

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2013-00009, for a non-owner occupied duplex, under Section 3.3211 of the Zoning Bylaw, at 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District), with the following conditions:

Use/Floor Plans

1. 18 months from the Certificate of Occupancy issue date, the owner shall appear before the Zoning Board of Appeals at a public meeting. The purpose of the public meeting shall be for the Board to review compliance with the conditions of the permit.
 - a. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with Town procedures for notice under Chapter 40A, Section 11. This may require the owner to obtain a Certified List of Abutters and provide a minimum of two week public notice.
2. Both dwelling units shall be constructed and operated in accordance with the following floor plans prepared by Jennifer Deforge, stamped approved by the Zoning Board of Appeals on May 16, 2013:
 - a. Foundation Plan dated August 28, 2012, last revised January 3, 2013
 - b. First Floor Plan dated August 28, 2012, last revised March 6, 2013
 - i. The "office" as shown shall contain a casement opening, not a door
 - c. Second Floor Plan dated August 28, 2012, last revised January 3, 2013
3. Neither unit shall contain more than four bedrooms, and the units shall not be occupied by more than four unrelated individuals in accordance with the Amherst Zoning Bylaw.

Elevations

4. The building shall be constructed substantially in accordance with the elevations prepared by Jennifer Deforge, stamped approved by the Zoning Board of Appeals on May 16, 2013:
 - a. East and West Elevations, dated August 28, 2012, last revised January 3, 2013
 - b. Front and Rear Elevations, dated August 28, 2012, last revised March 6, 2013
5. The building exterior shall be of Azek brand trim boards with Certainteed brand white vinyl siding, frieze boards, and 50 year architectural shingles as shown on the approved plans.

Site Plan/Site Improvements

6. Prior to the issuance of a Certificate of Occupancy, the site shall be improved substantially in accordance with the site plan prepared by James Smith, last revised on May 1, 2013 and stamped approved by the Zoning Board of Appeals on May 16, 2013, including but not limited to:
 - a. The driveway and parking area shall consist of bituminous pavement and shall contain a total of six exterior parking spaces (three parking spaces with dimensions of 9 feet x 18 feet and three parking spaces with dimensions of 8 feet x 16 feet) and turnaround area.
 - b. The building shall be located substantially in accordance with the setbacks as shown.

- c. The driveway entrance location shall be no closer than 20 feet to the existing Shade Tree, shown as the 24" inch maple.
- d. The drainage swale shall be substantially as shown including location, size and depth.
- e. The existing hedge on the property can remain despite being shown on the plan as to be removed.

Landscaping

7. Prior to the issuance of a Certificate of Occupancy, the site shall be landscaped substantially in accordance with the Landscape Plan stamped approved by the Zoning Board of Appeals on May 16, 2013. This shall include the foundation plantings and the preservation of the existing trees, hedges, and bushes, shown on the plan.
 - a. The existing hedge adjacent to Northampton Road may remain, but shall be maintained in a well-manicured manner to prevent obstruction of sight lines or overgrown vegetation from encroaching on the existing sidewalk.
 - b. Landscaped areas shall be maintained continuously, including removal of weeds and trimming of shrubbery; any dead vegetation shall be replaced with an equivalent or similar species.
 - c. As shown on the approved landscaping plan, a six inch "bumper block" curb shall be installed and maintained around the perimeter of the parking area. The intent of the curb is to help prevent vehicles from being parked on the lawn.
 - d. As shown on the approved landscaping plan, a four foot tall "white picket fence" shall be installed. The style of the fence shall be the "The Florida Style" as shown on the specification sheet approved on May 16, 2013.
8. Prior to the issuance of a Certificate of Occupancy, the applicant shall contact the Amherst Building Commissioner to schedule a field inspection, prior to installation, of the location and number of arborvitae along the north property line. The purpose of the plantings is to screen automobile headlights. At a minimum, the plantings shall consist of arborvitae five feet in height after planting and spaced four foot on center and as approximately shown on the stamped photograph and site plan.

Parking

9. Prior to a Certificate of Occupancy, all exterior spaces shall be painted and striped to delineate each space.
10. No more than six cars shall be regularly parked on the premises. In the event that there are 8 tenants, the two garage spaces shall be available and used for tenant parking.
11. No parking shall occur on any non-paved surfaces.
12. The owner shall take all reasonable and appropriate actions to ensure that no tenants of the units regularly park on Blue Hills Road.
13. Snow storage and snow plowing shall be completed so as to not impede on or block any of the required parking spaces.

Lighting

- 14. All exterior lighting shall be arranged or designed to be downcast. Pursuant to the approved "lighting plan" stamped approved by the Zoning Board of Appeals on May 16, 2013, the lighting fixtures shall consist of two motion detector lights at each of the front porches adjacent to Northampton Road; two motion detector lights at the rear of the building; and two coach lights on each deck. The lighting fixtures shall also be located in accordance with the approved elevations.

