

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00004 to create a buildable lot, as a Flag Lot, under Section 6.3 of the Zoning Bylaw, at 129 Gray Street (Map 11D, Parcel 113, R-G Zoning District), with the following conditions:

General:

1. The flag lot shall be configured as shown on the Subdivision Approval Not Required plan prepared by Harold Eaton Associates, Inc, dated August 9, 2013.
2. The development of the flag lot shall be substantially in accordance with the Proposed Site Plan, prepared by Charles H. Dauchy, dated October 28, 2013, last revised on December 12, 2013.
 - a. Said development shall include all proposed drainage features and screening as shown on the approved plan. All proposed drainage features and screening shall be maintained in good working order.
 - b. Any changes to the approved Site Plan deemed substantial by the Building Commissioner shall be presented to the Board for review at a public meeting. The purpose of the public meeting shall be for the Board to determine if the changes are de minimus, or rather are significant enough to require modification of the Special Permit.
3. The project shall comply with all requirements of the Amherst Conservation Commission Determination of Applicability, dated November 18, 2013.

Prior to issuance of a building permit:

4. Prior to any site work, tree removal, or the issuance of a building permit, the Amherst Department of Public Works and Amherst Tree Warden shall review and approve the removal or disturbance of any Public Shade Tree.
5. A plan showing appropriate and/or best practice runoff control measures shall be reviewed and approved by the Town Engineer and approved by the Building Commissioner.

Prior to issuance of the final Certificate of Occupancy:

6. The proposed vegetative screening along the south property line (five foot tall at planting arborvitae, four foot on center for 100 linear feet) shall be installed substantially in accordance with the approved Site Plan.
7. Charles H. Dauchy, Environmental Consultant, or a Registered Engineer, shall inspect and certify that all proposed drainage features have been installed in accordance with the approved Site Plan.



Eric Beal
Amherst Zoning Board of Appeals

1/30/14
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Virginia Lewis, 129 Gray Street, Amherst, MA 01002

Date application filed with the Town Clerk: August 15, 2013

Nature of request: For a Special Permit to create a buildable lot, as a Flag Lot, under Section 6.3 of the Zoning Bylaw

Address: 129 Gray Street (Map 11D, Parcel 113, R-G Zoning District)

Legal notice: Published on September 11, 2013 and September 18, 2013 in the Daily Hampshire Gazette and sent to abutters on September 10, 2013

Board members: Eric Beal, Mark Parent, Keith Langsdale

Staff members: Jeff Bagg, Senior Planner

Submissions:

- | | |
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| <ul style="list-style-type: none">▪ Project Application Report, dated September 20, 2013▪ Application, filed with Town Clerk on August 15, 2013▪ Project Summary▪ Survey/ANR plan, prepared by Harold Eaton Associates, dated August 9, 2013 | <p>Submitted by Town staff:</p> <ul style="list-style-type: none">▪ Town GIS map, for reference▪ Copy of Section 7.7▪ ZBA FY2012-00016 & ZBA FY2013-00018, for reference |
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Site Visit: September 25, 2013

Eric Beal, Mark Parent, and Keith Langsdale met the applicant, Virginia Lewis, on-site. They observed the location of the vacant property along the east side of Gray Street, and the following:

- The location of the existing and property lines, demarked by surveyor's stakes; existing mature vegetation along the east property line; and existing vegetation along the southerly edge and a large hemlock in the pole portion of the lot.
- The approximate location of the delineated wetlands, noting that it was only a depression and did not contain any water.
- The location of a larger single family dwelling to the south and an existing detached garage structure close to the east property line.

Public Hearing: September 26, 2013

The applicant, Virginia Lewis, was accompanied by her attorney, Tom Reidy of Bacon Wilson, P.C. Mr. Parent made a disclosure that he conducts work with Bacon/Wilson P.C. but that this relationship will not impact his ability to decide on this matter impartially.

The project was presented in terms of the plans, summarized as follows:

- The proposal involves the creation of the flag lot only, and does not include any specific plans for development of a dwelling or driveway at this time. It was suggested that conditions of the approval could satisfy future concerns of the Town Engineer and/or Fire Department.

