

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2013-00026, for a Special Permit to 1) convert an existing detached garage into a residential unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, and, 2) to allow a maximum of four lodgers/boarders, under 5.0101 of the Zoning Bylaw, at 16 Adams Street (Map 15D, Parcel 22, R-N Zoning District), with the following conditions:

Use

1. The owner shall reside on the premises (either in the main house or within the Converted Dwelling).
2. In order to be eligible for the accessory use of letting rooms to lodgers/boarders, either the property owner or a member of the owner's family shall reside within the main house. A maximum of four lodgers/boarders are allowed to occupy a maximum of four bedrooms within the main house.
3. In the event that the Converted Dwelling is rented, the number of tenants shall not exceed two unrelated individuals, as defined under Section 12.162. This limitation does not apply to families as defined under Section 12.161 or 12.163.
4. This property shall be registered under the Amherst Residential Rental Property Bylaw, as amended. Loss or suspension of a rental permit shall constitute a violation of this condition.

Converted Dwelling

5. The interior and exterior of the Converted Dwelling shall be constructed substantially in accordance with the following plans prepared by Kuhn Riddle Architects, dated 07/09/02:
 - a. Elevations, Roof Plan, Floor Plans, and Renderings.
6. Prior to the issuance of a Certificate of Occupancy for the new unit, the unit shall be connected to Town water and sewer.

Main House

7. The interior of the main house shall contain no more than five bedrooms and be constructed substantially in accordance with the floor plan, prepared by Bruce Coldham, dated February 12, 1996, submitted June 1, 2013.
8. The lease agreements for all tenants and/or lodgers/boarders shall contain language suitable to restrict the total number of vehicles parked on the property to no more than four.

Parking

9. There shall be no more than four vehicles parked on the property on a regular basis. All resident parking shall occur on paved surfaces.

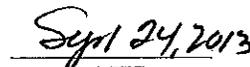
Management

10. The existing landscaping on the property, as shown on the submitted landscape plan, shall be continuously maintained and replaced as needed. The planting plan associated with the Converted Dwelling, shall consist of a minimum of three potted plants, as shown on the approved landscape plan.
11. The exterior of the Converted Dwelling shall be maintained in good repair.
12. Trash and recycling associated with the main house shall be stored in the patio area at the south east corner of the dwelling. Trash and recycling associated with the Converted Dwelling shall be stored at the south side of the dwelling where it is not visible from Adams Street or Heatherstone Road.
13. Exterior lighting shall be designed or arranged to be downcast.
14. A register of any lodgers/boarders, in accordance with Section 5.01015, shall be kept and made available upon request.

Ownership/Review

15. 18 months from the filing of the decision with the Town Clerk, the owner, or the owner's representative, 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.
16. Upon a change of ownership of the property, if the new owner intends to rent one of the units or let rooms to lodgers/boarders, a revised/updated Management Plan shall be submitted to the Board at a public meeting. Said Plan shall address all relevant matters pertaining to an "apartment" as listed on the Management Plan form, including but not limited to: lease, complaint response plan, and parking. The purpose of the public meeting will be to determine compliance with conditions or to determine whether changes are substantial enough to require modification 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.


Hilda Greenbaum, Acting Chair
Amherst Zoning Board of Appeals


DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Valerie Hetzel, 16 Adams Street, Amherst, MA, 01002

Date application filed with the Town Clerk: May 6, 2013

Nature of request: For a Special Permit to convert an existing detached garage into a residential unit, as a Converted Dwelling, and for a Special Permit for four to six boarders, under Section 3.3241 and 5.0101 of the Zoning Bylaw

Address: 16 Adams Street (Map 15D, Parcel 22, R-N Zoning District)

Legal notice: Published on May 29, 2013 and June 5, 2013 in the Daily Hampshire Gazette and sent to abutters on May 28, 2013

Board members: Hilda Greenbaum, Tom Ehrgood, Mark Parent

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

Submissions:

