

**AMHERST PLANNING BOARD**  
**Wednesday, March 6, 2013 – 7:00 PM**  
**Town Room, Town Hall**

**PRESENT:** Jonathan O’Keeffe, Vice-Chair (Acting Chair); Bruce Carson, Rob Crouner, Stephen Schreiber, Connie Kruger, Sandra Anderson, Richard Roznoy and Kathleen Ford

**ABSENT:** David Webber, Chair

**STAFF:** Jonathan Tucker, Planning Director  
Christine Brestrup, Senior Planner

Mr. O’Keeffe, Vice-chair, opened the meeting at 7:09 PM. (Mr. Webber was absent.)

**I. MINUTES**

Mr. Carson MOVED to approve the Minutes of February 6, 2013. Ms. Ford seconded and the vote was 7-0-1 (Anderson abstained).

**II. PUBLIC HEARING – ZONING AMENDMENTS**

**A-13-13 Mixed Use Buildings Standards & Conditions (Planning Board)**

To amend the Standards and Conditions for Section 3.325 of the Zoning Bylaw to increase the number of upper floor dwelling units permitted in a mixed use building by right, allow dwelling units on the first floor, and increase the first floor area supporting upper floor residential uses.

Mr. O’Keeffe read the preamble and opened the public hearing. He noted that it was the Planning Board’s intent to continue the public hearing to a date certain after the Board had an opportunity to discuss the proposal and to hear from the public.

Mr. Crouner reported that the Zoning Subcommittee (ZSC) felt that it had finished work on this amendment and is looking for feedback from the Planning Board. Mixed-use buildings, buildings that contain both dwelling units and commercial space, are the only type of residential use allowed in the Commercial zoning district. The primary Commercial zoning districts are located along College Street in East Amherst and in the North Amherst Village Center. It is difficult in the current market to develop commercial uses, so property owners would like to be able to build mixed-use buildings with more residential units. The existing Zoning Bylaw makes it difficult to develop enough units per building to make it worthwhile to develop this type of building by right. This proposal raises the threshold at which a Special Permit is required for increased residential use. It allows more residential use on the ground floor, as long as it’s not in the front of the building or on a public way. The existing Bylaw allows 10% of the first floor area to be taken up by uses associated with upper floor residential uses. Architects have told the ZSC that 10% is not enough area for stairs and elevators associated with upper floor residential uses. The proposal would raise the limit. The ZSC is looking for guidance on the number of dwelling units that should be allowed on the upper floors before a Special Permit is required. The current draft amendment would allow 12 dwelling units before a Special Permit is required, but the ZSC is considering lowering the number to 10. The ZSC is also considering whether to limit the total amount of residential space allowed on the ground floor. The ZSC is considering a 25% limit, including use associated with upper floors.

Ms. Anderson spoke in support of the zoning amendment, but she asked what the “downside” might be.

Mr. Crouner stated that one disadvantage might be that both of the primary Commercial zoning districts are close to residential areas. Another concern on the part of residents might be that a mixed-use building might not contain enough commercial uses.

Ms. Anderson asked about the limit of residential units on the ground floor and spoke in support of keeping a limit on these residential units. Mr. O’Keeffe was not sure about the increase in the number of units permitted without a Special Permit. He agreed with a percentage set-aside for commercial use on the ground floor.

Ms. Ford suggested that the limit for residential use on the ground floor be 50%.

There was discussion about whether the 15% of the ground floor associated with upper floor uses should be included in the total limit of residential use on the ground floor.

Mr. Crouner proposed a limit of 25% to 30% for residential use on the ground floor, including the area associated with upper floor uses. He noted that there will be different sizes of mixed-use buildings.

Mr. Schreiber noted that the commercial space in Boltwood Place is small. There was discussion about whether Boltwood Place is a good model for a mixed-use building or not.

Ms. Kruger recommended a split between residential and commercial uses on the ground floor of 40% to 60%, including the area associated with upper floor uses.

Mr. O’Keeffe summarized that the Board appeared to favor limiting the amount of residential use on the ground floor to something less than 50%.