The configuration of the lot was described relative to the survey, prepared by Harold Eaton Associates, dated August 9, 2013. The following general findings were made relative to Article 6: *6.3 - In the Office Park (OP), General Residence (R-G), Village Center Residence (R-VC), Neighborhood Residence (R-N), Outlying Residence (R-O), and Low Density Residence (R-LD) Districts only, individual lots which do not have the required amount of street frontage may be permitted under the following conditions:* The parcel is located in the R-G Zoning District, where flag lots are allowed with a Special Permit.

6.31 - Any such lot which is not part of an Approved Definitive Subdivision Plan, may be allowed by the Zoning Board of Appeals by Special Permit provided that the lot meets all of the requirements of Section 6.32 through 6.37. The proposed flag lot is not part of an Approved Definitive Subdivision Plan and therefore the flag lot may be allowed with a Special Permit if it meets the requirements listed.

6.32 - The area of each flag lot, exclusive of the access strip, shall be at least double the minimum lot area normally required for that district, except in a Cluster Subdivision, in which case it shall be at least double the minimum lot area required for a cluster lot in that district. In the FC District, the area of flag lots shall be as provided for in Sections 3.2832, 4.3271 and 4.3272. The minimum lot area required in the R-G District is 12,000 square feet. For a flag lot, the lot area must be 24,000 square feet. As shown on the survey, the main body of the lot is 24,005 square feet, exclusive of the pole portion which is an additional 4,097 square feet. The configuration of the lot, which contains a narrow spur from the main body out to Gray Street was noted. Additionally, the lot contains delineated wetlands with the total area in contiguous upland is 20,493 square feet where Section 12.29 defines a buildable lot as requiring a minimum of 20,000 square feet.

6.33 - Each lot shall have an access strip with a minimum street frontage of forty feet, a minimum width of forty feet at any point between the street and the principal building, and a maximum length of four hundred feet, after which distance the access strip shall end and the building area of the lot shall begin. Where driveway access to a principal building is achieved over the access strip of the lot, then said access strip shall have no change of direction greater than 45 degrees.

The proposed access strip is 40.03 feet wide and therefore meets the minimum frontage requirement. The access strip (pole) is shown as being 102.43 feet in length and is therefore not subject to any of the additional provisions of Section 6.33 pertaining to access strips longer than 400 feet.

6.34 - The width of that portion of the lot where the principal building is to be constructed, known as the building area, shall equal or exceed the distance normally required for street frontage in that district. Said width shall be measured along the nearest continuous streetward boundary of the building area of the lot. In a Cluster Subdivision, the width of the lot where the principal building is to be constructed shall equal or exceed the distance required for cluster lot frontage in that district. The minimum street frontage for this district is 100 feet. As shown on the plans, a circle with a radius of 100 feet is shown in the area where the principal building could be located and appears to meet this requirement.

6.35 - That portion of a flag lot within which the principal building is to be located shall be considered the building area. The building area of a flag lot shall be capable of containing a circle whose diameter is equal to or greater than the minimum standard street frontage required in the district where the flag lot has its frontage, without any portion of said circle falling outside of the property. As shown on the plans, the building area of the flag lot is shown by a circle with a radius of 100 feet and appears to meet this requirement.

6.36 - There shall be no more than three flag lots adjacent to each other at the street line. Not applicable.

6.38 - There shall be no more than three (3) flag lots created from any land identified, according to the records of the Assessor's office, as a single parcel of land as of the effective date of this Section (11/9/87) unless such flag lots are proposed as part of the Definitive Subdivision. Not applicable.

Mr. Parent asked staff what could be built on the property. Mr. Bagg responded that if approved, a single family dwelling could be built under a building permit. Such a dwelling would be required to meet the normal dimensional requirements under the Zoning Bylaw. Specifically, Table 3, requires 15 foot setbacks from the front, side and rear property lines. It was noted that the lot and building coverage might be double the normal allowance because the area of the lot is doubled to conform to the flag lot requirement.