Management

- 15. This property shall be registered and permitted under the Amherst Residential Rental Property Bylaw.. Loss or suspension of a rental permit shall constitute a violation of this condition.
- 16. The property shall be managed in accordance with the Management Plan stamped approved by the Zoning Board of Appeals on May 16, 2013, including provisions for landscaping, snow removal, and trash storage within the garage.
- 17. The owners shall implement and comply with the provisions of the Complaint Response Plan stamped approved by the Zoning Board of Appeals on May 16, 2013. As noted therein, an Affidavit of Compliance shall be filed with the Amherst Planning Department.
- 18. The owner shall take all reasonable steps to ensure that the property does not constitute a nuisance due noise as defined under the Unlawful Noise provision of the General Bylaw.
- 19. Violations of provisions of the Zoning Bylaw, or Town Bylaw, may constitute evidence of non-compliance with the provisions of this permit.
- 20. There shall be no upholstered furniture allowed on the exterior of the premises.
- 21. The lease for each of the units shall contain language and information substantially similar to the submitted lease regarding parties, noise, parking, nuisance house violations, keg licensing, and the sale of alcohol.
- 22. The exterior of the premises shall be regularly monitored for excessive litter.

Change of Ownership

- 23. Upon a change of ownership, or if the property is no longer managed by Wilson Properties Group, LLC, the new owner and/or manager, shall present a new Management Plan to the Zoning Board of Appeals at a public meeting. The purpose of the meeting shall be for the Board to determine whether conditions of the permit are being complied with and whether any modification of the Special Permit is required.
 - a. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with the Town procedures for notice under Chapter 40A, Section 11. This may require the owner obtain a Certified List of Abutters and provide a minimum of two week public notice.



Eric Beal, Chair
Amherst Zoning Board of Appeals

6/21/13
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Wilson Properties Group, LLC
155 Buffam Road, Pelham, MA 01002

Date application filed with the Town Clerk: October 11, 2012

Nature of request: For a Special Permit to construct a new two family dwelling, under Section 3.321 of the Zoning Bylaw

Address: 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District)

Legal notice: Published on October 31, 2012 and November 7, 2012 in the Daily Hampshire Gazette and sent to abutters on October 30, 2012

Board members: Eric Beal, Tom Ehrgood, Yuri Friman

Staff members: Jeff Bagg, Senior Planner, Robert Morra, Building Commissioner

Submissions: See Appendix A at the end of the Decision

Site Visit: November 12, 2012

Eric Beal, Tom Ehrgood, and Yuri Friman met the applicants, Peter and Harry Wilson and attorney Tom Reidy on-site. The following was observed:

- The existing buildings, which are abandoned and in disrepair, and the approximate location of the new dwellings and parking area.
- The approximate location of the property lines and viewed the property from Northampton Road and Blue Hills Road.

Public Hearing: November 15, 2012

Upon written request from the applicant, the public hearing was continued to January 4, 2013. No testimony occurred.

Public Hearing: January 10, 2013

The applicants, Peter Wilson and Harry Wilson, were accompanied by their architectural designer, Jennifer Deforge, and attorney, Tom Reidy.

Mr. Reidy stated that the owners are seeking a Special Permit for a non-owner-occupied two-family dwelling under Section 3.3211 of the Zoning Bylaw and provided the Board with some background on the application, as follows:

- The original application was filed in October, 2012. After filing, the owners met informally with the Design Review Board (DRB) who had several recommended changes. The owners and designer incorporated the changes and those revised plans are before the Board presently.

- In November the applicants requested a continuation of the hearing to allow for proposed Zoning Bylaw changes to be considered by Town Meeting. Several of those changes related specifically to this proposal. During the Fall 2012 Town Meeting, new provisions were adopted with respect to the design and management requirements for non-owner occupied two family dwellings. Those revised materials have been provided.
- A presentation of the project before the Planning Board is scheduled for January 16, 2013.
- In October, 2012, the applicants applied for a demolition permit, which triggered a demolition delay review of the project by the Historical Commission. On November 20, 2012, the Historical Commission voted unanimously to allow the structure to be demolished. A condition of that approval was that the proposed new design be reviewed by the Historical Commission.
- Wilson Properties, LLC, is owned by Pete and Harry Wilson, both of whom reside in Pelham. They consider themselves part of the community. In addition to the subject property, they own six other rental properties: five in Pelham and one in Hadley. They have had minimal issues with these properties and only manage properties that they own.

Mr. Reidy and Harry Wilson referred to the site plan, revised October 8, 2012, and described the proposal, as follows:

- The property is located in the R-N Zoning District and has a lot area of 29,987 square feet where the Zoning Bylaw requires a minimum of 26,000 square feet to create two units.
- The design of the building is intended to mimic the existing structure while modernizing it and keeping the building in character with the buildings on Northampton Road. One of the units is approximately 23 feet from Northampton Road while the other unit is set back approximately 50 feet from Northampton Road.
- The two dwelling units are shown side-by-side sharing approximately nine feet of a shared wall. The front of the building is oriented toward Northampton Road and each unit contains a front porch with a central walkway from Northampton Road.
- Vehicular access to the property is from Blue Hills Road with the parking oriented to the rear of the building and adjacent to Blue Hills Road. The appearance of the building from Blue Hills Road will be a three story building with each unit containing a one car garage.
- The landscaping plan proposes to keep the existing trees adjacent to Blue Hills Road while adding some rhododendrons in front of each unit.

