

AMHERST PLANNING BOARD
Wednesday, February 20, 2013 – 7:00 PM
Town Room, Town Hall
MINUTES

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

ABSENT: Sandra Anderson and Richard Roznoy

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

I. MINUTES

Mr. Carson MOVED to approve the Minutes of January 30, 2013. Mr. Schreiber seconded and the vote was 7-0.

II. PUBLIC HEARING – ZONING AMENDMENTS

A-11-13 Main and Gray Street Rezoning (property owner request)

To amend the Official Zoning Map to change the zoning designation on Assessor’s parcels 14B-250 and 14B-251 from General Residence (R-G) to Neighborhood Business (B-N)

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

Jerry Guidera, son of the property owner, presented the petition. Mr. Guidera is also the owner of 38 Gray Street, through his company, Hills House LLC.

He stated that the idea of the rezoning was to facilitate the development of the two lots so that Amherst Media, the local public access television station, could construct a new headquarters building. Mr. Guidera noted that he had submitted a letter to the Select Board requesting this zoning map amendment.

Amherst Media would like to relocate to this property from its current location on Cottage Street. The rezoning will give them the flexibility to place the parking and the building where it would be most advantageous. He noted that Amherst Media would still be able to develop the property under the current zoning. The property is located on Main Street, at the corner of Gray. It is part of the Dickinson Historical District. Concerns have been expressed about whether it would block the view of the Hills House. The Local Historic District Committee will review the plans for the building, so this issue will be dealt with during the LHDC review.

Mr. Guidera stated that the current zoning (R-G – General Residence) is more suited to residential use. However, given the location of these parcels, residential use is not a proper use for these parcels. In 2009 a large portion of this neighborhood was rezoned to B-N (Business Neighborhood). Two lots lying to the east of the parcel in question were rezoned from R-G to B-N at that time.

Mr. Tucker stated that the use that Amherst Media is proposing could fall into one of two categories in the Zoning Bylaw:

Section 3.330.0 – Non-profit educational institution (allowed by Site Plan Review in all zoning districts)

Or

Section 3.340.1 – TV station (allowed by Special Permit in both the R-G and B-N zoning districts)

Mr. Tucker further noted that the maximum lot coverage allowed in R-G is 40%, while the maximum lot coverage allowed in B-N is 65% (with further modification allowed by Special Permit).

Mr. Guidera stated that Amherst Media would like to purchase the two lots from his mother; however they may enter into a land lease if they cannot raise the funds to purchase the property. Amherst Media hopes to eventually own the land and the building, he said.

Mr. Crouner gave the Zoning Subcommittee report on the zoning amendment. The Zoning Subcommittee voted 4-0 to recommend this zoning amendment to the Planning Board. The ZSC supports the project that has been proposed, but understands that this project is not definite. Therefore the ZSC considered the zoning amendment on its own merits. Rezoning these parcels to B-N is a natural extension of the existing B-N zoning district. B-N is a transition district from residential to business. Extending the B-N zoning district to these parcels will help to complete the district, he said. It is a good idea for the town to have the B-N zoning district here, regardless of the project.

Mr. Schreiber MOVED to close the public hearing. Mr. O’Keeffe seconded and the vote was 7-0.

Mr. Webber explained the Planning Board’s role. The Planning Board can recommend that Town Meeting pass this amendment, can recommend that Town Meeting not pass this amendment or can recommend that Town Meeting refer this amendment back to the Planning Board for further study.

Mr. Tucker stated that the petitioner would present the proposal to Town Meeting and then there would be an opportunity for all of the boards and committees to make a statement about the proposal.

Mr. Schreiber MOVED that the Planning Board recommend to Town Meeting that this zoning map amendment be adopted. Mr. O’Keeffe seconded and the vote was 7-0.

A-12-13 Converted Dwellings Standards & Conditions (Planning Board)

To amend the Standards and Conditions 6 and 13 of Section 3.3241, Converted Dwelling, to clarify the requirements for rental property management

Mr. Webber read the preamble and opened the public hearing. He explained the history of the proposed zoning amendment. Two zoning amendments, passed at the Fall Special Town Meeting, are in conflict with each other. This current zoning amendment would resolve the conflict.

Mr. Crouner explained that the current amendment would eliminate Condition #13 from the standards and conditions of the Converted Dwelling section of the Zoning Bylaw. The current amendment also proposes to add the following words to Condition #6: “or the ongoing presence of a qualified” before the words “resident manager”.

He explained that a petitioners’ article (Article 17 as amended), passed at the Fall STM, had limited the options for management of Converted Dwellings to being owner occupied or having a resident manager. This made Condition #13 superfluous.