1. Applicant's material (in one packet):
 - a. Summary, in email form
 - b. Summary Statement of Special Permit request
 - c. Five existing conditions photographs
 - d. Eight elevations, prepared by the applicant
 - e. First and second floor plans, prepared by the applicant
 - f. Porch, driveway, and parking plan, prepared by the applicant
 - g. Management Plan information
 - h. Photographs of properties in the neighborhood
 - i. Photographs of existing building
 - j. Roof material specifications
 - k. "landscaping plan"
 1. Side Yard survey, prepared by Jim Smith, July 25, 2012
2. Preliminary Parking Plan, prepared by applicant, dated June 6, 2013
3. Town GIS aerial photograph from 1956 and Assessor's records
4. ZBA FY2012-00030 decision
5. Letter, dated June 12, 2013, submitted by Joan Golowich and signed by neighbors
6. Letter, dated June 13, 2013, from Echo Hill North Association

Site Visit: June 12, 2013

Hilda Greenbaum, Tom Ehrgood, and Mark Parent met the applicant onsite. The Board members observed the location of the property on the south side of Adams Street, and the following:

- The existing condition of Adams Street which is a relatively narrow compacted dirt roadway providing access to two driveways on the subject property, a driveway to 15 Adams Street, and a pedestrian access way at its western end.
- The interior and exterior of the existing, partially renovated, detached garage. The interior consisted of a partially completed first floor containing sitting room and kitchen and second floor containing a partially completed bathroom and bedroom.

- The exterior contained a brick patio area along the south and east sides with installed sonotubes intended for the original porch roof overhang as well as the location of the driveway and parking area.
- The interior and exterior of the existing main house. The first floor containing a kitchen, bath, and bedroom were observed. Additionally, a den-like room attached to a sunroom was observed and noted to be the area where a new wall would be constructed to create a new bedroom. The second floor contained three bedrooms and a bathroom. The nature of the existing landscaping and an existing brick driveway to the main house were observed.

Public Hearing: June 13, 2013

The applicant, Valerie Hetzel, described the proposal in terms of the submitted materials, summarized as follows:

- She obtained permission from the Zoning Board of Appeals in 1997 to convert the garage to a dwelling unit. However, when the work was not completed in the allotted time, the permit expired. She applied again in 2012 to convert the garage to a dwelling unit with plans similar to those approved in 1997. However, the Zoning Board of Appeals determined that the existing building did not meet the minimum size requirements for conversion. Ultimately, that request, ZBA FY2012-00030, was withdrawn.
- After the permit was withdrawn, the Zoning Subcommittee met several times to discuss the size limitation. The Planning Board proposed, and Town Meeting agreed, to reduce the size requirements and to clarify portions of the Converted Dwelling requirements.
- The current application has been submitted and now complies with the new minimum size requirement. The proposal is to obtain permission to convert the detached garage into a dwelling unit. Most of the interior work is completed, but the final building permits for the improvements will not be issued until the Special Permit is granted.
- In addition to creating a new dwelling unit, the proposal involves permission to let rooms to four to six lodgers/boarders, allowed with a Special Permit under Section 5.0101 of the Zoning Bylaw. It was noted that this is a financial necessity to allow the owner to remain on the property.
- She explained that she has previously rented rooms in her house to various lodgers and boarders and that this request is to formalize what has already been occurring and to be able to increase the number of lodgers/boarders.
- She stated that there is room to park six vehicles on the property and there are other areas on Adams Street where people can park. It was noted that Adams Street was accepted by the Planning Board for purposes of frontage in 2010, but that it was not considered a public way by the Town of Amherst. This means that the road is not improved to subdivision road standards, and the Town does not plow it in the winter.
- She is requesting a waiver from the requirement to provide a formal landscaping plan. She noted that some landscaping exists around the main house and none of that was proposed to change. With respect to the converted dwelling, she explained that the building is set next to existing large trees and that the front of the building is adjacent to the paved parking area. She stated that she did not think any additional landscaping was necessary for the proposal.
- She described the plans for the exterior of the converted dwelling in terms of the sketch plans she prepared and which were in the packet. She noted that during the 1997 application, the Board did not allow a wraparound porch. In this proposal, she has provided plans for both options: a wrap-around porch, or a porch only on the south and west side.

