

AMHERST PLANNING BOARD
Wednesday, March 5, 2014 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair, Rob Crowner, Bruce Carson, Connie Kruger, Stephen Schreiber, Richard Roznoy, Sandra Anderson, Kathleen Ford and Greg Stutsman

ABSENT: none

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

Mr. Webber opened the meeting at 7:02 PM.

I. MINUTES

Mr. Schreiber MOVED to approve the Minutes of February 19, 2014, as amended. Mr. Carson seconded and the vote was 6-0-3 (Ford, Anderson and Roznoy abstained).

II. ZONING

- A.** Zoning Subcommittee Report – Mr. Crowner presented the ZSC report. The Planning Board has only 2 or 3 more meetings to hold public hearings on zoning amendments before Town Meeting begins. The Zoning Subcommittee would definitely like to recommend two zoning amendments – Atkins Corner Rezoning and Inclusionary Zoning.

Atkins Corner – Members of the ZSC and staff have met with the public twice regarding the Atkins Corner amendment – once at Applewood and once at Hampshire College. The Hampshire College meeting included a site visit and then a public forum. The amendment comprises only a map change, primarily from B-L (Limited Business) to B-VC (Village Center Business). The map change includes property owned by Atkins Market, Hampshire College and the town right-of-way in the vicinity of the current B-L zone. The use changes will be minimal. There are some dimensional changes that will allow more residential use. Comments received at the Hampshire College meeting focused on traffic and pedestrian pathways and crossings. There was not much concern about the zoning change. The ZSC is confident about support for this proposed zoning amendment.

Inclusionary Zoning – This amendment will apply to all residential uses. It will most likely restrict the definition of affordability to housing that is countable under the state's SHI rules (which would disqualify most student housing).

There are four different methods proposed for providing affordable units, including creating on or off-site housing, donating land or paying a fee-in-lieu of providing affordable housing. The ZSC has almost settled on a calculation of 3 x 80% of AMI (Area Median Income) for "payment in lieu" of providing affordable units. The ZSC is still working on whether to exempt student housing and group housing from this amendment or to require fewer affordable units in these types of developments. Cost offsets will be offered for instances where units are actually created. This zoning amendment is complicated, it is a significant change but it is an important one.

Off-Campus Academic Residential Uses – The ZSC has been working on definitions for these uses and has divided the use into two categories, with the same permitting standards and location in the same zone [the R-F zoning district].

Small House Development – The ZSC is working on small house infill. There are a couple of ways to promote small units, including single use, supplemental dwellings for attached or stand-alone units, and small houses on small lots in a pocket neighborhood, in the R-G and R-VC zoning districts.

Multi-Family Housing Redevelopment Overlay and Class I and Class II Apartments – These amendments would promote more efficient use of apartment complexes and would break the Apartment use category into two categories, Class I with up to 24 units and Class II with more than 24 units per building. These two amendments are related and are not complete yet.

Board members discussed priorities and timing for the proposed amendments.

Mr. Webber announced that Town Meeting begins on April 28th.

Mr. Webber summarized that the Planning Board has four definite zoning amendments that are being considered for Annual Town Meeting this spring:

- 284 North Pleasant Street (2 versions)
- Home Business Uses
- Inclusionary Zoning
- Atkins Corner rezoning.

The Board discussed the complications associated with each amendment and whether Town Meeting could be expected to consider more than these four zoning amendments.

Ms. Kruger noted that there was one unsettled area with regard to Inclusionary Zoning, which has to do with how to deal with cost offsets in zoning districts that don't have as many dimensional restrictions as others, such as the B-G zoning district. The ZSC is wrestling with how to offer cost offsets in these districts, how to require affordability without dampening development in these districts.

Mr. Webber asked whether, since the issues of pedestrian pathways and traffic are outside of the scope of zoning, the ZSC had reached out to the town administration or town boards that deal with these issues.

