – Atkins Farms Market – review of minor changes to site plan

The applicant was not ready for this review and will present the proposed changes to the Board at a later date.

**C.** Executive Session – Discussion regarding litigation (Review of Minutes of Executive Sessions held on November 19 & 26, 2012)

Mr. Webber announced that the Board needed to adjourn its regular session and convene an Executive Session in order to discuss matters related to litigation. He stated that the Board would resume Open Session at the adjournment of Executive Session.

Mr. O'Keeffe MOVED that the Board enter into Executive Session. Mr. Roznoy seconded. A roll call vote was taken:

Ford – Aye  
Roznoy – Aye  
O'Keeffe – Aye  
Webber – Aye  
Kruger – Aye

Schreiber – Aye  
Carson – Aye  
Crownner – Aye

The Board entered into Executive Session.

Mr. O’Keeffe MOVED that the Board close the Executive Session and reconvene the regular session. Ms. Kruger seconded. A roll call vote was taken:

Ford – Aye  
Roznoy – Aye  
O’Keeffe – Aye  
Webber – Aye  
Kruger – Aye  
Schreiber – Aye  
Carson – Aye  
Crownner – Aye

**IV. NEW BUSINESS**

**A. Town Meeting – Signing of Attorney General’s forms**

1. Article 10 – Water Supply Protection (Planning Board)
2. Article 11 – Lodging or Boarding House Definition (Planning Board)
3. Article 13 – Two Family Dwellings (Planning Board)
4. Article 14 – Converted Dwellings (Planning Board)
5. Article 15 – Residential Zoning Definitions (Planning Board)
6. Article 17 – Petition – Converted Dwelling Standard and Conditions (Maurianne Adams et al)

The Board signed the Attorney General's forms.

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

**V. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

**VI. UPCOMING ZBA APPLICATIONS – none**

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

Ms. Brestrup reported that the following Site Plan Review applications had been received:

SPR2013-00006, 1 South Pleasant Street – Adams & Ruxton Construction Co. for Bank of America – Request Site Plan Review Approval for construction of new ADA compliant ramps and sidewalk.

SPR2013- 00007, 61 Strong Street – Ron Bohonowicz for Town of Amherst (Child Care Center) – Request Site Plan Review approval for replacement of roof and installation of rooftop HVAC system

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

PVPC – Stephen Schreiber reported that PVPC had met last week. One topic of discussion was the new regulations related to the Community Preservation Act (CPA). Any recreation facility may now be renovated using CPA funds, not just facilities that were purchased with CPA funds. Another topic was the Top Ten Resolves for 2013. Mr. Schreiber suggested that the Planning Board may wish to discuss these Resolves in January and request that the Resolves include support for the route with connections between Amherst and Palmer. A third topic was zoning reform. Legislation that is likely to pass includes the elimination of the ANR, modification of the zoning freeze related to subdivisions, and simplification of the opt-in process.

Community Preservation Act Committee – Sandra Anderson was absent and there was no report  
Agricultural Commission – David Webber – no report

Transportation Plan Task Force – Richard Roznoy and Rob Crowner – Ms. Brestrup reported that Planning staff had reached out to the Superintendent of the DPW with suggested dates for a meeting but had not heard back from him.

Amherst Redevelopment Authority – Constance Kruger reported that the ARA had not met recently.

Design Review Board – Kathleen Ford reported that the DRB met last week and had reviewed a proposed kiosk for Puffer's Pond and a new sign for a café/restaurant that is to occupy the former Chez Albert space on South Pleasant Street.

Housing and Sheltering Committee – Constance Kruger reported that the HSC had met today. Work on the Housing Production Plan is proceeding. The consultants are still working on a strategy. A draft of the Plan will be available early in January. There was discussion about demographics at the meeting, including the phenomenon of the shrinking of the "family formation" age group. The HSC would like to find a location to put about 1,000 units of student housing. They have been discussing how to find appropriate locations for student housing. Their work is overlapping with planning issues. The HSC discussed CPA proposals for housing, including two units on the Hawthorne property. They had also discussed the implications of the changes in CDBG funding for upcoming years.

Safe and Healthy Neighborhoods Working Group – Sandra Anderson was absent but Mr. O'Keeffe reported that the SHNWG had held three meetings in four weeks. They would hold a meeting in January that would be devoted to taking public input.

Zoning Subcommittee – Rob Crowner noted that the ZSC had been left off the agenda. He reported that the ZSC had met this evening and held its semi-annual Zoning Forum. The ZSC did not have any discussion but took public comment during the forum. The next time the ZSC meets it will consider recommendations to the Planning Board for issues to take up for Spring Annual Town Meeting. One of the issues that was brought up was the conflict between housing the excess student population and the desire to protect the neighborhoods.

Mr. O'Keeffe asked about the status of TDR (Transit Oriented Development). Mr. Crowner reported that the ZSC had received a new draft of the proposal. The ZSC would like to take up this topic in January.

Ms. Brestrup noted that Chris Curtis of the PVPC had recently made a presentation about TDR to the Conservation Commission to inform them about the work that had been done to date. The Conservation Commission had expressed interest in the concept of TDR.

**IX. REPORT OF THE CHAIR** – Mr. Webber expressed dismay and condolences regarding the shooting in Connecticut.

**X. REPORT OF STAFF** – no report

**XI. ADJOURNMENT**

The meeting was adjourned at 8:50 p.m.

Respectfully submitted:                      Approved:

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

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

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