The following members of the public spoke regarding the proposal:

- Steven Schrieber, 100 High Street, stated that he was on the Planning Board, but he was speaking as a resident. He explained that the neighborhood is very densely populated and that a house on the flag lot would be positioned abnormally close to other residences. He stated that the findings under 10.38 cannot be made as there is no building to review and noted that an approval with conditions would remove any ability for the Board to regulate the location of the house.
- Carol Sharick, 126 Gray Street, expressed concern that the reduction in lot area associated with the existing frontage lot house would render it unsuitable for a family, and would likely revert to a rental unit. Additionally, there would be no way to prohibit a new dwelling from becoming a rental, thus continuing to change the context of the neighborhood from owner occupied to non-owner occupied properties.
- Peter Leight, 105 Gray Street, stated that the flag lot contains the bare minimum lot area for a flag lot. After researching other flag lot approvals, most of them are in outlying zoning districts where the lots are much larger and spread out. This proposal is unique because it would result in a new home being constructed in the middle of an established neighborhood and it be surrounded by other dwellings. He expressed concern with existing flooding problems in the area and noted that a new structure and paving for a driveway would exacerbate already poor conditions, which include pooling of water on the subject property and the rear of his property which is immediately to the south. He stated that the construction of a new dwelling should be part of what is considered under this Special Permit. As such, the Board does not have any information necessary to make a detailed review of the proposal and findings under Section 10.38. Specifically, he stated that there is no proposed structure to consider; there is no screening or vegetation removal plan; there is no way to determine whether a new dwelling would be a nuisance or whether the adjoining premises would be protected; or whether development on the parcel would contribute to off-site drainage or flooding issues.

- Stewart Remensnyder, 108 High Street, stated that he has resided at his address since 2006. He explained that their property is BEHIND 105 Gray Street where after their lot was cleared and re-graded it, the water has ponded in their basement and caused the need for a sump pump to be installed.
- Kevin Eddings, 116 High Street, stated that his property abuts the subject property to the east. He stated the rear of their property contains significant existing trees whose branches hang over the rear of the proposed flag lot. He noted that after the clearing and re-grading that occurred at 105 Gray Street, the basement went from damp to wet. He expressed concern with the potential impact on drainage and flooding that might be caused by development on the subject property. He also expressed concern with the potential for development on the subject property to disrupt the root system of the mature vegetation at the rear of both properties, which currently provides screening.
- Rachel Valentine, 110 Gray Street, stated that her property is directly across the street and acknowledged Ms. Lewis as a good neighbor. She expressed concern with the potential for the existing house, which has begun to fall into some disrepair, to become a rental and that such a change would further change the neighborhood away from owner occupied properties to non-owner occupied properties.
- Andrea Tulenko-Catlin, 124 High Street, stated that there have been significant drainage problems in the neighborhood, especially since the addition to the high school. She noted that their basement requires a sump pump in the spring and that the subject property has flooded in the winter enough to be used as an ad hoc skating rink.
- Pam Crawford, 133 Gray Street, stated that they own the property immediately to the north and noted that there is an existing stormwater drain somewhere in the rear corner of the two properties. She stated that she is unsure whether it is located on her property or the subject property. She expressed concern that any development on the subject property will change the character of the neighborhood and have an impact on already poor drainage. Mr. Beal stated that he is an acquaintance of Ms. Crawford but that would not affect his decision making in this matter.

Attorney Reidy responded to the comments from the public. He noted that the concerns and issues related to the use of the existing house on the frontage lot were outside of the jurisdiction of the Zoning Board of Appeals. He stated that no trees or vegetation would be removed from the delineated wetland area as that is prohibited by the Town's Wetland Bylaw and removal of vegetation outside of that area would be subject to review and approval by the Conservation Commission. He acknowledged the concerns of abutters regarding screening and drainage, but stated that any drainage issues would be handled by the purchaser/developer, noting that drainage cannot discharge onto an abutting property.

The Board discussed whether it had the necessary information to make findings under Section 10.38.