Mr. Crouner explained that the town has been wrestling with these questions for 10 years. The DPW is aware of the issues in the vicinity of Atkins Corner and there is a commitment on the part of the town to make the area walkable. The questions are "how to do it and who pays?" Since we don't know what the development will look like it is difficult to determine where pedestrian pathways should go. Sidewalks and pedestrian amenities will be created as part of the developments that are proposed for this area.

Ms. Brestrup noted that Larry Archey, Director of Facilities for Hampshire College had stated that the College is willing to provide pedestrian access across its property as part of any development there. Mr. Tucker noted that there would be a time lag due to the fact that Hampshire is not yet ready to develop its property.

Mr. Roznoy expressed concern that the Planning Board may be rushing to get Inclusionary Zoning ready for Town Meeting and that it still needs input from developers, from the BID and from the Chamber of Commerce. He suggested waiting to present this zoning amendment until it was "fully vetted". He suggested holding a

Special Town Meeting to deal only with this topic.

Mr. Stutsman stated that the ZSC has spent months working on this amendment and there are only two issues remaining to be resolved – exemptions in the R-F zoning district and how to create offsets in the General Business district. Otherwise the article is ready. Mr. Crowner noted that the Select Board has resisted efforts to hold Special Town Meetings because of costs and timing.

Planning Board members noted that there is a Special Town Meeting scheduled for March 19th, the same night as the next Planning Board meeting. This STM has been scheduled to deal with a proposal to petition the General Court to allow the Town of Amherst to set a minimum wage of \$15 per hour within the Town of Amherst. Members of the Planning Board who are also Town Meeting members will need to decide which meeting to attend that night.

B. Public Comment Period – no public comment

III. PUBLIC HEARING – ZONING AMENDMENTS

Joint Hearing:

A-09-14 Zoning Covenant - 284 North Pleasant Street (Petition – Howard Ewert)

To see if the Town will vote to authorize the Select Board to accept a revised covenant governing the range of allowable uses on the Limited Business (B-L) zoned property at 284 North Pleasant Street (Map 11C/Parcel 174) by adding a range of office and educational uses.

A-10-14 Zoning Covenant - 284 North Pleasant Street (Planning Board – Alternative Version)

To see if the Town will vote to authorize the Select Board to accept a revised covenant governing the range of allowable uses on the Limited Business (B-L) zoned property at 284 North Pleasant Street (Map 11C/Parcel 174) by adding a range of medical, technical and professional office uses and educational uses.

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

Ms. Brestrup noted that there are two versions of the proposed warrant article – the petitioner’s version and the Planning Board’s version.

Howard Ewert, the petitioner, owner of the property at 284 North Pleasant Street, stated that the property currently has a restrictive covenant. He would like to change the covenant slightly to broaden the use of the property. After submitting his petition by the February 3rd deadline, he spoke with Mr. Tucker who recommended an alternative version that uses words to describe the allowed uses rather than section numbers from the Zoning Bylaw. Mr. Ewert stated that he would support either version of the proposed warrant article. He reported that he has discussed the proposed change with his neighbors and they support the change.

Mr. Ewert reported that in 1992 he was living in the building and had a chiropractic office there. Later the uses changed and he asked to have a restrictive covenant and a change to B-L zoning. In 2008 the covenant changed again to include religious and non-profit educational uses. Until 2013 there was a non-profit educational use occupying the office space. That tenant has moved out and he would like to expand the allowed uses in order to find a new tenant.

Mr. Tucker explained that this property is governed by “contract zoning”. In 2004 Town Meeting agreed to change the zoning from R-G to B-L but only if the uses were restricted to uses that were there at the time.

In 2008 Town Meeting voted to agree to allow the Select Board to alter the covenant to allow non-profit educational and religious uses.

Town Meeting needs to authorize the Select Board to accept the change. This is not a zoning change, but a change in the covenant that is being considered.

Mr. Crowner explained that there are some uses that are normally allowed in B-L zoning that would not be allowed on this property.

Mr. Tucker reported that the covenant does not have an expiration date.

Mr. Ewert stated that he has no prospective tenants. It would be easier to find tenants if the uses were more flexible. The available space is 2,600 square feet in size and is laid out for an office.