The following members of the public expressed concerns, or spoke in opposition to the proposal:

- Karen Sheingold, 35 Bayberry Lane, noted the submission of a signed petition from neighbors. She expressed concern that the owner has operated businesses from the property in the past and that any increase in the number of vehicles would create safety issues.
- Kathryn Mahony, 15 Adams Street, expressed concern with respect to unfinished renovation work and noise, particularly from power tools, on the property. She expressed concern about density, noting that the property had been subdivided to create an additional lot to the west. She noted concerns about the number of people on the property and noted that there have been unattended bonfires.
- Bill Darity, 35 Heatherstone Road, expressed concern about the number of cars that might be associated with additional people living on the property.
- Carol Sikora, 45 Alpine Drive, expressed concern about future enforcement regarding the completion of the renovation and the number of people living on the property.
- Karen Cardoza, 18 Bayberry Lane, stated that she respected the financial issues, but noted concern regarding the safety of bicyclists and pedestrians who use Adams Street.
- Don George, 135 Alpine Drive, expressed concern about the parking plan which shows cars parked in the right of way for Adams Street, especially in the winter.
- Joan Golowich, 40 Aubinwood Drive, submitted a letter signed by neighbors, and expressed concern that the proposal does not conform to the bylaw, which she understood to require the owner to in the main dwelling, and stated that the proposal is not suitable in this neighborhood.
- Faythe Turner, 129 Heatherstone Road, expressed concern about increased traffic associated with additional people living on the property and that parking on Adams Street would block emergency vehicle access.
- Trudy Darity, 35 Heatherstone Road, expressed concern about potential impacts of allowing additional people to reside on the property.
- John Durfee, 27 Heatherstone Road, expressed concern about the incremental approach to increase the intensity of the uses on site, noting that first it was the conversion of the garage, now it's allowing additional lodgers and boarders.
- Paul Gunnells, 20 Bayberry Lane, expressed concern that granting permission to allow four to six lodgers would likely result in the potential for more additional people on the property than is allowed and noted that it would be difficult to enforce.

The following members of the public spoke in favor of the proposal:

- Evelyn Hopkins, Hadley, stated that she is a friend of Ms. Hetzel's and that she is a very kind, generous and thoughtful person who would manage the property well
- Cornita Ischban, Ms. Hetzel's mother, stated that Ms. Hetzel's character and integrity should be considered by the Board. She noted that Ms. Hetzel is hard-working and looking to do the right thing by obtaining the necessary permits.
- Colin Hetzel, Ms. Hetzel's son, stated that the neighbors have never approached them with any of these issues. He stated that the granting of this permit will allow for some finality on many of the improvements underway on the property. He stated that Adams Street is used by a lot of different people, both pedestrians and vehicles, so the traffic is not solely created by this property.

The applicant stated that many of the statements, issues, and concerns of the public were not accurate or were not directly related to this proposal. She also stated that the number of vehicles on the property would be limited to four.

The Board discussed at length the nature of the proposal with respect to the accessory use of letting rooms to lodgers/boarders. The Board discussed and noted that Section 5.01010 requires an owner to reside on the premises. However, the language does not appear to address the situation where an owner would reside in a unit other than the main house. The Board discussed and noted questions about the requirements for meeting the definition of "family" and defining the principal use as a Single Family Dwelling in order to allow the taking of lodgers/boarders to be an accessory use. The Board determined that additional time was needed to consider how the proposal fits within the technical requirements for the accessory use of letting rooms.

The Board discussed the proposed parking plan, which shows six parking spaces. The Board noted that the hand-drawn schematic parking plan was rudimentary, not to scale, did not show any dimensions and showed two vehicles parked on or adjacent to Adams Street. The Board determined that a more formal parking plan, including dimensions and better delineation of spaces would be required.

The Board noted that clarification on the number of lodgers and boarders and the number of rooms they would occupy was needed as the Bylaw determines parking requirements by the number of rooms let out to lodgers. Additionally, the number of parking spaces on site would need to be reviewed and further discussed to determine whether waivers of the parking requirements are needed.

The Board discussed the need for more accurate building plans in order to determine how the exterior changes relate to the provisions for a Converted Dwelling. The Board also recommended that the applicant provide a landscaping plan.

Mr. Ehrgood MOVED to continue the public hearing to July 22, 2013. Mr. Parent seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: July 11, 2013

The applicant provided the following new information:

- An updated and revised packet of information, dated July 11, 2013, including a rendering prepared by Kuhn Riddle Architects and sample lease.
- A parking plan, prepared by James Smith, dated July 8, 2013.
- A Town GIS aerial photograph from 1956.

The Board discussed the proposed parking plan and noted that the plan shows three cars stacked one behind the other in the driveway with the last parking space straddling the property line. The plan also shows two other spaces which are within the right of way for Adams Street. The Board requested more information on how many parking spaces, as defined by the Zoning Bylaw, are available on the property.