- Mr. Beal stated that he did not believe the Board had enough information on grading or drainage and that as a result the Board had no report from the Town Engineer. Mr. Reidy countered that by stating that the Board did indeed have the necessary facts, as shown on the survey, to find that the proposal meets the requirements of Section 6.3.
- Mr. Beal stated that he has concerns relative to the potential impact from the development of this parcel on abutting properties. He stated that having more information would enable the Board to determine whether potential adverse impacts, such as flooding, can be mitigated. Mr. Reidy requested that the Board identify the desired information and that a continuation be granted for his client to consider it and address the concerns.

- Mr. Parent requested that a professional provide information stating that the drainage associated with development of the property can be handled on-site without causing an impact to abutting properties.
- Mr. Bagg explained that the Board has three options: deny the request based on a lack of information; approve the request with specific conditions; or continue the hearing and request the applicant provide additional information. He explained that in some cases in the past the Board has approved the ANR plan with conditions that final development plans be presented at a public meeting. However, under this scenario, the Board has no jurisdiction to further regulate the location of a dwelling or how the lot is developed. Given the concerns of the abutters, he recommended that the Board gather more information before making a decision. Based on the application requirements for a Special Permit, the applicant has not provided even the baseline information about the existing conditions of the property, such as topography, existing vegetation, location of adjacent buildings, zoning setbacks. He noted questions about whether certain bordering/screening vegetation was on the subject property or not, along with whether the noted drainage structure is located on the subject property. This is all information that the Board can request of the applicant so they are evaluating a more complete set of information about the existing conditions. Perhaps the applicant does not need to prepare elevations or floor plans for a structure, but some information about a potential building footprint, or location, could provide the Board with more information on which to base 10.38 findings upon.

Mr. Beal MOVED to continue the evidentiary portion of the public hearing to November 12, 2013. Mr. Parent seconded the motion and the Board VOTED unanimously to continue the public hearing.

Public Hearing: November 12, 2013

The Board received and acknowledged a letter from Tom Reidy, dated November 7, 2013 requesting the public hearing be continued to a new date certain. Mr. Beal MOVED to continue the public hearing to January 9, 2014. Mr. Parent SECONDED the motion and the Board VOTED unanimously to continue the public hearing.

Site Visit: December 11, 2013

Eric Beal, Mark Parent, and Keith Langsdale conducted a follow up site visit and met the applicant's attorney, Tom Reidy, and wetland consultant, Charles Dauchy, on-site. The Board observed the staked location of the proposed footprint; approximate location of proposed drainage features; and the approximate location of the driveway and turnaround area. The Board observed the location of mature evergreen trees along the south property line and the location of an existing spruce tree near the proposed driveway. It was noted that a relocation of the driveway away from the south property line would result in the removal of the spruce tree.

Public Hearing: December 12, 2013

The applicant, Virginia Lewis was accompanied by her attorney, Tom Reidy of Bacon/Wilson P.C. and wetland consultant, Charles Dauchy. The following new information was submitted:

- Two Town GIS maps showing single family and multifamily properties in the vicinity
- Proposed Section 10.38 findings
- A revised Site Plan, prepared by Charles Dauchy and dated October 28, 2013 and revised on December 12, 2013

The Board discussed relocated driveway. Specifically, the revised plan shows the driveway relocated from along the south property line to the center of the flag pole area.

The relocation requires the removal of an existing spruce tree. The Board determined that removal of that tree would allow the other mature evergreen vegetation along the south property line to remain and would provide a more effective buffer.

The Board discussed the Conservation Commission review and approval of the proposed site plan, drainage features, and drainage calculations. Mr. Dauchy noted the following:

- The project received a Negative Declaration from the Conservation Commission and the same site plan submitted to the Board was approved.
- The Town Engineer was present at the Conservation Commission hearing, and stated that he reviewed and approved of the proposed drainage plan and calculations.
- The project is too small to require any approval from the Department of Environmental Protection and it is also within the allowable limit of impervious surfaces that is deemed to not impact abutting properties.
- Despite the small size of the project, a grading and drainage plan has been prepared including two shallow swales to capture and store any additional runoff created by the new dwelling and driveway. The drainage plan is designed to mitigate any runoff created by the new construction; it will not and is not required to be designed to correct all existing drainage issues on the property or on abutting properties.
- It was noted that some runoff could still occur in the event of a significant storm event exceeding what the drainage swales are required to be designed to hold. The swales are only designed to capture the runoff created by the new impervious surfaces.