Mr. Tucker presented a map showing the location of 284 North Pleasant Street, including the zoning of the property (B-L) and the zoning of surrounding properties.

Mr. Webber stated that he was in favor of bringing the article to Town meeting because it was a reasonable expansion of the uses and there was apparently no opposition by the neighbors.

There was discussion about whether to close the public hearing. The Board decided by consensus to keep the public hearing open during deliberations until the final vote to allow the Board to take in more evidence as needed.

Ms. Kruger expressed support for the article. The Planning Board version of the article is better in terms of the wording and the property is in a location that is a transition area from one type of zoning to another. She expressed her hope that the petitioner, Mr. Ewert, would attend Town Meeting to make the presentation of the article, even though it will be sponsored by the Planning Board.

Mr. Webber suggested that the speaker from the Planning Board for the article could coordinate the presentation of the article with Mr. Ewert. He also stated that if the Planning Board version does not receive a passing vote, he would support the petitioner’s version. There was discussion about the order in which to take the two articles, what would happen if the first version of the article doesn’t pass and consensus that the Planning Board’s version was better.

Mr. Crowner MOVED to close the joint public hearing and to recommend approval of the Planning Board’s version of the article to Town Meeting. Ms. Kruger seconded and the vote was 9-0.

Mr. Crowner MOVED that the Planning Board recommends approval of the petitioner’s version of the article if the Planning Board version fails and if the Planning Board version succeeds that the petitioner’s version of the article be dismissed. Ms. Kruger seconded and the vote was 9-0.

Since it was not yet time for the next public hearing, the Board considered Old Business.

IV. OLD BUSINESS

B. SPR2014-00006 – Amherst College – Service Building – 40 Dickinson Street

Review of Landscape Plan and Lighting Plan submitted in accordance with Conditions 8 and 9 of the Site Plan Review approval

Peter Root, Director of Facilities Operations for Amherst College, presented the Landscape and Lighting Plans in accordance with Conditions 8 and 9 of the Site Plan Review decision.

The Lighting Plan shows a change in the exterior lighting on the site and the Landscape Plan shows a short term landscape proposal.

Lighting Plan – This plan shows 5 existing lights on the south side of the building – 3 gooseneck lights and 2 floodlights. The proposal includes removing the gooseneck lights and replacing the 2 floodlights with 2 “night sky” compliant LED lights and adding 1 “night sky” compliant LED light on the east side of the building. Two of the lights will be on motion detectors and one will be on a switch. The existing light over the door at the southwest corner of the building will remain.

Landscape Plan – This plan shows an alternative to the original proposal of placing large planter pots along the Dickinson Street side of the building. Large planter pots are hard to maintain and hard to move. The new short term Landscape Plan shows asphalt being removed on the west side of the building and a planting consisting of grass and small shrubs being installed. This will help to hide the air conditioning unit. In addition, asphalt will be removed between the 40 Dickinson Street property and the parking lot to the south. Grass will be planted in this area.

Mr. Webber stated his support for the Lighting Plan. The new lighting appears to be an improvement over existing, it will be dark-sky compliant and a plan shows where the light will be cast. Lights will be downcast and will not shine onto adjacent properties. The Landscape Plan is an improvement, especially because it involves removal of some of the asphalt.

Mr. Roznoy MOVED that the Lighting Plan and the Landscape Plan be approved as satisfying the requirements of Conditions 8 and 9 of the SPR2014-00006 decision. Mr. Carson seconded and the vote was 9-0.

III. PUBLIC HEARING – ZONING AMENDMENTS

A-11-14 Zoning – Accessory Home Business Uses (Planning Board)

To see if the Town will amend Article 5, Accessory Uses, and Article 12, Definitions, of the Zoning Bylaw in order to improve and clarify the regulation of home-based accessory business uses and related ancillary activities including parking, storage, and hours.