There was discussion about whether the words “ongoing presence of a qualified” should be included or whether it was sufficient to merely require a “resident manager”. Mr. Carson spoke in support of including the additional words because it is what the neighbors expect.

Mr. Tucker explained that there is a wide range of programs for training qualified property managers. The permit granting boards will encounter different situations that will need to be dealt with in different ways.

There was discussion about what the minimum level of qualifications would be, whether the qualification requirements would be spelled out in the Zoning Bylaw or elsewhere and

whether the required qualifications would be included in the documents produced by the Safe and Health Neighborhoods Working Group.

Mr. Tucker noted that this requirement applies only to the Converted Dwelling section of the Zoning Bylaw and might not be applicable in other instances.

Mr. Webber spoke in support of the elimination of Condition #13.

There was further discussion about whether to include the words “ongoing presence of a qualified” or if the definition of “resident manager” was clear enough. Some Board members thought that the inclusion of these additional words was redundant.

Maurianne Adams of Precinct 10 spoke in favor of keeping the language as currently printed in the zoning amendment. These words are needed and were part of a compromise that the neighbors agreed to. Each word has a specific meaning, she said.

Mr. Tucker read the definition of a “Resident Manager”, as adopted by Fall Special Town Meeting:

“A live-in resident of a rental residential use qualified and responsible for implementation of the property management plan and for managing and coordinating the maintenance, housekeeping, and administrative duties for the rental units under their charge.”

Mr. Webber suggested referring to “Resident Manager” with initial capitals, since the definition is so clear.

There was further discussion about the need for the additional wording.

Joan Burgess of Mount Pleasant Street would like to keep the word “presence” so that the manager would be “on-site”.

Janet Keller of Pulpit Hill Road agreed that the use of the capitalized words “Resident Manager” would be satisfactory.

Ms. Kruger MOVED to close the public hearing. Mr. Carson seconded and the vote was 7-0.

Ms. Kruger MOVED to strike Condition #13 and to change the wording of Condition #6 to read as follows:

“or a Resident Manager (see definition) in one of the units”

Mr. Carson seconded and the vote was 7-0.

Mr. O’Keeffe MOVED that the Planning Board recommend to Town Meeting that the proposed zoning amendment, as amended, be adopted. Ms. Ford seconded and the vote was 7-0.

III. ZONING

A. Zoning Subcommittee Report

Mr. Crowner presented the ZSC report. There are four more articles to be worked on, he said. They are Non-conforming Structures, Mixed Used Center District dimensional requirements (which would change some numbers in the dimensional table), Mixed Use Buildings Standards and Conditions (which would raise the threshold for which a Special Permit would be required for Mixed Use Buildings and would allow more residential uses on the ground floor), and Form-based Design Regulations. The Form-based Design Regulations is a more general version of what has been previously proposed. It would apply to all mixed-use zones.

B. Review Potential Zoning Amendments for Spring Annual Town Meeting

Mr. Crowner reported that for the Mixed Use Center Districts (B-L, COM, B-VC and

possibly B-G) the ZSC is considering changes to the basic minimum front setback (considering a range rather than an absolute number), a change in the maximum number of floors allowed and a change in the maximum height. The ZSC is not sure about proceeding with changes to the B-G zoning district.

The ZSC is considering extending “Footnote b” to include B-L and COM.

The definition of “height” of buildings might be changed in order to encourage the use of pitched roofs while still allowing developers to maximize the usable space in a building. There is a possibility that a Special Permit could extend the height of a building by another 10 feet beyond the maximum height.

Currently buildings containing only dwelling units are not allowed in the COM zoning district. The existing standards do not allow enough residential use to make the mixed use buildings worth developing. The ZSC is considering allowing more flexibility, suggesting that more than 6 residential units might be allowed by right. The ZSC is proposing to delete the limitation that requires a Special Permit if more than 6,000 square feet of residential space is built on the upper floors. There is also a proposal to allow some residential use on the ground floor but to reserve the front of the building for commercial use and a proposal to increase to 15% the amount of space on the first floor associated with residential uses on upper floors.

The ZSC has begun talking about Form-based Regulations and would like to apply Form-based Regulations to all mixed-use zoning districts. The new, more general Form-based Regulations would state where parking should be, how buildings should address the street, the setback, roofline, entries, pathways to the back. These new Form-based Regulations would apply in all mixed-use districts. The ZSC discussed tables, diagrams and pictures and may remove some of these from the zoning amendment and put them in another document.

The ZSC would like to see both the Mixed-Use Center amendments and the Form-based Regulations come forward together. Neighbors have expressed concern about whether this amounts to Village Center rezoning. The ZSC hopes to have these amendments ready for Spring Town Meeting.