Ms. Deforge referred to the elevations, revised on January 2, 2013, and stated that the owners reviewed the existing architecture along Northampton Road and made the following revisions:

- A lower roof line overall;
- The addition of gables on all sides of the building;
- The addition of cornice returns to match other details in the neighborhood;
- Additional window details, Azek-brand corner trim details and frieze boards;
- Residential style coach lights and basement level doors.

The following members of the public spoke regarding the application. All statements are summarized:

- Don Wise, 91 Blue Hills Road, noted that the concern of Town Meeting appears to be the proliferation of student rental properties. He expressed concern regarding the potential for the offices in each unit to be used as bedrooms. He stated that the proposed parking is inadequate for the proposed number of tenants and disagreed with the terminology of calling the proposal a two family dwelling rather than a rooming house.

- Lisa Vote, 116 Blue Hills Road, stated that she is the immediate abutter to the north and has lived there for over eight years. She stated that the property has been abandoned and has not been well-maintained. There are no multifamily rentals on Blue Hills Road. She expressed concern regarding the potential lack of maintenance of the property, noise, lighting and the overall number of people and cars that would be associated with a non-owner occupied duplex.
- Natalie Jahman, 36 Blue Hills Road, expressed concern with the notion of relying on a property management company for controlling tenant behavior. She cited instances where mass gatherings occur much more rapidly now and noted that even Police have had issued controlling behaviors. She stated that it is unlikely that families will reside in these units. She expressed concern with the potential impact to the neighborhood of having eight unrelated individuals on the property. Finally, she cited concerns with parking for visitors and noted that they will likely park on the lawn as there is no parking provided for visitors.
- Tracy Zafian, 51 Blue Hills Road, expressed concern about the density of the proposal and noted that there are no other multifamily dwellings on Blue Hills Road. She expressed concern with the proposed driveway location contributing to the number of cars traveling on Blue Hills. She requested the Board consider requiring the driveway to enter from Route 9 and requiring the parking to be on that side of the property. She expressed concern with cars exiting Route 9 onto Blue Hills at a high rate of speed.
- Steve Shumway, 235-237 Northampton Road, has resided there for over thirty years. He stated that he supports the proposal and stated that it will replace the existing abandoned building. He stated that there are other multifamily dwellings on Northampton Road and that a local owner/manager is helpful to provide more immediate responses and control over the rental of the property.

The Board discussed the potential of relocating the driveway to Route 9. The Board determined that a driveway sited on Blue Hills Road would be the preferred option as it would be safer overall.

The Board discussed and requested additional information be provided on the following for the next hearing:

- A landscaping plan containing more detailed information about the location and extent of plantings, including a plan for the removal of overgrowth adjacent to Blue Hills Road. The landscaping plan should also include the revisions to the parking plan and provide screening to the adjacent property to the north.
- A fence plan showing the material, height and location should be provided.
- A lighting plan with specifications for the downcast fixtures to prevent spillage onto the adjacent property.
- Further consideration of the shade trees adjacent to Blue Hills Road with respect to the driveway location.
- A Complaint Response Plan and lease
- An adequate review of the neighborhood characteristics with respect to location of other multifamily uses.

Mr. Beal MOVED to continue the public hearing to February 28, 2013. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: February 28, 2013 (Continued from January 10, 2013)

The applicants, Peter Wilson and Harry Wilson, were accompanied by their attorney, Tom Reidy.

The Board discussed the proposed fence. The Board determined that given its location and the topography, that it was suitable. However, the Board noted that it was more of a preventative measure against cars on the lawn than screening.

The Board discussed the curbing, driveway and drainage. It was determined that the Town Engineer should review the plan to ensure that the driveway runoff will not sheet flow directly onto Blue Hills Road.

The Board discussed parking and the proposed curbing. The Board expressed concern with the potential for vehicles to park on the lawn. The Board noted that two parking spaces are required per dwelling unit but that it is realistic to assume that each unit will contain up to four unrelated individuals. The Board noted that the proposal only provides a total of six parking spaces (two garage spaces and four exterior spaces) and determined that it may not be sufficient for the potential use by eight tenants. The applicant contended that other vehicles could be parked in front of the garage doors.

The Board discussed the email from the Tree Warden which required the driveway not be excavated within 30 feet of the shade trees. The applicant stated that the driveway will comply with this requirement.

The Board discussed the landscaping plan. In particular, the Board discussed the proposed arborvitae to the north of the parking area. The applicant explained that they were intended to be more of a parking barrier rather than screening.

The Board discussed the exterior lighting and determined that the elevations needed to be revised to more accurately show the lighting fixture heights and locations.