The Board continued with discussions of how the proposal fits within the requirements of Section 5.0101.

The following member of the public spoke regarding the proposal:

- Carol Sikora, 45 Alpine Drive, expressed concern about the potential impact from the additional people living on the property, including the increased number of cars on the property.

The Board determined that additional time was needed to discuss and deliberate on the matter and the Board requested revision of the parking plan.

Mr. Parent MOVED to close the evidentiary portion of the public hearing. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to close the evidentiary portion of the public hearing and to open the public meeting, the deliberative portion of the public hearing.

Mr. Parent MOVED to continue the public meeting to July 22, 2013. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to continue the public meeting.

Public Meeting: July 22, 2013

Due to a scheduling conflict, the meeting was rescheduled to August 27, 2013, with notices posted in Town Hall. No testimony or meeting occurred.

Public Meeting: August 27, 2013

The following revised information was submitted:

- Revised landscaping and parking plan, prepared by the applicant and stamped received on August 26, 2013.
- Color rendered elevations and floor plans, prepared by Kuhn Riddle Architects.

The Board recapped the discussion and conclusions of the previous meeting and reviewed the new information. Ms. Hetzel stated that many inaccurate or false statements were made during the last hearing to which she wanted to respond. The Board members noted that they heard the testimony of the neighbors and are required to review and determine which aspects of the comments are relevant to this proposal.

The Board reviewed the overall scope of the proposal. After discussion, it was determined that the proposal is two-fold: first, to convert the detached garage into a one bedroom dwelling unit; and secondly, to allow for the letting of rooms to lodgers/boarders in the main house.

The Board discussed the specifics of the proposal at length, and made the following general findings of fact in this application:

- Section 5.01010 requires that an owner reside on the premises. The Board determined that the owner residing in either of the two units may qualify as residing on the premises.
- The main house now has four bedrooms; one on the first floor and three on the second floor. The proposal requests the creation of a new fifth bedroom on the first floor.
- The owner will reside in the Converted Dwelling and the owner's son will reside in the main house along with four to six lodgers/boarders.

- Under Section 12.16, the term family is defined as follows:
 - 12.160 - An individual residing in one dwelling unit; or*
 - 12.161 - A group of persons related by marriage, civil union, blood, adoption, guardianship, or other duly authorized custodial relationship residing together in one dwelling unit; or*
 - 12.162 - A group of unrelated individuals, not to exceed 4, residing cooperatively in one dwelling unit. In this instance, an accessory use as described in Sections 5.010 and 5.011 is not permitted.*
 - 12.163 - A group of individuals, regardless of relation, residing in congregate or similar group housing for the elderly or disabled, in half way houses, or in other group residential uses authorized and operated under state and federal law.*
- There are four parking spaces on site for the purposes of providing parking under Article 7. The landscaping and parking plan provide for areas for parking for up to six vehicles. A condition of the permit would limit the number of cars regularly parked on the property to four, including those of the owners. The remainder of the parking spaces could be used for guest or visitor parking.
- The lease agreement will restrict the number of vehicles allowed by tenants so as to not exceed the maximum of four allowed.
- Interior and exterior of the converted dwelling will be built substantially in accordance with the Kuhn Riddle plans.

The Board discussed under what circumstances the owner may reside in the detached structure while allowing rooms to be let in the main house as a use accessory to a single family dwelling. The Building Commissioner stated that as long as a family, as defined under Section 12.160 or 12.161 is present in the main house, the principal use can be considered a single family dwelling, thus enabling other rooms to be let out under the accessory lodging and boarding use.

The Board could not reach consensus on that interpretation of the Bylaw. Specifically, Mr. Parent disagreed with the interpretation that one person, not related to the owner, could constitute a family and thereby allow the letting of rooms as an accessory use.

Ultimately, the Board reached consensus that, as long as the owner or a member of the owner's family resides in the main house, the accessory use of letting rooms to lodgers/boarders may occur. The Board further determined that, given the concerns of the neighborhood and the limited available parking, the total number of lodgers should not exceed four individuals, as defined under Section 12.162. The Board acknowledged that a traditional family, as defined under Section 12.161, may exceed that number.