The Board discussed the proposed driveway screening. The Board determined that the proposed row of five foot arborvitae planted along the south property line would be beneficial to blocking and/or mitigating headlight glare from vehicles exiting the driveway.

The Board discussed an existing drainage feature located on the subject property.

- It was determined that the drainage feature was not considered as part of the Conservation Commission process and that it was presumed to be not functioning.
- Mr. Dauchy stated that the outfall pipe is approximately one foot above grade and it drains very slowly through a small hole punctured on the side. He stated that to fix or alter the drain would require review and approval by the Conservation Commission as it could effect the wetland hydrology.
- Andrea Tulenko-Catlin, 124 High Street, stated that the drain on the subject property is connected to an outlet pipe which crosses her property and then empties into the Town's stormdrain on High Street. She submitted several photographs showing the water pooling and ponding at the corner of her property and the rear of the subject property.
- After discussion, the Board determined that the status of this drainage feature is not within the Board's consideration as the proposed development would not have an impact on its ability to function. It was noted that because the drain exists on the subject property but the outflow pipe traverses the adjacent property, that some type of agreement or arrangement could be considered between the two property owners.

The Board discussed the proposed footprint and notation on the plans regarding the allowance for minor adjustments. The Board determined that the footprint depicts the maximum area to be covered by a new dwelling and driveway. The Board noted that the drainage calculations are not affected by the height of the building and that the Board did not need to consider whether the structure would be one or two stories.

The Building Commission stated that the notation on the plan allowing minor adjustments to the plan design was useful; noting that any substantial changes to the building location, arrangement or size could require review by the Conservation Commission. He stated that his office would review the plan for conformance with the drainage areas, building location, and the building and driveway size/coverage.

The following members of the public spoke regarding the proposal:

- Rachel Folsom, 132 High Street, expressed concern with the length of time it could take for the swales to drain and whether it could become a breeding area for mosquitos. She expressed concern about maintenance of the swales.
- Peter Light, 105 Gray Street, expressed concern that the overall proposal to develop the lot is not compatible with the neighborhood. He stated that no other properties have buildings in their backyards. He stated that size is excessive and that the construction of a dwelling on the property would negatively change the character of the neighborhood. He submitted two photographs showing drainage problems on their property, which is immediately adjacent to the subject property to the south.
- Stuart Remensnyder, 108 High Street, expressed concern with the long-term viability of the rain gardens and their capacity to capture the new runoff.
- Margret Bruzelius, 105 Gray Street, expressed concern that any additional runoff would exacerbate the existing drainage problem of water pooling, ponding, and draining along the south property line of the subject property and then to the south along the rear of their property. She stated that the proposal to construct a dwelling in this location is out of character with the neighborhood and urged the Board to deny the request.
- Shirley Griffen, 4 Hulst Road, stated that she had considered purchasing the lot. She also expressed concern with the ability of the drainage swales to function when the ground is frozen.
- Steven Schrieber, 100 High Street, stated that the proposal will be out of character with the neighborhood and that it is not a good method for creating density. He stated that a better proposed use of the property would be an owner occupied duplex which would allow the development to shift closer to the road and be better aligned with the Master Plan. He stated that while he appreciates the efforts thus far, it's like putting lipstick on a pig.

Mr. Parent MOVED to close the evidentiary portion of the public hearing. Mr. Langsdale seconded the motion and the Board VOTED unanimously to close the evidentiary portion of the public hearing.

Mr. Beal MOVED to continue the public meeting to January 9, 2014. Mr. Parent seconded the motion and the Board VOTED unanimously to continue the public meeting.

Public Meeting: January 9, 2014

The Board was provided with the following new information:

- A draft document from the Planning Department containing proposed findings, a list of waivers, and a set of draft conditions for discussion

The Board acknowledged that they were now deliberating on the information received and discussed during the last meeting. The Board members agreed that they were satisfied that the issues and concerns related to drainage were satisfied by the applicant's information.