The Board discussed the applicants' Complaint Response Plan. Mr. Ehrgood noted that his expectation for the plan involves the neighbors and doesn't solely rely on the Police Department. He noted that the on-site manager provision implies that they may have some responsibilities but that more urgent matters should be dealt with by the property owners directly. Mr. Beal noted that he believed the owners should be responsible for providing abutters with the plan rather than putting the burden on them to get it. He recommended that the notice requirements of Chapter 40A could be used which requires notification to those property owners within 300 feet. Mr. Beal noted that immediate accountability is important and needs to be incorporated as part of the response. The applicant expressed concern with the ability for neighbors to be filing erroneous or harassing type complaints.

Mr. Beal provided the applicant with a form he prepared. He noted that the Zoning Board of Appeals as a body has not finalized a form or its content. He explained that his form identifies a procedure for owners. It requires notice be given to neighbors and identifies who the responsible party is at all times.

The Board discussed the floor plans. Specifically, the Board discussed Mr. Ehrgood's concern of each of the units containing an "office" suitable for use as a bedroom.

The Board discussed possibly requiring modification of the plans to remove the room. Mr. Friman noted that having an actual office with a door might be appealing to a young adult or family. As a compromise, the Board determined that they could require that the room not contain a door as a way to reduce the likelihood of the room being used as a bedroom. Mr. Morra expressed concern with the ability to monitor and enforce this type of condition. The Board determined that the permit can also be conditioned have the rooms used only as labeled. Additionally, the Board discussed the new language in the Bylaw allowing for review by the Board for compliance with conditions as a way to monitor the use of the property.

The following members of the public spoke regarding the application. All statements are summarized:

- Tracy Zafian, 51 Blue Hills Road, noted that she is not a direct abutter but expressed concern regarding the density of the proposal. She noted that there are no other multifamily dwellings on Blue Hills Road, but only on Northampton Road. She expressed concern with the likelihood of those new residents using Blue Hills Road and noted that the road is narrow and very heavily populated by families with children. She expressed concern with the new residents parking on Blue Hills Road and noted that it is a safety concern.

Mr. Beal MOVED to continue the public hearing to March 12, 2013. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: March 12, 2013

Upon written request from the applicant, the public hearing was continued to April 2, 2013. No testimony occurred.

Public Hearing: April 2, 2013

April 2, 2013 was a state primary. Due the provisions of Chapter 40A, Section 11, which prohibits hearings on an election day, the hearing was continued to a new date, May 16, 2013. No testimony occurred.

Public Hearing: May 16, 2013

The applicants, Peter Wilson and Harry Wilson, were accompanied by their attorney, Tom Reidy.

The Board reviewed the changes to the site plan since the last hearing. The Board referred to the chart of changes prepared by the Planning Department, dated May 14, 2013, including the following:

- Unit #1 is located 31.9 feet from the front property line along Northampton Road where the original design located it at 22 from the property line. The proposed driveway entrance is now 17 feet from the "24 inch Maple" adjacent to Blue Hills Road. The parking area is approximately 41 feet from the north property line.
- Six exterior spaces are shown. Three spaces are 9 feet x 18 feet and three are 8 feet x 16 feet.
- An area for drainage runoff storage is shown north of the parking area. After several iterations, the Town Engineer has reviewed the design and determined that the depth of the depression adequately accommodates the discharge of a ten-year storm.
- The revised landscaping plan shows four proposed arborvitae traversing through the proposed drainage area. The existing trees are labeled more accurately based on locations shown on the survey. The existing shrubs along the north property line remain.

- A clear site triangle is shown which will require the removal of a portion of the existing hedge adjacent to Northampton Road.
- Additional topography, in one foot intervals, is shown on the plan. The garage floor is 233.5 and driveway is at 233. The plan shows a "low rock wall" immediately adjacent to the garage. Based on the topography, the wall will be approximately 4 feet 7 inches in height and become lower towards Blue Hills Road.

The Board determined that the existing hedge on the property can remain. However, the Board determined that it must be trimmed regularly to prevent overgrown onto the sidewalk or any further obstruction to the line of sight.

The Board discussed the parking plan and parking in general. It was determined that tenant parking should not regularly occur in front of the garages or outside of the spaces delineated on the site plan. The Board determined that there should not be more than six vehicles parked outside on the property on a regular basis. The Board acknowledged that guests may park on the property but noted that the Town may monitor excessive parking or vehicles parking on the premises regularly. The Board determined that the basement of the proposed building provides adequate areas for tenant storage and that if there were eight tenants on the property the garages should be used for vehicle parking and not storage. The Board determined that striping of the spaces was important to deter irregular parking patterns and noted that the six inch bumper block curbing was intended to prevent vehicles from parking on the lawn.

The Board discussed the parking lot screening. The Board determined that a row of arborvitae should be installed adjacent to the north property line to screen vehicle headlights. The Board determined that the arborvitae should be a minimum of five feet in height at planting and spaces four foot on center. To determine the best location, the Building Commissioner shall field inspect the proposed location prior to installation. A photograph was used to determine the approximate location and the site plan was annotated.

The Board discussed whether to require that the permit expire upon change of ownership.