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

Mr. Crowner reported that this zoning amendment had been drafted by staff and that the Zoning Subcommittee had received updates on the amendment but had taken no official position on it. The proposed amendment provides a way of clarifying accessory business uses. It doesn't change much, but adds clarification, he said.

Rob Morra, Building Commissioner, presented the proposed zoning amendment. He noted that he has uncovered challenges in enforcing the home business provisions that currently exist in the Zoning Bylaw. Most Home Occupations require a Special Permit from the ZBA. Recently the ZBA has been challenged to figure out whether some businesses even qualify for Special Permit as a Home Occupation. For instance, with landscape contractors, it is sometimes difficult to determine what equipment (such as a truck or trailer) is on site for personal use and what equipment is associated with the business. In addition, landscape contractors often do no work on site and do not store anything on site. The current bylaw contains language about using a portion of a dwelling or building as a workroom or for

storage.

Mr. Morra described a home business consisting of a home bakery, using an improved kitchen to do the baking, with no on-site retail, where the products are moved off-site for sale. This type of activity currently requires a Special Permit.

Mr. Morra noted that the existing Bylaw allows an office or studio by right, but doesn't address what happens when there are visitors and vehicles coming and going from the property. There are currently no conditions associated with this use.

A Home Occupation requires a workroom as a place for incidental work and storage. Is it a Home Occupation if it has no workroom and no storage, he asked?

Mr. Morra gave a detailed review of the proposed zoning amendment. He explained that if a use meets certain performance standards the Building Commissioner might be able to authorize the use without a Special Permit. However, a Special Permit would be required if the use did not meet the performance standards.

Mr. Morra explained that Home Based Contractors would be divided into two categories, based on whether they had construction vehicles on site or not.

There would be a set of General Regulations that would apply to all categories of Accessory Home Businesses and specific sets of regulations for each particular category of Accessory Home Business Uses.

When a business grows beyond the accessory use category it would no longer be considered appropriate as an accessory use and would need to be relocated to another zoning district.

Mr. Morra reviewed the proposed General Regulations. He also reviewed the specific conditions for each category.

Mr. Morra explained the proposed regulations with regard to parking of vehicles associated with Accessory Home Business Uses.

Ms. Anderson asked about signage. She asked why a sign would be needed for the first category of Home Business, since there would not be any visitors. Mr. Morra stated that the sign section of the Bylaw currently allows for a sign for this type of use.

Ms. Anderson asked about the parking regulations under the General Regulations. Mr. Tucker explained that Section 7.1 of the Parking Regulations as well as the Residential Rental Parking Bylaw have specific requirements related to parking.

The Board members asked many questions and gave several recommendations with regard to construction vehicles, their definition and their weight, and whether the weight requirement should also apply to construction equipment that was not a vehicle. The Board discussed the differences between vehicles and machinery. Mr. Morra stated that a vehicle is "something that can be driven over the road".

Ms. Kruger asked several specific questions about different parts of the proposed zoning amendment, including use of the word "customary" in "Customary Home Office or Occupation", in Section 5.0121.2, whether the language "must not change the character" was too restrictive, in Section 5.0121.3, whether parking needed to be at the side or rear, even for properties with a driveway in front of the building, in Section 5.0122.1, whether the word "regularly" should be added before the word "employed" so that the restriction will not be too great, Section 5.0122.4, suggested the use of a gender-neutral term rather than "he".

Ms. Anderson made several grammatical suggestions.

Mr. Schreiber took exception to the word “contractor” since it often means someone who enters into a contract, and may not necessarily be associated with the building trades. He suggested the phrase “building or construction contractor”. He also questioned the inclusion of a statement of purpose in the description of the Large Home Based Contractor.

Mr. Tucker explained that the Accessory Use section of the Zoning Bylaw (Article 5) begins with a statement of purpose including the words “customarily accessory and incidental to”, supporting the use of the word “customary” when describing accessory “Customary Home Office or Occupation”. He suggested moving words associated with the statement of purpose to the introductory paragraph of Article 5.

There was further discussion about the phrase “must not change the character of the premises or surrounding neighborhood”.