Specifically, the preparation of a stormwater management report, site plan showing a building envelope and drainage swales, and approval of the same information by the Town's Conservation Commission and Town Engineer.

The Board acknowledged the addition of a row of evergreens along the south property line to mitigate potential headlight glare. Additionally, the Board acknowledged that the driveway was relocated causing the removal of an existing spruce tree but allows the preservation of a row of mature trees along the south property line.

The Board made the following findings based on the proposed site plan, as required under Section 6.37 of the Zoning Bylaw:

6.37 - Access to the lot shall meet the requirements of Section 7.7. The Board determined that the following two provisions of Section 7.7 applied:

7.701 - Unimpeded access shall be provided across either the access strip or an easement at least twenty (20) feet wide. The proposed Site Plan provides an access strip with a width of 40 feet.

7.702 - The driveway within the access strip or easement shall have adequate drainage and shall not exceed 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street. The proposed driveway provides adequate drainage, as shown on the Site Plan which has been approved by the Conservation Commission and Town Engineer. The proposed driveway changes from a contour of 306 feet to 305 feet within the first 50 feet of Gray Street. This amounts to an approximate change in grade of 2%.

The Board discussed the following listed waivers suggested by Town staff:

Management Plan, lighting plan, landscaping plan, soil erosion plan, etc. The Board determined that because the application is for a flag lot, and not a specified use, that the listed submission requirements were not applicable.

Mr. Beal MOVED to grant the waiver from the submission requirements listed. Mr. Parent SECONDED and the Board VOTED unanimously to grant the waiver.

Site Plan prepared by an Environmental Consultant rather than a Registered Engineer, Surveyor or Landscape Architect. The applicant presented the Board with a copy of the previously submitted site plan stamped by a Registered Engineer. Mr. Dauchy explained that plan submitted on December 12th was changed one day prior in order to reflect observations made at the site visit and was submitted without having been stamped by the Registered Engineer. A member of the audience, Stephen Schreiber, objected to the Board receiving this and stated that it constituted new information which cannot be received after the close of the public hearing. Mr. Bagg stated that this information is clarifying information pertaining to the site plan submitted and reviewed during the last hearing. Mr. Dauchy confirmed that the date of the plan was the same; there were no changes in the plan; and that the only additional information was the stamp of the Registered Engineer. The Board determined that this did not constitute new information, rather it was simply adding the Engineer's stamp to the same plan reviewed during the last hearing and no waiver was required.

The Board discussed measures for preventing runoff during construction. The Board determined that because the drainage features will not be in place during construction that some additional measures to control runoff during construction should be required. The Board determined that prior to the issuance of a building permit a plan showing appropriate runoff control measures shall be reviewed and approved by the Town Engineer and approved by the Building Commissioner.

Specific Findings:

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 Board found that the property is located in a residential area close to Amherst Regional High School and which contains approximately 39 single family homes and other multifamily dwellings in the vicinity. The property is located in the R-G District, the purpose of which is to "to provide for residential neighborhoods of medium to higher density in areas both near the Town Center and between the University and the Town Center. Such areas are convenient to the services, facilities, institutions and/or employment opportunities provided in the Town Center or by the University". The proposal is to create a buildable lot where its presumed use is a single family dwelling which is compatible with other single family dwelling uses allowed by right.

10.382, 10.383 & 10.385 - 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 Board found that the proposal provides adequate methods for controlling runoff resulting from the construction of new impervious surfaces. Additionally, the proposal provides and 100 foot row of arborvitae planted along the south property line to screen the adjacent property from the headlights of vehicles exiting the driveway.

10.386 & 10.387 - 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 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 proposed driveway complies with the design and drainage requirements of Section 7.7. All associated drainage features were reviewed and approved by the Town Engineer and Conservation Commission.

10.389 & 10.390 - The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water; The proposal ensures protection from flood hazards as stated in Section 3.228, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances. The proposal provides for adequate drainage to mitigate the construction of new impervious surfaces as reviewed and approved by the Town Engineer and Conservation Commission.