Janet Keller of Precinct 1 expressed concern about the overall impact of the zoning amendment proposals taken together. She stated that there were pervasive problems with unruly tenants which have not yet been solved.

Melissa Perot of Precinct 1 expressed concern about the apparent effort to rezone, despite the defeat of articles to rezone North Amherst and Atkins Corners. She referred to and read from a letter that she had prepared for the Planning Board and ZSC regarding apparent significant zoning changes. North Amherst residents do not want more residential use. She noted that existing commercial uses in North Amherst had done well. She asked why the R-VC zoning district had been added to the proposal.

Mr. Tucker explained that mixed-use buildings are allowed in the R-VC zoning district.

Ms. Perot continued that these changes would affect significant zoning changes. Mixed-use buildings would allow more residential density and North Amherst does not need more residential uses. Residents of North Amherst would like buildings with businesses on the ground floor and residential uses upstairs. She noted that North Amherst is a “designated food desert”. The area needs businesses and services, particularly those related to the sale of food. Mixed-use buildings lend themselves to senior housing, a use which would be favorably viewed by residents of North Amherst. She recommended using the buildings that are there and granting variances for creative uses of existing buildings.

Mr. O’Keeffe stated that he shared Ms. Perot’s vision for a vibrant community but the uses that Ms. Perot described were not being built under the current zoning regulations.

Mr. O’Keeffe noted that this zoning amendment would encourage mixed use. It merely raises the limit on the number of dwelling units for which a developer would need a Special Permit.

Ms. Perot expressed concerns about the increase in the number of cars and people that would result from passage of this zoning amendment. Residents of North Amherst would like more daytime activity (from businesses) but not more nighttime activity (from increases in the number of residents). She asked that the town take care of the “basics” first.

Mr. Tucker explained that in order for the town to do the necessary infrastructure work in North Amherst the town needs state grants. These grants are contingent on smart growth principles which encourage development in areas that are already developed, siting

residences near businesses so that they can support each other. In order for the town to obtain funding from the state, the town needs to show that there is the probability of real projects being built (potential projects in the pipeline) that would result from and benefit from the infrastructure improvements. In addition, the town is not able to “intervene in the marketplace” to cause certain types of development to occur. All the town can do is “open the door” by creating zoning that allows certain uses to be developed.

Patricia Stacey of Lincoln Avenue spoke about her difficult experience since moving to Amherst. She asked why zoning laws can't protect her as a consumer/homebuyer. She asked that there be mandatory disclosures required of real estate agents that would inform potential buyers that a neighborhood is under pressure from a disruptive population. Residents feel that they have to defend their homes.

Mr. Crouner MOVED to continue the public hearing to 7:05 PM on March 20, 2013. Mr. Carson seconded and the vote was 8-0.

**A-14-13 Mixed Use Center District Dimensions (Planning Board)**

To amend Article 6 and Table 3, Dimensional Regulations and associated Footnotes to increase potential density and add flexibility to dimensional standards in the Limited Business (B-L), Commercial (COM), Village Center Business (B-VC) and General Business (B-G) Districts.

Mr. O’Keeffe, having read the preamble, opened the public hearing.

Mr. Crouner reported that the arguments for this amendment were the same as the ones for the previous amendment. These two amendments are meant to be taken together. The proposal is to change some of the dimensional requirements in Table 3 with regard to a few districts. There are four sections to this amendment. The first three involve changes to dimensional requirements in specific zoning districts. The last is a proposal to change how we measure building height, in Section 6.19 of the Zoning Bylaw. Section 6.19 is referred to in Table 3.

Mr. Crouner described the changes proposed for the BL/COM zoning districts. These changes are meant to go along with changes associated with Form-based Design regulations. In addition, the BL and COM zoning districts would be added to footnote “b”.

Mr. Crouner described the changes proposed for the B-VC and B-G zoning districts.

He explained that the change to Section 6.19 would change the point at which roof height would be measured on a pitched roof. This change would encourage the use of the pitched roof. The ZSC has completed its work on this amendment and would like to get Planning Board input on what is being proposed.