The Board ultimately decided this case based on its specific facts, most importantly that the owner seeks to reside in the Converted Dwelling and her son currently occupies a room in the main house. The Board discussed and determined that, in order to be eligible to let rooms out in the main house, either the owner's son or the owner must reside within the main house. In the event that the son no longer resides in the main house, the owner would need to reside in the main house in order to let rooms to lodgers/boarders. In that situation, the Board determined that the number of tenants in the Converted Dwelling should be limited to no more than two individuals as defined under Section 12.162, or a family under Section 12.162.

Findings:

The Board finds under Section 5.0101 of the Zoning Bylaw, that:

5.0101 - Lodgers/Boarders/Roomers/Bed and Breakfast - Four to Six People. In any district, the Zoning Board of Appeals may grant a Special Permit for the taking of lodgers/boarders/roomers/bed and breakfast lodgers (four to six people) as a use accessory to the use of a dwelling unit, provided that:

5.01010 - There shall be an owner who resides on the premises responsible for the operation. The Board found, based on the dictionary definition of premises, that the owner residing in the detached converted garage meets this requirement. The Board noted that the owner will be directly responsible as lessor to the lodgers and boarders.

5.01011 - There shall be no separate cooking facilities. However, meals may be offered/provided to lodgers/ boarders/roomers, and breakfast may be provided to bed and breakfast lodgers. The Board found that there is one existing kitchen in the main house and therefore this provision is met.

5.01012 - There shall be no substantial change to the exterior of the building. The Board found that no exterior changes to the main house are required for this use. The Board noted that only minor interior renovations would be required for the creation of a new, fifth bedroom in the main house.

5.01013 - One parking space shall be provided for each room to be occupied by lodgers/boarders/roomers/bed and breakfast lodgers in addition to the parking required under Section 7.000. The Board found that a total of four rooms will be let to lodgers/boarders. The property is only capable of providing four parking spaces. Additionally, the Board found that the lease will restrict the number of tenants' vehicles to be no more than four cars parking on the property on a regular basis. The Board noted the applicant's testimony of the preference to let rooms to people who generally do not own vehicles.

5.01014 - There shall be a maximum of five rooms available for rental to lodgers/ boarders/roomers/bed and breakfast lodgers. The Board determined that a maximum number of four rooms will be available to lodgers/boarders. A condition of the permit limits the number lodgers to a maximum of four individuals, as defined under Section 12.162 or a family as defined under Section 12.161. The Board determined that either the owner or a family member of the owner must reside in the main house in order to be eligible for the accessory lodging/boarding of four people. Based on this, the Board found that a maximum of four rooms may be let out to lodgers/boarders and therefore this provision is met.

5.01015 - A management plan, as defined in terms of form and content in the Rules and Regulations of the Zoning Board of Appeals, shall be included as part of any application made under this section. A register of all lodgers/boarders/ roomers/bed and breakfast lodgers shall be kept in accordance with the Rules and Regulations covering hotels and motels within the Commonwealth. The Board found that all of the necessary components of a management plan are provided for. The Board found that a condition of the permit shall require the keeping of a register, in accordance with the Rules and Regulations covering hotels and motels within the Commonwealth.

The Board finds under Section 12.08 and 3.3241 of the Zoning Bylaw, that:

12.08 - A use containing one or more dwelling units created predominantly through the conversion of existing residential or non-residential space, where said units are located in or attached to an existing residence of ten or more years of age, or a detached structure constructed prior to 1964, located on a lot where at least one dwelling unit lawfully existed prior to the conversion. A converted dwelling use may include portions of dwelling units created through new construction, but no new dwelling unit in a converted dwelling use may be created as a result of new construction alone. Proposed multi-unit residential uses not meeting the thresholds established for the conversion of existing space shall be considered to be the residential use category most closely corresponding to the total number of new dwelling units they include and the nature of the use, as

determined by the Zoning Enforcement Officer or Special Permit Granting Authority or Permit Granting Board, as applicable. Based on the Town GIS aerial photograph from 1956, and the Assessor's card from 1963, it was determined that the structure proposed for conversion was constructed prior to 1964 and complies with the requirement.

3.3241 (1) - An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met. The proposed conversion is of a detached structure that was built prior to 1964 and is thus eligible for conversion.

3.3241 (2) - A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot. The total number of dwelling units shall not exceed 4 in the R-N, R-O, and R-LD districts and shall not exceed 6 in the R-VC, R-G, B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted.