Mr. Webber asked if the proposed dimensional changes would encourage the types of development that the Planning Board wishes to see. He noted that these appear to be incremental changes. Mr. Webber announced that he would not be able to attend the Planning Board meeting on March 6th.

Mr. O’Keeffe expressed support for the minimum height requirement in the B-L and COM zoning districts.

Ms. Kruger suggested separating the dimensional changes into three categories:

- B-L/COM,
- B-VC and
- B-G

so that Town Meeting would be able to divide the motion.

These are somewhat significant changes, she said. She suggested focusing on the Non-conforming Structures now and working on the other amendments for the Fall Town Meeting. This would give these proposed mixed-use center amendments a chance to be publicized.

There was discussion about whether the Form-based Regulations were ready.

Ms. Ford expressed support for separating the visual part of the Form-based Regulations and clarifying the relationship between Form-based Regulations and proposed dimensional changes.

The Board discussed upcoming deadlines with respect to the Town Meeting calendar and potential public hearing dates for zoning amendments.

C. Proposed zoning amendment – Non-conforming Buildings (Planning Board) – Discussion

Mr. Tucker explained the proposed zoning amendment. He reviewed the proposed definition of “structural changes”.

Mr. Tucker explained that Section 9.200 had been added several years ago. The previous Town Counsel had stated that if a building is non-conforming then the use in the building is non-conforming. Section 9.200 gave the Building Commissioner authority to permit changes under certain circumstances.

Mr. Tucker explained that over the years there had been strict attention to non-conformities in neighborhoods but the centers had so many non-conforming properties that the previous Building Commissioners had often made a practice of overlooking dimensional non-conformities in the downtown area.

The proposed zoning amendment would extend authority to the Building Commissioner to permit changes under certain circumstances if nothing is changing that would affect the non-conformity.

Board members and members of the public asked for examples.

Staff members offered some examples of cases where this change would be useful.

The Board discussed the proposed amendment. Mr. Webber noted that this zoning amendment could help to save existing buildings.

Mr. O’Keeffe noted that in the business districts almost all uses required either a Site Plan Review or a Special Permit. The business owners would still need to apply for and obtain the permit associated with the proposed use.

Ms. Kruger stated that the Planning Board’s Report to Town Meeting would be especially important for this amendment.

D. Public Comment Period

Maurianne Adams of Precinct 1 asked about the timing of the public hearings. She noted that the Safe and Healthy Neighborhoods Working Group is working on a complicated and controversial Rental Permit Bylaw. People will be confused by complicated Zoning Bylaw changes that come along at the same time. It is difficult

for people to study Mixed-Use Center and Form-based Regulations along with the Rental Permit Bylaw. She asked the Planning Board to spend time building a constituency for the Form-based Regulations for a later date and to allow people to work on the Rental Permit Bylaw this spring.

Ms. Adams suggested removing R-VC from the Form-based Regulations. People may respond differently if the regulations are limited to the commercial areas.

Ms. Adams expressed concern about the possibility of dense residential complexes in the Mixed-Use Center becoming student apartments. She asked the Board to be explicit about who they expected to live in these complexes. She expressed support for large, off-campus residential complexes if they are appropriately located. She suggested that the town collaborate with UMass to build private student housing.

Mr. Tucker agreed that the town should collaborate with UMass, but he noted that there is still not enough housing for people who want to live in Amherst. The town and landowners cannot discriminate against students, he said. There is a need for housing for everybody. There is no perfect solution. We need zoning that allows housing to happen.

Ms. Adams stated that she would like time for citizens to see what the proposal means, it is not a good idea to consider these proposals along with Rental Regulations, and she is opposed to people being asked to vote on something that they don't understand.

Mr. Webber stated that the effect of the proposed changes is to allow denser residential use in the Commercial zoning district.

Ms. Kruger agreed that citizens needed to have adequate time to study these amendments. She stated that some students will live wherever housing is built. We need professionally managed student housing and more density in the town centers.

Ms. Keller asked for an open, collaborative discussion about proposed locations for housing. Location is important.

Mr. Crouner asked Planning Board members to begin to engage in public outreach now, to attend the Warrant Review Meeting, Precinct Meetings, and to go on the bus tour. There should be a question and answer period for zoning. People need help to understand zoning. They need basic information about zoning.

Mr. O'Keeffe noted that there had once been a TMCC session devoted to zoning. It provided general information about zoning, not an in depth analysis about the amendments.

Mr. Tucker stated that there is a "Primer on Zoning" on the Town Meeting webpage that answers basic questions about zoning.

Ms. Kruger suggested holding one or more Planning Board meetings in other locations besides Town Hall. Other Board members mentioned Bangs Center, the Survival Center and Munson Library as possible locations.