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 found that the proposal provides for a row of arborvitae to be planted along the south side of the driveway to screen the adjacent property from vehicles headlights. Additionally, the relocated driveway will allow the preservation of existing evergreen vegetation along the south property line.

10.394 - The proposal avoids, the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes, and wetlands. The Board finds that any impact on wetlands will be mitigated by the approval of the proposed design by the Amherst Conservation Commission, Town Engineer, and by the installation of drainage features on the property.

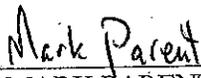
10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The Board found that the creation of a buildable lot in this location is in harmony with the purposes of the Bylaw "to encourage the most appropriate use of land throughout Amherst". The proposal meets the goal of the Master Plan to "encourage medium density development", Identify existing developed areas that are appropriate for density increases and redevelopment", and "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.

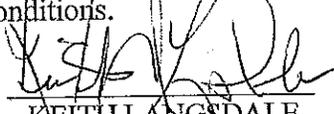
Zoning Board Decision

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

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00004 to create a buildable lot, as a Flag Lot, under Section 6.3 of the Zoning Bylaw, at 129 Gray Street (Map 11D, Parcel 113, R-G Zoning District), with conditions.


ERIC BEAL


MARK PARENT 


KEITH LANGSDALE

FILED THIS 31st day of Jan, 2014 at 8:56 am,
in the office of the Amherst Town Clerk Susan Audette.
TWENTY-DAY APPEAL period expires, February 20 2014.
NOTICE OF DECISION mailed this 31 day of January, 2014
to the attached list of addresses by Jeffrey L. Gagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

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

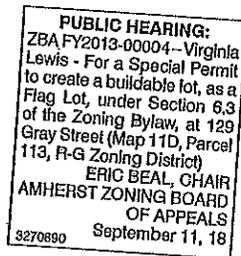
Petition of Virginia Lewis

For a Special Permit, ZBA FY2014-00004 to create a buildable lot, as a Flag Lot, under Section 6.3 of the Zoning Bylaw, at 129 Gray Street (Map 11D, Parcel 113, R-G Zoning District), with conditions

On the premises of 129 Gray Street
At or on Map 11D, Parcel 113, R-G Zoning District

NOTICE of hearing as follows mailed (date) September 10, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated September 11, 2013 and September 18, 2013

Hearing date and place September 26, 2013, November 12, 2013, December 12, 2013r
3, 2013 & January 9, 2014 (Town Hall)



SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00004 to create a buildable lot, as a Flag Lot, under Section 6.3 of the Zoning Bylaw, at 129 Gray Street (Map 11D, Parcel 113, R-G Zoning District), with conditions.

Eric Beal – Yes Mark Parent – Yes Tom Ehrgood - 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 Virginia Lewis
Address 129 Gray Street
City or Town Amherst, MA 01002

Identify Land Affected: 129 Gray Street
(Map 11D, Parcel 113, R-G Zoning Districts)

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

129 Gray Street Amherst
Street City or Town

The record of title standing in the name of

Virginia Lewis
Name of Owner

Whose address is 129 Gray Street Amherst MA 01027
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 4365 Page 124
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 FY2014-00004
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