Mr. Roznoy expressed his support for the zoning amendment and suggested that it be sent back to the Zoning Subcommittee to have the details worked out.

Mr. Webber suggested combining Home Business and Customary Home Office or Occupation into one section. After discussion, Board members decided to leave the two categories separate for reasons having to do with visitation and requirements for parking.

There was discussion about adding a provision for waiver or modification of the requirements of this section by the Special Permit Granting Authority.

There was discussion about the significance of the date (January 1, 2010) with regard to parking or garaging of construction vehicles.

Ms. Ford noted that 11:00 PM is very late for allowing the idling of construction vehicles. Mr. Webber suggested that the zoning amendment make provisions for snowplows being allowed to idle and operate outside of normal hours.

There was discussion about the weight threshold for various vehicles and the zoning district and lot size requirements for Large Home Based Contractors. Board members decided by consensus that the town may want to allow these businesses in other zoning districts besides the R-O and R-LD districts. Board members also decided by consensus that a waiver provision would be appropriate.

Barbara Ford of Flat Hills Road expressed concern about the operator of one particular home based business in the R-N zoning district who parks and idles a large vehicle all night.

Janet Keller of Pulpit Hill Road expressed support for using homes for businesses that fit in well and don’t disrupt the neighborhoods.

Ms. Anderson noted that there are state regulations that govern idling of vehicles.

Mr. Roznoy MOVED to continue the public hearing to 7:05 PM on Wednesday, March 19th. Mr. Stutsman seconded and the vote was 9-0.

IV. OLD BUSINESS

A. Signing of Decisions

SPR2014-00008 – Boy Scout Troop 504 – 867 North Pleasant Street
(Immanuel Lutheran Church) – The Board signed the decision.

- C. The Retreat (SUB2014-00001) – Review of revised Draft RFP for independent consultant to be hired by Planning Board under M.G.L. Chapter 44, Section 53G to review plans and reports related to expected Definitive Subdivision Plan and Site Plan Review applications

Ms. Brestrup reviewed the changes that had been made to the draft RFP since the last meeting. Mr. Webber expressed support for the revised draft. Board members suggested clarifying the section on communication during the review process by rephrasing the paragraph to state that the Planning Board's consultants "may" (rather than "shall") communicate with the applicant's consultants through the Planning Department staff, and by adding the word "town's" before the words "Senior Planner".

Ms. Anderson MOVED that the Planning Board accept the edited draft RFP with the understanding that the town's "boiler plate" language would be included. Mr. Carson seconded and the vote was 9-0.

- D. Topics not reasonably anticipated 48 hours prior to the meeting – Ms. Kruger reported that there is a citizens' petition to put an article on the Town Meeting Warrant to take the former Classic Chevrolet property by eminent domain. She explained that the reason for this petition was to maintain the property as a garage and to maintain the taxes and economic development that it would provide. Mr. Carson characterized eminent domain as a drastic step. Mr. Tucker noted that the Board would have an opportunity to comment on the Warrant once it has been signed and published.

V. NEW BUSINESS

- A. Planning Board Application Fees

Mr. Tucker explained that the Planning Board had not raised its application fees for a number of years. He presented the proposal for raising the application fees and noted that the information provided included a comparison with fees that Northampton and Lowell charge. He stated that with the economy improving the Planning Board will be receiving more applications. The Planning Department has a difficult time even covering the fees for publication of legal ads. Mr. Tucker noted that the Design Review Board had already reviewed its fees and voted to raise them.

Board members questioned raising fees for small applications.

Mr. Webber proposed a waiver or a sliding scale or a percentage of the cost of the project.

Mr. Crouner suggested accepting the staff's draft of the fee changes.

Ms. Kruger suggested a minimum fee rather than a waiver for small projects.

Mr. Crouner MOVED to approve the fee schedule as presented by staff. Mr. Schreiber seconded.

Ms. Brestrup noted that the minimum fee for a non-profit organization would remain at \$300. Mr. Stutsman suggested that some of the small projects did not need to come before the Board and noted that \$500 is a lot for an application fee for a small project.