IV. OLD BUSINESS

- A.** Signing of Decisions – Board members signed the following decisions.
 - SPR2013-00006/M16171, 1 South Pleasant Street – Adams & Ruxton Construction Co. for Bank of America
 - SPR2013-00008/M16536, 210 Old Farm Road – Stavros CIL
- B.** Topics not reasonably anticipated 48 hours prior to the meeting

Mr. Webber noted that the Planning Board had received documents from Town Counsel regarding ongoing litigation. He asked Board members if there was a need for an Executive Session to discuss the documents. Board members declined to schedule an Executive Session at this time.

Ms. Ford left at approximately 9:15 PM.

V. NEW BUSINESS

A. Planning Board schedule and agenda for upcoming meetings

Mr. Webber reviewed the upcoming Planning Board schedule. He noted that Town meeting begins on May 6th.

Mr. Webber reported that the Safe and Healthy Neighborhoods Working Group was still working on a draft of their proposal for Rental Regulations. Copies of the draft were distributed to the Planning Board members.

SHNWG has been focusing on registration, inspection, self-inspection and parking. The Group is not sure yet whether it will require a permit or a license that can be suspended for cause. SHNWG plans to focus on penalties for non-compliance at an upcoming meeting (February 26th) and to hold a meeting on March 5 (3 PM to 5PM) and a public forum on March 5 (7 PM to 9 PM). He urged Planning Board members to read the SHNWG document and to comment on it.

Dave Ziomek, Director of Conservation and Development and Chair of SHNWG, will be coming before the Planning Board to present the work of SHNWG and to seek Board members' comments. Mr. Webber praised the Group's work, noting that they were working in a very structured, pragmatic way, addressing policy issues from the top down and had done a great job.

Mr. Tucker stated that SHNWG and staff would be working on simplifying the document and making the process easy to do. The idea was to make this permit or license "easy to get and somewhat difficult to lose". The program needs to contain enough specificity to be enforceable. It also needs to accomplish public safety goals such as compliance with the Health Code, Building Code and Fire Code. There may be one zoning amendment related to parking that is associated with this effort. The effective date of the regulations is not yet known. If and when the regulations pass, the process, including associated forms, need to be developed. There will be a period of time needed to "ramp up".

B. CPTC Brochure – Mr. Webber noted the receipt of the CPTC brochure and encouraged Board members to attend this annual training session for citizen board members. Ms. Brestrup stated that she plans to attend and would be happy to drive members of the Board who also wished to attend.

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

VI. FORM A (ANR) SUBDIVISION APPLICATIONS – none. Ms. Brestrup reported that there was an ANR plan that would be reviewed at the next Planning Board meeting. The ANR plan is associated with a proposed project at 417 West Street and relates to a Site Plan Review application for that property.

VII. UPCOMING ZBA APPLICATIONS – The Board declined to review the following application:

ZBA FY2013-00018 – Joseph Aimua, P.E., S.E. – Special Permit to create two flag lots under Section 6.3 of the Zoning Bylaw, at Leverett Road, adjacent to 130 Leverett Road

VIII. UPCOMING SPP/SPR/SUB APPLICATIONS – Ms. Brestrup reported that there are two upcoming Site Plan Review applications:

Ron LaVerdiere is proposing to construct a mixed-use building at 417 West Street, with commercial and office space on the ground floor and residential uses on the upper two floors. The property is in the B-VC zoning district and therefore does not have the limitations that would apply to a mixed-use building in the Commercial zoning district.

The Unitarian Universalist Society is proposing to construct an addition to its building on North Pleasant Street.

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Stephen Schreiber reported that the PVPC would be holding its quarterly meeting tomorrow.

Community Preservation Act Committee – Sandra Anderson – no report

Agricultural Commission – David Webber reported that there had been no meeting recently. The Ag Com continues to struggle with quorum issues and needs more members.

Transportation Plan Task Force – Richard Roznoy and Rob Crouner – no report

Amherst Redevelopment Authority – Constance Kruger – no report

Design Review Board – Kathleen Ford – no report

Housing and Sheltering Committee – Constance Kruger reported that the HSC would be holding a meeting tomorrow.

Safe and Healthy Neighborhoods Working Group – Sandra Anderson – Mr. Webber had already given the report.

X. REPORT OF THE CHAIR – none

XI. REPORT OF STAFF – none

XII. ADJOURNMENT

The meeting was adjourned at 9:40 PM.

Mr. Roznoy arrived (9:40 PM).

Respectfully submitted: Approved:

Christine M. Brestrup,
Senior Planner

David Webber, Chair DATE: _____