Mr. O’Keeffe noted that this public hearing would also be continued, after the Planning Board had an opportunity to discuss this issue and to hear from the public.

Ms. Kruger suggested that a graphic be added to the zoning amendment, depicting how each type of roof would be measured.

Mr. O’Keeffe asked about the proposal to change the maximum number of floors from 3 to 3 ½ in the BL/COM and the B-VC zoning districts. He noted that the definitions in the Zoning Bylaw do not define “floor”. Mr. Crouner noted that the Form-based regulations include a discussion of measuring floors and half floors and include a definition of “floor”.

Mr. Tucker noted that the Zoning Bylaw already has reference to ½ floors in the R-LD, R-O and OP zoning district dimensional requirements. Mr. Schreiber noted that sometimes the area under the gable of a pitched roof is considered a half floor.

Mr. O’Keeffe expressed support for the concept of a minimum height and asked why the

minimum was 16 feet and not two stories.

Mr. Tucker explained that this is a hold-over from the earlier version of Form Based Code. There might be single story buildings in a mixed-use center and thus the minimum of 16 feet was chosen to allow a one-story building to fit better into a multi-storied, village center area.

Mr. O’Keeffe suggested that if the dimensional regulations required a minimum of 2 floors in a mixed-use center, footnote “a” could be applied to allow applicants to request a Special Permit to permit less than 2 floors. He expressed support for requiring a minimum of 2 floors in the BL/COM, B-G and B-VC zoning districts.

Mr. Roznoy asked about the Maximum/Minimum Height requirement noting that for the B-G zoning district 55 feet appeared to be both “maximum” and “minimum” height. Mr. Tucker pointed out that footnote “n” states that, where only one number is given for height, it represents the maximum height.

Ms. Keller expressed concern that the proposed NAVC zoning district appeared to be “coming back” in the form of these proposed changes to mixed-use centers. There would be a significant increase in residential density in the Village Centers as a result of these changes. She described the changes as “very dramatic” and not in keeping with the neighborhood. She noted that The Cecil Group had characterized North Amherst Village Center as being low density, residential, agricultural and historical. She expressed concern about developing high density projects along the banks of the brooks that run through North Amherst.

Ms. Keller reiterated that there are still problems with unruly students that haven’t been solved yet. She suggested other areas of town that would be more suitable for student neighborhoods. Residents should be protected and allowed the quiet enjoyment of their neighborhoods. These changes comprise a complicated package. The Planning Board should “do a scenario analysis” to show what the results of the changes would be. The package should be put together to make it clear to everyone the degree of the zoning changes being proposed.

Mr. O’Keeffe observed that these zoning changes are proposed as a “package” and the Planning Board Report to Town Meeting should speak to the impact of all of these changes together.

Cinda Jones of W.D. Cowls, North Amherst, spoke in support of the zoning amendment. She stated that these zoning changes are critical. The last significant changes to zoning were made in the 1970’s. Development is going in the wrong places. Ms. Jones stated that John Kuhn, of Kuhn Riddle Architects, had looked at a design for a property north of Cowls Road, which she called the “new trolley barn site”. Mr. Kuhn had designed a 3 story building which only had 4 dwelling units because of the existing zoning regulations. Each of the 4 units would have 4 bedrooms. They would be very large units. She asserted that if more units were allowed there would be a potential for fewer bedrooms. Ms. Jones gave a drawing of the proposed building to Ms. Keller. She implored the Planning Board to “put the density in the Village Center where it belongs”.

Scott Ardizzone of Henry Street stated that he works in real estate and works with young families. He observed that the “dilution of student density is devastating to neighborhoods”. He sees a need to concentrate populations of students to encourage greater controls on behavior. He referred to the student development proposed for the Henry Street area and concluded that the proposal resulted from the fact that a “more cohesive development” elsewhere was not allowed.

Mr. Crouner MOVED to continue the public hearing to March 20, 2013, at 7:30 PM. Mr. Carson seconded and the vote was 8-0.