The Board discussed whether to require a review period for compliance with the conditions. The Board noted that the recently amended Zoning Bylaw for non-owner occupied duplex included this as a Standard and Condition for these uses in the R-G and R-VC Zoning District and determined that it was an appropriate condition on this permit given the property's location.

Specific Findings:

The Board found under Section 3.321, two family detached dwelling (duplex), that:

3.321 - Except as may otherwise be authorized under this section, a two family detached dwelling (duplex) shall have an external appearance and footprint compatible in terms of design with those of single family detached dwellings in the surrounding neighborhood. In all districts, the Special Permit Granting Authority or Permit Granting Board, as applicable, shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of a new two family detached dwelling or the addition of a single new dwelling unit to an existing single family residence such that a two family detached dwelling (duplex) is created. The Board finds that the structure has an external appearance compatible with other single family dwellings in the neighborhood after review of submitted photographs and the elevations which indicate that the building will be white Certainteed-brand vinyl siding with white Azek-brand trim boards and the roof will be 50 year architectural shingles.

The Board finds that the footprint is compatible with those single family dwellings based on the data provided by the applicant from the Town GIS, as follows:

- The proposed building is approximately 2,000 square feet in footprint;
- 78 Northampton Road: footprint is approximately 1,192 square feet;
- 86 Northampton Road: footprint is approximately 3,638 square feet;
- 96 Northampton Road: footprint is approximately 3,072 square feet;
- 104 Northampton Road: footprint is approximately 2,005 square feet;
- 132 Northampton Road: footprint is approximately 1,372 square feet;
- 155 Northampton Road: footprint is approximately 2,366 square feet;
- 169 Northampton Road: footprint is approximately 1,681 square feet;
- 240 Northampton Road: footprint is approximately 1,499 square feet;
- 247 Northampton Road: footprint is approximately 1,905 square feet;
- 255 Northampton Road: footprint is approximately 1,675 square feet;
- 277 Northampton Road: footprint is approximately 2,040 square feet.

The Board finds that the Design Review Board reviewed the proposal and made several recommendations and that the applicant has revised the plans to reflect those recommendations. The Board also finds that based on the applicants' proposed written findings for the project under the Design Review Board principles and standards, Sections 3.2040 and 3.2041, the design complies with the provisions of Section 3.2040 and 3.2041 of the Zoning Bylaw.

Where the two dwelling units are arranged side by side, said units shall either: 1) share a significant portion of at least one common wall or floor abutting habitable space, or, 2) the Special Permit Granting Authority or Permit Granting Board, as applicable, may allow a duplex where the two units do not share a common wall abutting habitable space but are instead connected structurally and continuously by a shared foundation, walls, and roof. The Special Permit Granting Authority or Permit Granting Board may make such an allowance only upon a determination that the design of the proposed duplex is compatible with the architecture and building and site layout of other residential buildings in the surrounding neighborhood. The Board found that the two units are proposed side by side and that the design provides nine feet of shared wall between the units. The Board found that this arrangement constitutes a significant portion of the wall, noting that part of the origin for the provision was to prevent two units from being connected by a breezeway or where only the corner of two units are connected.

3.3211 – Non-owner occupied duplex - For a non-owner occupied duplex, one (1) or both dwelling units are rented and neither unit serves as the principal residence of one or more owner(s) of the property. No dwelling unit under this use category may be occupied by a total of more than four (4) unrelated persons. The Board finds that the proposal will be non-owner occupied and both dwelling units will be rented. The Board determined that a condition of the permit will limit the occupancy of both units such that they cannot be occupied by more than four (4) unrelated individuals.

The Special Permit Granting Authority shall require the ongoing services of a qualified professional property management company, the presence of an on-site resident manager, or similar provision for proper management of the rental use as a condition of approval. The Board finds that the owners, under Wilson Properties Group, LLC, combined with the submitted Management Plan and Complaint Response Plan satisfy the "similar" provision for proper management of the rental use.

1. *Name(s) and contact information shall be provided for the owner, any responsible rental property management entity, and at least one on-site resident.* The Board finds that the owner information is provided in the Complaint Response Plan and that on-site manager information will be provided annually within a reasonable time after agreement to the lease.

2. *A management plan as defined in the Rules and Regulations adopted by the Special Permit Granting Authority, shall be included as an integral part of any application. Also included shall be a Response Plan describing the concrete steps to be taken by the property owner or management in response to complaints about the operation of the use or the conduct of the tenants.* The Board finds that Management Plan, lease, and Complaint Response Plan describing the concrete steps to be taken by the property owner or management in response to complaints about the operation of the use or the conduct of the tenants.

3. *In the R-G and R-VC Districts, a Special Permit granted under this section shall lapse upon any change in ownership of the subject property, and the Special Permit Granting Authority may impose a review of compliance with Special Permit conditions at such intervals as it deems reasonable.* The Board finds that the property is located in the R-N District and not subject to this provision. However, the Board determined that a compliance review period should be established.