Based on the Dimensional Regulations of Table 3, the property contains 31,971 sq. ft. where 26,000 square feet is required and the proposal will result in two units. Therefore, this criterion is met.

3.3241 (4) - There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted. The proposed exterior alterations, including the construction of a dormer and three-sided porch roof and small roof overhang on the north side, were determined to be significant. However, the Board found that the changes will not substantially change the buildings character or its effect on the neighborhood and that, once constructed, the changes will improve the appearance of the building. The Board discussed several aspects of the exterior changes:

Patio and roof overhang - It was noted that brick/stone patio surrounds the building on the south and east side. Additionally, sonotubes were installed previously in anticipation of a larger roof overhang. The Building Commissioner determined that the sonotubes should be removed. If the edge of the sidewalk is removed to match the edge of the roof overhang, the disturbed area should be planted in grass.

Roof materials - The applicant noted several concepts for the roof material. It was noted that the existing roof is asphalt shingles. The principal option would be to use asphalt shingles on the new porch roof. However, the applicant noted a desire to use a mix of standard roof material and corrugated plexi-glass to allow light into the south side of the unit. This design was shown in sketch plans provided by the applicant but was never finalized. Finally, a metal roof was discussed but was determined to be potentially cost prohibitive. The Board found that no demolition is proposed.

3.3241 (6) - The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use, and shall require owner occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one of which shall be and shall remain owner-occupied, which shall be made a condition of any Special Permit issued in such an instance. Based on the provision for owner occupancy, the proposed converted dwelling is suitably located in the neighborhood. The Board found that owner occupancy will provide oversight on the property and that the conversion of detached structures of has been shown to be a desirable method for providing more rental housing in Amherst. The Board found that the property does not satisfy provision a) but is from one to two units one of which will be owner occupied.

3.3241 (7) - *The dwelling units shall be connected to the public sewer. However, the Zoning Board of Appeals may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system. The converted dwelling will be connected to Town water and sewer. A condition of the approval requires this to occur prior to the issuance of a Certificate of Occupancy.*

3.3241 (9) - *No detached structure shall be converted under the provisions of Section 3.3241 unless it abides by the provisions of Condition 5. above and upon completion provides at least 350 square feet of habitable space. As shown on the submitted floor plans, the dimensions of the first floor are 19.25 feet x 20 feet. Therefore, the gross area of habitable (as measured to the outside wall) is 385 square feet. The area of habitable space for the second floor is uncertain. Regardless, the area of the first floor is sufficient to meet the threshold.*

3.3241 (10) - *A management plan as defined in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be included as an integral part of any application. The relevant portions of a Management Plan associated with an additional dwelling unit have been satisfied, including provisions for trash storage.*

3.3241 (11) - *A landscape plan appropriate for the project shall be included in the application. The existing landscaping and the approved landscaping plan were determined to be appropriate for the use.*

The Board finds 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 for the Converted Dwelling and accessory lodging and boarding uses are suitably located in the neighborhood primarily because the property will be owner occupied. Additionally, the limitation that no more than two tenants reside in the new dwelling unit and the limitation of a maximum of four lodgers and boarders in the main house was determined to be an appropriate density on the property. Finally, the limitation on the parking of no more than four vehicles allows the uses to be compatible with other uses allowed in the same district.*

10.382, 10.383, 10.385 & 10.393 - *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 protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaries, light shields, lowered height of light poles, screening, or similar solutions. The proposal complies with these requirements for the following reasons:*

- The premises will be owner occupied providing oversight on the property which has been shown as a desirable method for providing rental housing in Amherst.
- The permit restricts the number of vehicles regularly parked on the property to four as a way to mitigate potential issues of noise, traffic, and parking on Adams Street.
- The permit restricts the number of lodgers/boarders to four individuals as a way to balance the density of the number of people on the property. Additionally, if the arrangement requires the owner to reside in the main house, the number of people renting the Converted Dwelling would be limited to two individuals.
- The permit requires that all exterior lights be downcast to prevent spillage onto adjacent properties.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The plans for the converted dwelling provide safety requirements pursuant to Building Code. The interior changes to create a new bedroom in the main house are limited to construction of a new wall and door.