**A-15-13 Non- Conforming Structures (Planning Board)**

To amend Sections 9.20 and 9.22 of the Zoning Bylaw to: 1) define a structural alteration, 2) allow the Zoning Enforcement Officer to grant selected changes to dimensionally non-conforming buildings in mixed use center districts, 3) relieve conforming changes occurring within a non-conforming building to proceed without an additional Special Permit, and 4) allow the board granting the permit for the principal use to also grant any Special Permit needed for a change in the non-conformity.

Mr. O’Keeffe, having read the preamble, opened the public hearing. He read a description of the proposed changes.

Ms. Brestrup noted that the Building Commissioner, Rob Morra, had been invited to attend this public hearing and was present to explain the proposed zoning amendment, to give examples of how this amendment might help and to answer questions.

Mr. O’Keeffe explained that the amendment is primarily about times when the Building Commissioner, as Zoning Enforcement Officer, already has the authority in the Bylaw to permit changes to buildings that are non-conforming in various ways. What is being proposed is to slightly expand the range of situations where the Building Commissioner is allowed to do that in the case of residential buildings as well as commercial buildings in the central business districts.

Mr. Morra stated that the changes were proposed to do three things:

- 1) The zoning amendment would eliminate the potential for applicants to need to visit the Planning Board and the ZBA when making interior changes to non-conforming buildings.
- 2) The zoning amendment will allow for a change of use to a new “as-of-right” use when only interior alterations are taking place.
- 3) The amendment would reduce the length of the permitting process in instances where only interior alterations are taking place. Staff sees this as important when restaurants or storefronts are experiencing rapid changeover in short periods of time.

Mr. Morra emphasized that this amendment would change the process only when interior changes are taking place.

Mr. Morra offered examples of properties which, because of dimensional non-conformities, should have gone to both the Planning Board and the ZBA, even though only interior renovations were being proposed and the use was an “as-of-right” use.

Mr. Morra noted that he is often in the position of granting Site Plan Review waivers for businesses in the downtown area where the only exterior changes are signs or lighting. Most of these properties have some sort of dimensional non-conformity.

Mr. Crouner asked for an explanation of the potential dangers of this amendment. “What is it opening up?”

Mr. O’Keeffe expressed support for the amendment. He did not see any dangers and said that the amendment was carefully written. Most often the applicants would still need to get either Site Plan Review or a Special Permit for the underlying use. But you wouldn’t have to get an additional Special Permit just because your building was built before zoning regulations went into effect, he said.

Mr. Tucker explained that the intent was to try to avoid having applicants go to two boards. The Planning Board has tried to make changes to the Bylaw to prevent applicants from needing to go to two boards. The Planning Board now has the authority to grant some Special Permits. In the case where both a Special Permit and Site Plan Review are required,

the public hearings could be held simultaneously by the same board.

Mr. O’Keeffe stated that this would result in a better public process with one public hearing or two public hearings combined into one rather than two separate public hearings before two different boards.

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

Mr. Crowner MOVED that the Planning Board recommend to Town Meeting that the zoning amendment regarding Non-conforming Structures be adopted. Ms. Kruger seconded and the vote was 8-0.

### III. ZONING

A. Zoning Subcommittee Report – Mr. Crowner reported that the ZSC was making progress on the Form-based Design Regulations, but the language was not ready yet. The ZSC is hopeful that it will be ready for Spring Town Meeting. The section on street types and the chart of building types has been removed from the amendment. A textual description of building types has been added in place of the chart. There was difficulty incorporating the open space type requirements.

The ZSC was also reviewing two items that had been introduced by staff. One of these is a proposal to place a maximum limit on the number of parking spaces allowed for rental units. The ZSC favored this amendment. The other is a proposal to change the dimensional requirements for the R-F (Fraternity Residence) section of the Bylaw to make it more possible to develop private student housing in this district. There is an R-F zoning district at the corner of the UMass campus (including the Newman Center and two fraternity properties) and another R-F zoning district in North Amherst, on Olympia Drive. The change in dimensional requirements would allow for more intense development in the R-F zoning district. The change involves adding footnote “a” to some of the dimensional requirements. Mr. Crowner asked for input from the Planning Board as to whether the R-F zoning amendment should be pursued for Spring Town Meeting.