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The proposal is located along Northampton Road (Route 9), a main thoroughfare through Town and is located in close proximity to downtown, Amherst College, and the University of Massachusetts. The Board finds that two dwelling units are appropriate in the Neighborhood Residence (R-N) Zoning District, the purpose of which is to “provide for residential areas of medium densities...adjacent to higher density residential districts, near arterial or primary residential streets, or in areas transitional between the lower density districts and other districts”. The proposal is suitable located in the neighborhood as within a one-quarter mile radius of 179 Northampton Road there are approximately fifty-two (52) non-owner occupied properties, including twenty one (21) on Northampton Road; and eleven (11) multi-family properties including five along Northampton Road, eight of which are two family dwellings. The proposal includes a management plan and complaint response plan to ensure proper maintenance, upkeep, and management of the property.

10.382, 10.383 & 10.385 & 10.387- The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features; The proposal provides convenient and safe vehicular pedestrian movement within the site, and in relation to adjacent streets, property or improvements. The Board finds that the management plan, compliant response plan, lease and conditions of the permit will mitigate, prevent, respond to and/or eliminate potential nuisances. The lease informs tenants of both Zoning Bylaw provisions as well as General Bylaw requirements related to, among other things, noise, gatherings, and alcohol. A six inch bumper block curb shall

be installed around the perimeter of the parking area to allow for proper snow removal while preventing cars from parking on the lawn. A condition of the permit requires the installation of arborvitae adjacent to the north property line for the purposes of screening headlights. Exterior light fixtures will be arranged or designed to be downcast to prevent light spillage onto the adjacent property. The existing structure which has been abandoned for more than 10 years will be removed. The proposed driveway entrance from Blue Hills Road will provide a relatively safer location for entering and existing vehicles than Northampton Road.

10.384 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The new construction will be built in accordance with the applicable building codes, including means of egress and other safety requirements. The management plan identifies adequate areas for the storage of waste and recycling within the garages. The site plan provides adequate parking areas, walkways, green space and lighting.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The proposal provides two interior garage spaces (one per dwelling unit), and six exterior parking spaces. The Board finds that the provision for one parking space per bedroom is adequate and necessary for the proposed use. The Board approved the creation of three full size spaces and three compact car spaces, as follows:

7.104 - Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces. Compact parking spaces shall be designated by clearly visible signs. The Board found that eight parking spaces are proposed: two garage spaces and six exterior spaces. Of the eight total parking spaces, the applicant proposed three small car parking spaces with dimensions of 8 feet x 16 feet. The Board found that this request for 3 small car parking spaces is less than the fifty percent allowed under section 7.104 and that the configuration is appropriate to reduce the overall amount of paving while providing an adequate number of parking spaces for the use.

7.112 - Screening: parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high. Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits. The Board finds that additional screening should be installed adjacent to the north property lines. The condition of the permit requires that the plantings be five foot tall arborvitae spaced four feet on center. The final location of the plantings will be confirmed in the field by the Building Commissioner prior to installation to ensure they will provide suitable screening to the adjacent single family dwelling.

10.387 - The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. If the Special Permit Granting Authority deems the proposal likely to have a significantly adverse impact on traffic patterns, it shall be permitted to require a traffic impact report, and the proposal shall comply with Section 11.2437 of this Bylaw. The Board finds that the proposal provides for adequate areas for vehicles to maneuver within the paved area. The location of the driveway on Blue Hills was determined to be safer for residents than constructing the driveway with access from Northampton Road. The proposal provides suitable walkways and access ways for pedestrian movement within the site. The Board determined that the provision of the Clear Site Triangle in the vicinity of the intersection of Blue Hills and Northampton Road is met with the existing hedge. The Board found that the hedge is not required to be removed.

10.391 - The proposal protects, to the extent feasible, unique or important natural, historic or scenic features. The Board finds that the Historical Commission decision to allow the demolition of the structure acknowledged that the structure was not in need of protection. The Board finds that the landscaping plan and driveway location were designed to preserve two existing shade trees on Blue Hills Road.

10.392 - The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. The Board finds that the proposal provides adequate landscaping for the residential use in a residential district. The Management Plan provides for proper upkeep of landscaping and maintenance thereof. A condition of the permit requires additional screening be provided adjacent to the north property line.

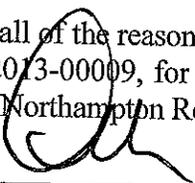
10.396 - The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features. The Board finds that the trash and recycling associated with the dwelling units will be located in the garage and will not be visible from the road.

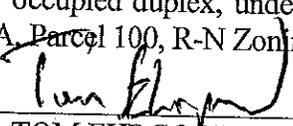
10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The Board finds that the proposal provides rental housing where a shortage of the same is documented. The conditions of the permit shall mitigate the potential impact of two dwelling units while the design conforms to the design criteria related to suitability and size relative to the neighborhood. The Board finds that two units are reasonable use of the land as it complies with all the required dimensional requirements and will allow the enhancement of a property which has been abandoned and in decay for over 10 years. The proposal is in harmony with the goals of the master plan to encourage: "medium density development" and "a greater mix of housing types, sizes and prices serving a wider range of income levels than is currently available throughout Amherst. The proposal also increases "infill development and the location of housing developments near services".