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

_____ 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
11D-145	4 CLIFTON AVE	DENYSE, DIANA		4 CLIFTON AVE	Amherst, MA 01002
11D-116	91 GRAY ST	HANKE, MICHAEL A & MARSHALL, ANN W.		91 GRAY ST	AMHERST, MA 01002
11D-108	94 GRAY ST	OCONNELL, KILLIAN R		610 STATION RD	Amherst, MA 01002
11D-115	97 GRAY ST	CHERNOFF, MICHAEL L & JAYMIE W		97 GRAY ST	AMHERST, MA 01002
11D-109	100 GRAY ST	HASHEMI, ABOLHASSAN & ZOHREH		560 MIDDLE ST	AMHERST, MA 01002
11D-114	105 GRAY ST	LEIGHT, PETER W & BRUZELIUS, MARGARET		105 GRAY ST	AMHERST, MA 01002
11D-110	106 GRAY ST	GU, THOMAS GU & GENG, PING		782 NORTH EAST ST	AMHERST, MA 01002
11D-202	110 GRAY ST	GRYBKO, MICHAEL L & VALENTINE, RACHAEL L		110 GRAY ST	AMHERST, MA 01002
11D-203	126 GRAY ST	SHARICK, RAYMOND M & CAROL R		126 GRAY ST	Amherst, MA 01002
11D-113	129 GRAY ST	LEWIS, VIRGINIA		129 GRAY ST	AMHERST, MA 01002
11D-112	133 GRAY ST	CRAWFORD, PAMELA & MUSCAT, DONALD		133 GRAY ST	AMHERST, MA 01002
11D-204	136 GRAY ST	KAYAK, LLC		143 GRAY ST	Amherst, MA 01002
11D-213	139 GRAY ST	FENSKE, JOHN & CORBIERE, MARIE		139 GRAY ST	AMHERST, MA 01002
11D-212	143 GRAY ST	AUERBACH, SCOTT M & SARAH W		143 GRAY ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
11D-205	144 GRAY ST	FITZ GIBBON, DEMOND & CORSON, CATHERINE		144 GRAY ST	AMHERST, MA 01002
11D-206	152 GRAY ST	PENZA FAMILY TRUST		152 GRAY ST	AMHERST, MA 01002
11D-199	155 GRAY ST	STANNE, ANTHONY J & C ALICE		155 GRAY ST	AMHERST, MA 01002
11D-139	7 HARVARD AVE	TRIPP, TODD M & WAITE, SUSAN M		7 HARVARD AVE	AMHERST, MA 01002
11D-119	86 HIGH ST	SALWEN, NATHAN	MORRELLO, SUSAN	86 HIGH ST	AMHERST, MA 01002
11D-120	92-94 HIGH ST	RBAB REALTY LLC		37 COLES MEADOW RD	NORTHAMPTON, MA 01060
11D-121	100 HIGH ST	SCHREIBER, STEPHEN & THURBER, JANE C		100 HIGH ST	AMHERST, MA 01002
11D-144	101-103 HIGH ST	WEYL, NINA		103 HIGH ST	AMHERST, MA 01002
11D-122	108 HIGH ST	REMENSNYDER & STUART & LAURENCELL, NICOLE		108 HIGH ST	AMHERST, MA 01002
11D-143	109 HIGH ST	TARR, GARY & LYSTER, CARLIE C	C/O CARLIE & GARY TARTAKOV	109 HIGH ST	AMHERST, MA 01002
11D-142	115 HIGH ST	DICKINSON, CHARLES & ELLEN S		115 HIGH ST	AMHERST, MA 01002
11D-123	116 HIGH ST	EDDINGS, BARBARA M LIFE ESTATE	C/O KEITH EDDINGS	8 SPRING ST	NEWBURYPORT, MA 01950
11D-141	119 HIGH ST	POPE, CAROL C		119 HIGH ST	AMHERST, MA 01002
11D-124	124 HIGH ST	TULENKO-CATLIN, ANDREA E & JEFFREY D		124 HIGH ST	AMHERST, MA 01002
11D-140	129 HIGH ST	PREMILA NAIR		129 HIGH ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
11D-125	132 HIGH ST	MOLL, ROBERT N	FOLSOM, RACHELA	132 HIGH ST	AMHERST, MA 01002
11D-126	142 HIGH ST	SINGAPURI, DADE	COHEN, ALVIN PHILIP	142 HIGH ST	AMHERST, MA 01002
11D-127	148 HIGH ST	FALSETTI, ROBERT & JULIA	C/O FALSETTI YU, MOLLY	148 HIGH ST	AMHERST, MA 01002
11D-215	21 MATTOON ST	AMHERST PELHAM REG SCHOOL DIST		21 MATTOON ST	AMHERST, MA 01002
11D-216	TAYLOR ST	AMHERST PELHAM REG SCHOOL DIST		CHESTNUT ST	AMHERST, MA 01002