Mr. Crowner also asked for participation from Planning Board members in the lead up to Town Meeting in efforts to educate Town Meeting members about the proposed zoning amendments. Warrant review, bus tour and precinct meetings were mentioned.

Mr. O’Keeffe expressed support for placing a maximum limit on the number of parking spaces allowed for rental uses, but asked why this should be part of the Zoning Bylaw and not in the General Bylaw.

Mr. Tucker explained that General Bylaws cannot take the place of Zoning Bylaws in regulating land use. He noted that Dave Ziomek, Chair of the Safe and Healthy Neighborhoods Working Group, would be speaking with the Board at its next meeting. The current drafts of the SHNWG Rental Regulations document refer to the Zoning Bylaw as the place to find requirements for parking.

Ms. Kruger stated that it was problematic to tie the number of parking spaces to the number of tenants. She suggested tying the number of parking spaces to the number of bedrooms.

There was further discussion about the limitation on the number of parking spaces for rental units.

Mr. Tucker noted that this limitation stemmed from a desire not to have excess parking. It is a way of managing one of the impacts of rental units, he said.

Board members expressed support by consensus for putting the parking zoning amendment on the warrant list.

Board members did not express support for putting the R-F zoning amendment on the warrant list. Members determined that it was too late to add something new and that the Board had too many items to deal with as it is.

Mr. Roznoy asked if the R-F properties at UMass were on the UMass campus. Mr. Tucker stated that the R-F district properties near the campus were privately owned. Of the R-F district properties in North Amherst, two were privately owned and the others were owned by UMass.

Ms. Kruger reported that the consultants working on the Housing Production Plan (HPP) had presented their final report at a meeting last night [March 5<sup>th</sup>].

Mr. Crouner had gone to the presentation on the HPP. He noted that the HPP explained the state of housing stock in town now and offered a plan to improve the stock of affordable housing. The HPP informs the work of the ZSC. The consultants reported that it was increasingly difficult for people to afford to live in Amherst. The high cost of housing is driving people (of both low and moderate incomes) out of town. This has an impact on the schools and the town budget. The Amherst Housing Authority has Section 8 vouchers that cannot be used in Amherst because housing here is too expensive. He recommended that members of the Planning Board read the HPP report and asked that the Planning Board receive a presentation on the report. Mr. Roznoy asked for a copy of the report.

Mr. Tucker stated that Planning Department staff had been talking to the consultants hired to prepare the Housing Market Study. Part of this work will be a study of the impact of student housing on housing overall in town.

Mr. O’Keeffe concluded that Board members had not expressed support for putting the R-F zoning amendment on the warrant list for Spring Town Meeting.

**B.** Letter from Cinda Jones regarding Natural Resource Conservation Zoning – Mr. O’Keeffe acknowledged receipt of Cinda Jones’ letter.

**C.** Public Comment Period

Janet Keller of Precinct 1 expressed concerns about Section 16.91, Administration, in the Form-based Design Regulations. She encouraged the Planning Board to include the section on open space. She asked about the relationship between Form-based Overlay zoning and certain other sections of the Bylaw, like Section 3.201 Design Review Board and Sections 10.38 and 11.24. What are the implications of adopting Form-based Regulations on these sections of the Bylaw?

Mr. Tucker stated that there is no proposal to alter the role of the Design Review Board and there is no DRB jurisdiction yet in mixed-use centers other than the Downtown area. He noted that the Planning Board and the ZBA already had lists of criteria that they used when determining whether to approve an application – Section 11.24 for Site Plan Review and Section 10.38 for Special Permits. These include consideration of design issues. There is no conflict with Form-based Design Regulations.

Melissa Perot expressed her disappointment that the Housing Market Study was not ready. She noted that the Town Manager had said that no rezoning in North Amherst would go ahead until the Housing Market Study was available. She asked for the Planning Board’s opinion with regard to a healthy balance between rental housing and home ownership. She listed business and agricultural uses that she felt should be

encouraged. She asserted that all of the emphasis was being placed on providing more residential units and asserted that more residential units would not support the town well. She stated that the Form-based regulations were too much and too complicated for people to comprehend or accept.