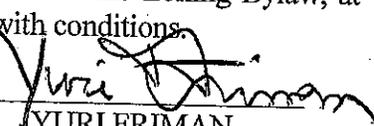
Zoning Board Decision

Mr. Ehrgood MOVED to approve the application with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2013-00009, for a non-owner occupied duplex, under Section 3.3211 of the Zoning Bylaw, at 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District), with conditions.


ERIC BEAL


TOM EHRCOOD


YURI FRIMAN

FILED THIS 21st day of June, 2013 at 2:23 p.m.
in the office of the Amherst Town Clerk Candice J. Burgess.
TWENTY-DAY APPEAL period expires, July 11, 2013.
NOTICE OF DECISION mailed this 21st day of June, 2013
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2013.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2013,
in the Hampshire County Registry of Deeds.

Appendix A, Submissions:

For the November 15, 2012 public hearing:

1. Bacon/Wilson letter dated November 8, 2012, requesting a continuation to January 10, 2013

For or during the January 10, 2013 public hearing:

2. Project Application Report dated January 4, 2013, prepared by Town staff
3. ZBA application form, filed with the Town Clerk on October 8, 2012
4. Management Plan
5. Site Plan (proposed), prepared by James Smith, dated September 21, 2012
6. Elevations & Floor Plans, prepared by Jens Designs, dated August 28, 2012
7. Letter requesting continuation, dated November 8, 2012
8. Town Engineer letter, dated October 19, 2012
9. "Preliminary Review", dated October 26, 2012
10. Updated/revised information (submitted January 4, 2013):
11. Project Summary
12. Response Plan
13. Lease
14. (revised) Site Plan, prepared by James Smith, revised October 8, 2012
15. (revised) Elevations & Floor Plans, prepared by Jennifer Deforge, revised January 3, 2013
16. Historical Commission summary, email, dated January 2, 2013
17. Design Review Board memorandum, dated January 3, 2013

For or during the February 28, 2013 public hearing:

18. Bacon/Wilson letter, dated February 25, 2013 requesting parking waiver
19. Five photographs of nearby properties
20. GIS map of surroundings
21. Proposed findings under 3.2040, 3.2041 and 10.38
22. Lighting fixture specification sheet
23. Fence specification sheet
24. Lighting Plan, on Site Plan, last revised October 8, 2012
25. Planning Board review letter, dated February 6, 2013
26. Town Engineer review letter, dated January 8, 2013
27. Article 13, Planning Board Report to Town Meeting, November 2012, submitted by Town staff

For April 2, 2013 public hearing:

28. Elevations & Floor Plans, prepared by Jennifer Deforge, revised March 6, 2013
29. Bacon/Wilson letter, dated April 2, 2013, requesting a continuation to April 30th

For April 30, 2013 meeting:

30. Copy of agenda noting State Primary Election and hearing rescheduling to May 16, 2013

For or during May 16, 2013 meeting:

31. Bacon/Wilson letter, dated April 1, 2013
32. Amherst Tree Warden email, dated March 29, 2013
33. Photograph, taken by staff, looking north toward abutting property
34. Draft Findings From February 28, 2013, prepared by Town staff
35. Draft ZBA Conditions, January 3, 2013, prepared by Town staff
36. Residential Land Use Conditions From FY2012, prepared by Town staff
37. Planning Department Comparison of changes, dated May 14, 2013
38. Town Engineer email, dated May 1, 2013
39. Zoning Bylaw excerpt, submitted by Town staff
40. Photograph, taken by applicant, looking east at existing shrubs
41. Site Plan, prepared by James Smith, last revised May 1, 2013
42. Landscaping Plan, prepared by applicant, undated, on site plan last revised May 1, 2013
43. Revised Complaint Response Plan

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Wilson Properties Group, LLC

For ZBA FY2013-00009, for a non-owner occupied duplex, under Section 3.3211 of the Zoning Bylaw, at 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District), with conditions

On the premises of 179 Northampton Road
At or on (Map 14A, Parcel 100, R-N Zoning District)

NOTICE of hearing as follows mailed (date) October 30, 2012
to attached list of addresses and published in the Daily Hampshire Gazette
dated October 31, 2012 and November 7, 2012

Hearing date and place November 15, 2012, January 10, 2013, February 28, 2013,
March 12, 2013, April 2, 2013, May 16, 2013 (Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on *Thursday, November 15, 2012*, at 6:30 P.M. in the TOWN ROOM, Town Hall, to conduct the following business: PUBLIC HEARING: ZBAFY2013-00009-Wilson Properties Group, LLC - For a Special Permit to construct a new two family dwelling, under Section 3.321 of the Zoning Bylaw, at 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District) ERIC BEAL, CHAIR AMHERST ZONING BOARD OF APPEALS October 31, November 7 3237603

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2013-00009, for a non-owner occupied duplex, under Section 3.3211 of the Zoning Bylaw, at 179 Northampton Road (Map 14A, Parcel 100, R-N Zoning District), with conditions