Ms. Kruger stated that the fee schedule is part of the Planning Board's interface with the public and it reflects on the work of the Planning Board. She would not support the motion to approve the proposed fee schedule at this time. She suggested that the Planning Board spend time to consider the proposed fee changes.

Mr. Tucker explained that the application fees go into the General Fund of the town.

Ms. Anderson suggested reviewing the proposed fee changes over the next few weeks and postponing the vote.

Mr. Stutsman spoke in favor of maintaining the minimum fee at \$300.

The vote on Mr. Crowner's motion was 3-6 (Webber, Carson, Kruger, Roznoy, Anderson, and Stutsman opposed) and the motion did not carry.

- B.** Planning Board – Upcoming Schedule – Board members discussed the Planning Board schedule during Annual Town Meeting. Board members expressed support for holding meetings at 5:00 PM on Town Meeting nights, if necessary, noting that the Zoning Subcommittee does not meet on Town Meeting nights.
- C.** CPTC Brochure – Ms. Kruger and Ms. Brestrup plan to attend the CPTC conference on March 15th in Worcester. Others who are interested in attending and riding with them will let them know.
- D.** Topics not reasonably anticipated 48 hours prior to the meeting – Mr. Webber stated that he had received a letter from Executive Director Tim Brennan of the PVPC with an enclosed document prepared by PVPC, “Our Next Future: An Action Plan for Building a Smart, Sustainable and Resilient Pioneer Valley”. He presented it to Planning Department staff and encouraged Board members who were interested to borrow it from the Planning Department and review it.

Board members noted that they wanted to learn about and discuss issues related to drainage, traffic and infrastructure in the downtown area and to talk about economic development.

Ms. Anderson suggested that the Board look at issues related to parking in the downtown General Business zoning district. She noted that new construction does not need to provide on-site parking and that this will potentially become an issue as more developments are proposed and built.

Ms. Ford brought up the issue of multiple signs being installed on multiple faces of buildings in the downtown area.

Mr. Tucker stated that the sign and parking sections of the Zoning Bylaw were on the list of issues that needed to be addressed.

Board members reiterated their eagerness to meet with the Town Engineer to discuss drainage and traffic in the northern part of the downtown.

VI. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VII. UPCOMING ZBA APPLICATIONS – none

VIII. UPCOMING SPP/SPR/SUB APPLICATIONS

Ms. Brestrup reported on the upcoming Site Plan Review for South Congregational Church to repave the parking lot and driveways.

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Bruce Carson

Community Preservation Act Committee – Sandra Anderson reported that CPAC would meet on Thursday. CPAC plans to vote on which projects will receive funding this year. There is more money available than there are requests so the money can be saved for the next round of requests.

Agricultural Commission – vacant

Transportation Plan Task Force – Richard Roznoy and Rob Crowner

Amherst Redevelopment Authority – Constance Kruger

Design Review Board – Kathleen Ford

Housing and Sheltering Committee – Greg Stutsman reported that the HSC had voted to submit a Warrant article for Annual Town Meeting to create an Affordable Housing Trust Fund.

Town Gown Study Steering Committee – David Webber and Greg Stutsman – Mr. Webber reported that the TGSSC is very close to choosing a consultant out of the three finalists. They will meet on March 11th to vote on whom to recommend to the Town Manager and the Chancellor who will make the final decision. Mr. Stutsman noted that a lot of good ideas came out of the interview process and that there may be funding available to support historic districts.

Master Plan Implementation Committee – vacant

X. REPORT OF THE CHAIR – Mr. Webber reported that the town election was scheduled for March 25th, that Ms. Kruger was running for Select Board and that some Planning Board members are running for Town Meeting, including Mr. Webber.

XI. REPORT OF STAFF – no report

XII. ADJOURNMENT

The meeting was adjourned at 9:50 PM.

Respectfully submitted:

Approved:

Christine M. Brestrup
Senior Planner

David Webber, Chair

DATE: _____