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 Board found that four parking spaces on the property were adequate for both on-site uses. Specifically, the finding is based on a condition of the permit limiting the number of vehicles regularly parked on the property to four, which is to be reflected in the lease agreements with any tenants on the property and which includes the owners vehicle. As noted by the applicant, additional parking does exist for guests and will prevent cars from being parked on Adams Street. The Board acknowledged that the overall required parking onsite for both uses was eight spaces. Specifically, a total of six are required for the accessory lodging and boarding under Section 5.01013, where one parking space is required per room to be let in addition to two parking spaces required under Section 7.0000 for the single family dwelling use. Furthermore, two parking spaces are required for the new Converted Dwelling under Section 7.0000. After review of the waiver/modification provision of Section 7.90, the Board determined that the two parking spaces for each dwelling unit required under Section 7.0000 could be waived. However, because the parking requirement for lodgers/boarders is required under Article 5, which does not contain a waiver option, those four spaces must be provided. The Board found it a compelling reason that the design of the site limits the number of parking spaces to four and waived the requirements for the four spaces under Section 7.0000 based on a condition of the permit and limitations in the lease. There were no signs as part of this proposal.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The combination of the Converted Dwelling and accessory lodging and boarding uses are in harmony with the intent of the Bylaw as the property will be owner occupied and as stated herein. The proposal is in harmony with the goal of the Master Plan to "encourage a greater mix of housing types, sizes, and prices serving a wider range of income levels than is currently available throughout Amherst. Encourage the development of economically diverse neighborhoods."

Public Meeting – Zoning Board Decision

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

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2013-00026, for a Special Permit to 1) convert an existing detached garage into a residential unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, and, 2) to allow a maximum of four lodgers/ boarders, under 5.0101 of the Zoning Bylaw, at 16 Adams Street (Map 15D, Parcel 22, R-N Zoning District), with conditions.

Hilda Greenbaum Tom Ehrgood Mark Parent
HILDA GREENBAUM TOM EHRCOOD MARK PARENT

FILED THIS 25th day of September, 2013 at 4:15 p.m.
in the office of the Amherst Town Clerk Candria G. Burger
TWENTY-DAY APPEAL period expires, October 15, 2013.
NOTICE OF DECISION mailed this 26th day of September, 2013
to the attached list of addresses by Jeddy K. 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.

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

Petition of Valerie Hetzel

For Special Permit, ZBA FY2013-00026, to 1) convert an existing detached garage into a residential unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, and, 2) to allow a maximum of four lodgers/ boarders, under 5.0101 of the Zoning Bylaw

On the premises of 16 Adams Street
At or on Map 15D, Parcel 22, R-N Zoning District

NOTICE of hearing as follows mailed (date) May 28, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated May 29, 2013 and June 5, 2013

Hearing date and place June 13, 2013, July 11, 2013, August 27, 2013 (Town Hall)

LEGAL NOTICE

The Amherst Zoning Board of Appeals will meet on *Thursday, June 13, 2013*, at 6:30 P.M. in the TOWN ROOM, Town Hall, to conduct the following business:

PUBLIC HEARINGS:
ZBA FY2013-00026 - Zbyllt Motor Works - For a Special Permit to modify conditions of ZBA FY2005-00026 to allow the alteration and expansion of the existing auto sales and repair business by reconfiguring the existing lot lines and parking area and the construction of a new approximately 4,600 square foot building and for a Special Permit to allow the building 12 feet from the side yard rather than the required 25 feet, under Section 10.33, Table 3 footnote a, 3.385 and 3.386 of the Zoning Bylaw, at 398 Northampton Road (Map 13D, Parcel 4 and 48, B1 Zoning District)

ZBA FY2013-00026 - Valerie Hetzel - For a Special Permit to convert an existing detached garage into a residential unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 16 Adams Street (Map 15D, Parcel 22, R-N Zoning District)

ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
May 29, June 5

3256430

SITTING BOARD and VOTE TAKEN:
A Special Permit to 1) convert an existing detached garage into a residential unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, and, 2) to allow a maximum of four lodgers/ boarders, under 5.0101 of the Zoning Bylaw

Hilda Greenbaum – Yes Tom Ehrgood – Yes Mark Parent - Yes

DECISION: APPROVED with conditions as stated in permit

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 Valerie Hetzel
Address 16 Adams Street
City or Town Amherst, MA 01002