Eric Beal – Yes Tom Ehrgood – Yes Yuri Friman – Yes

DECISION: Application **APPROVED**, with conditions as stated in the decision

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted
To Wilson Properties Group, LLC
Address 155 Buffam Road
City or Town Pelham, MA 01002

Identify Land Affected: 179 Northampton Road
(Map 14A, Parcel 100, R-N Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

179 Northampton Road Amherst
Street City or Town

The record of title standing in the name of
Wilson Properties Group, LLC
Name of Owner

Whose address is 155 Buffam Road Pelham MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 8962 Page 317
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2013-00009
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

[Signature] Chairman
(Board of Appeals)
[Signature] Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/St/Zip
14A-106	88 BLUE HILLS RD	HOLDEN, DORIS		88 BLUE HILLS RD	AMHERST, MA 01002
14A-93	91 BLUE HILLS RD	WISE, DONALD & NANCY		91 BLUE HILLS RD	AMHERST, MA 01002
14A-104	96 BLUE HILLS RD	GOLDENBERG, EVELYN		96 BLUE HILLS RD	AMHERST, MA 01002
14A-95	101 BLUE HILLS RD	LIEBERT, JEDEDIAH D & MAO MAO		101 BLUE HILLS RD	AMHERST, MA 01002
14A-103	102 BLUE HILLS RD	HEFFLEY, PAULINE M		102 BLUE HILLS RD	AMHERST, MA 01002
14A-340	107 BLUE HILLS RD	GALVIN, PATRICK & EILEEN	C/O SU, YOUNGGUE	C/O HUI SOU 49 RED BARD RD	HOLDEN, MA 01520
14A-102	110 BLUE HILLS RD	MCQUISTON, SUSAN		110 BLUE HILLS RD	AMHERST, MA 01002
14A-97	115 BLUE HILLS RD	SIBBISON, RITA E & SIBBISON, WENDY		115 BLUE HILLS RD	AMHERST, MA 01002
14A-101	116 BLUE HILLS RD	VOTE, STEVEN A & LISA PULSINELLI		116 BLUE HILLS RD	AMHERST, MA 01002
14A-99	117 BLUE HILLS RD	CLARK, MARY ELLEN		117 BLUE HILLS RD	AMHERST, MA 01002
14A-336	119 BLUE HILLS RD	GALVIN, PATRICK & EILEEN	C/O SU, YONGGUI	107 BLUE HILLS RD	AMHERST, MA 01002
14A-132	DANA ST	SCHLESSINGER, JAMES R & BURD B		93 DANA ST	AMHERST, MA 01002
14A-133	93 DANA ST	SCHLESSINGER, JAMES R & BURD B		93 DANA ST	AMHERST, MA 01002
14A-134	99 DANA ST	ROSSEN, MICHAEL & TROAST, KATHERINE E		99 DANA ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
14A-135	105 DANA ST	KURTULUS, SHIRLEY & ERCIS		105 DANA ST	AMHERST, MA 01002
14A-141	110 DANA ST	PORTER, EVTHOKIA S		110 DANA ST	AMHERST, MA 01002
14A-136	111 DANA ST	HARTMAN, DOROTHY ANN		111 DANA ST	AMHERST, MA 01002
14C-14	112 NORTHAMPTON RD	AMHERST COLLEGE TRUSTEES	ATTN: COMPTROLLERS OFFICE	AMHERST COLLEGE	AMHERST, MA 01002
14A-140	143 NORTHAMPTON RD	ATTERIDGE, TIMOTHY A	ATTERIDGE, THERESA I	143 NORTHAMPTON RD	AMHERST, MA 01002
14A-139	155 NORTHAMPTON RD	LEWIS, JOSHUA & RUMELT, JUDITH	C/O LEWIS, JOSHUA & RUMELT, JUDITH	155 NORTHAMPTON RD	AMHERST, MA 01002
14A-138	163 NORTHAMPTON RD	HAUGHTON, GREGORY R TRUSTEE	GRH TRUST	163 NORTHAMPTON RD	AMHERST, MA 01002
14A-137	169 NORTHAMPTON RD	WHAPLES, MIRIAM K		169 NORTHAMPTON RD	AMHERST, MA 01002
14A-100	179 NORTHAMPTON RD	WILSON PROPERTIES GROUP LLC		155 BUFFAM RD	PELHAM, MA 01002
14C-6	193 NORTHAMPTON RD	SORANNO, THOMAS R & SUSAN S		112 VIRGINIA DR	CHAPEL HILL, NC 27514
14C-5	199 NORTHAMPTON RD	SUNG YONG JU		199 NORTHAMPTON RD	AMHERST, MA 01002
14C-4	203 NORTHAMPTON RD	GOOD OL DAVES, LLC		73 MAIN ST	AMHERST, MA 01002
14C-13	212 NORTHAMPTON RD	AMHERST COLLEGE TRUSTEES	ATTN: COMPTROLLERS OFFICE	AMHERST COLLEGE	AMHERST, MA 01002