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

Ron LaVerdiere requested withdrawal without prejudice for an ANR applications (ANR2013-00012) for a property at 417 West Street. He submitted a letter of request to withdraw. Mr. LaVerdiere explained why he had submitted the ANR application and why he chose to withdraw it at this time. He distributed a drawing showing elevations of the mixed use building that he proposed to build on the property and explained that he had hoped that the filing of the ANR would help him to deal with limitations as to the height of the building in the B-VC zoning district. He explained that Town Counsel is currently doing research related to the issues involved. Mr. LaVerdiere has submitted a Site Plan Review application for the proposed building and the Planning Board will be holding a public hearing on the application once Town Counsel has offered its opinion.

Mr. Roznoy MOVED to approve the withdrawal without prejudice of ANR 2013-00012. Ms. Anderson seconded and the vote was 8-0.

**IV. OLD BUSINESS**

**A. Signing of Decisions**

SPR2013-00007/M16642, 61 Strong Street – Ronald Bohonowicz for Wildwood Day Care – The Planning Board members signed the decision.

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

**V. NEW BUSINESS**

**A. Planning Board schedule and agenda for upcoming meetings**

The next Planning Board meeting is March 20<sup>th</sup> with two public hearings on zoning amendments continued to that night. Dave Ziomek, Chair of the Safe and Healthy Neighborhoods Working Group, will make a presentation to the Board on March 20<sup>th</sup> on Residential Rental Regulations. In addition the town has received a request to withdraw from Chapter 61 the property owned by W.D. Cows between Henry Street and Market Hill Road. And the Master Plan Implementation Committee will also be discussed on March 20<sup>th</sup>.

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

**VII. UPCOMING ZBA APPLICATIONS – none**

**VIII. UPCOMING SPP/SPR/SUB APPLICATIONS – Mr. LaVerdiere's Site Plan Review application for a mixed-use building at 417 West Street will be reviewed at an upcoming Planning Board meeting.**

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

Pioneer Valley Planning Commission – Stephen Schreiber reported that PVPC met last week. The main topic was the HUD-funded Sustainable Knowledge Corridor update. Drafts of the report have been released. There are lots of maps on various topics. Mr. Schreiber encouraged Planning Board members to review the report and he promised to send links to the documents to be forwarded to Planning Board members. Mr. Schreiber also reported that the PVPC had reviewed the Top Ten Resolves and had agreed to a modified version of Resolve #6 that now gives priority to looking at the North East Central Corridor rail service, with stops in Palmer, Amherst and Northfield.

Community Preservation Act Committee – Sandra Anderson reported that CPAC had met last week.

They plan to hold an extra meeting because they have not finished deliberating. They have received \$1.1 million in requests and only have less than \$500,000 to disburse. There are two big requests for land acquisition. The next meeting will be March 14<sup>th</sup> at 7:00 PM at which time they will conduct their final deliberations.

Agricultural Commission – David Webber – no report

Transportation Plan Task Force – Richard Roznoy and Rob Crowner – 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 Housing and Sheltering Committee may not be able to have the consultant come to present the HPP report to the Planning Board due to limitations on the scope of their contract, but members of the HSC would be able to come. The HSC has been concerned about the displacement of residents of Echo Village. There are 19 households in Echo Village that have Section 8 vouchers. It is a very real problem that there is not enough family housing in Amherst. This impacts the town's ability to have a diverse community.

Safe and Healthy Neighborhoods Working Group – Sandra Anderson – Ms. Brestrup reported that SHNWG had met yesterday. The discussion focused on the process that the Building Commissioner would follow when he received a complaint. There was discussion of fines, court appearances and possible suspension of permits or licenses. Many different voices were heard, including those of property managers.

**X. REPORT OF THE CHAIR** – none

**XI. REPORT OF STAFF** – none

**XII. ADJOURNMENT**

The meeting was adjourned at 9:25 PM.

Respectfully submitted:

Approved:

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

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

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