Identify Land Affected: 16 Adams Street
(Map 15D, Parcel 22, 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

16 Adams Street Amherst
Street City or Town

The record of title standing in the name of
Valerie Hetzel
Name of Owner

Whose address is 16 Adams Street Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 7995 Page 168
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 FY2013-00026
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Richard B. Greenbaum 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/Zip
15D-253	ADAMS ST	HETZEL VALERIE C		16 ADAMS ST	AMHERST, MA 01002
15D-75	ADAMS ST	HETZEL, VALERIE C		16 ADAMS ST	Amherst, MA 01002
15D-80	15 ADAMS ST	MAHONY, KATHRYN J		15 ADAMS ST	AMHERST, MA 01002
15D-22	16 ADAMS ST	HETZEL, VALERIE C		16 ADAMS ST	AMHERST, MA 01002
15D-1	16 ALPINE DR	MCCARTHY, LAUREN A		16 ALPINE DR	Amherst, MA 01002
15D-10	17 ALPINE DR	ROSS, DONNA J		66 COUNTRY CORNERS RD	AMHERST, MA 01002
15D-2	36 ALPINE DR	JEFFERSON, STEPHEN W & MARLA J		36 ALPINE DR	AMHERST, MA 01002
15D-11	45 ALPINE DR	SIKORA, CAROL M		45 ALPINE DR	AMHERST, MA 01002
15B-101	16 BAYBERRY LN	MCGRAW, CATHERINE B		16 BAYBERRY LN	AMHERST, MA 01002
15D-110	18 BAYBERRY LN	KANE, JONATHAN J & CARDOZO, KAREN M		18 BAYBERRY LN	AMHERST, MA 01002
15D-113	20 BAYBERRY LN	GUNNELLS, PAUL E & GRAVANTE, CARMELA A		20 BAYBERRY LN	AMHERST, MA 01002
15D-109	24 BAYBERRY LN	WOLF, WILLIAM C JR	WOLF, VIRGINIA D	24 BAYBERRY LN	AMHERST, MA 01002
15D-107	32 BAYBERRY LN	PELAK, MICHAEL & JOSETTA A		32 BAYBERRY LN	AMHERST, MA 01002
15D-255	35 BAYBERRY LN	SHEINGOLD, KAREN		35 BAYBERRY LN	AMHERST, MA 01002

<u>Parcel ID</u>	<u>Parcel Address</u>	<u>Owner1</u>	<u>Owner2</u>	<u>Address</u>	<u>City/Zip</u>
15D-250	HEATHERSTONE RD	CARMACK, ELAINE L		9237 NORTHEdge DR	SPRINGFIELD, VA 22168
15D-37	HEATHERSTONE RD	PERRY, PAUL A & RUTH L		177 WILLIAMS RD	CONCORD, MA 01742
15B-51	15 HEATHERSTONE RD	KELTON, DIANE E		15 HEATHERSTONE RD	AMHERST, MA 01002
15B-68	16 HEATHERSTONE RD	PRICE, BERNARD T & ALEXANDRIA A		16 HEATHERSTONE RD	AMHERST, MA 01002
15B-50	27 HEATHERSTONE RD	DURFEE, JOHN	DURFEE, KIMBERLY GRAVES	27 HEATHERSTONE RD	AMHERST, MA 01002
15B-86	35 HEATHERSTONE RD	HART, ALLEN J & MARGARET M		35 HEATHERSTONE RD	AMHERST, MA 01002
15D-33	59 HEATHERSTONE RD	KEEZING, JONATHAN A & SCHUMER, KAREN		59 HEATHERSTONE RD	AMHERST, MA 01002
15D-27	64 HEATHERSTONE RD	HASHMI, SOHAIL H & JAFARI, SAMAH		64 HEATHERSTONE RD	AMHERST, MA 01002
15D-28	72 HEATHERSTONE RD	STERNHEIM, MORTON M LIFE EST	STERNHEIM, HELEN R LIFE ESTATE	72 HEATHERSTONE RD	AMHERST, MA 01002
15B-46	265 PELHAM RD	O'CONNELL, KILLIAN		610 STATION RD	Amherst, MA 01002
15B-48	275 PELHAM RD	MACDONALD, RICHARD A & ROBERT	MACDONALD, WILLIAM A	C/O M TIDLUND, 275 PELHAM RD	AMHERST, MA 01002