

AMHERST PLANNING BOARD
Wednesday, December 17, 2014 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair, Stephen Schreiber, Rob Crowner, Bruce Carson, Greg Stutsman, Sandra Anderson and Christina Calabrese

ABSENT: Richard Roznoy

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

Mr. Webber opened the meeting at 7:03 PM.

I. MINUTES

Mr. Carson MOVED to approve the Minutes of November 12, 2014. Mr. Stutsman seconded and the vote was 6-0-1 (Anderson abstained).

Ms. Anderson MOVED to approve the Minutes of November 19, 2014. Mr. Stutsman seconded and the vote was 7-0-0.

II. APPEARANCE

Presentation on Zoning Amendment Process and Update on Second Parking Forum –
Jeffrey Bagg, Senior Planner

Parking

Mr. Bagg presented an update on the parking forum process and a memorandum dated December 12, 2014, which summarized what occurred at the parking forum on September 23, 2014. He outlined next steps for the second parking forum, scheduled to occur on January 20, 2015, at 7:30 p.m. at the Unitarian Universalist Society of Amherst.

The second forum is slated to identify and review issues and identify preliminary goals and strategies and to allow the public to rank and organize them. Based on comments received on September 23rd, there are 6 categories of issues related to parking that should be addressed: Metering/Rates, New Parking Supply, Signs/Education, Review/Change Regulations, Enforcement/Management, General Broad Concepts. The second forum will provide an opportunity to group these goals into short-term, mid-term and long-term goals. The forums seem to be working as a public process, he said.

Mr. Bagg noted that there was an ongoing Transportation Plan being developed. He also noted that the EOHED (Executive Office of Housing and Economic Development) was making grants available to municipalities for analyzing their parking needs.

Mr. Carson asked that a map be prepared for the next parking forum that would show public and private parking, where the lots are located and how many spaces are in each lot.

Mr. Schreiber observed that there is an assumption on the part of many that a parking garage will be built by the town. In other places parking structures are built by private developers. Private developers may wish to build a parking garage here. Car sharing services will change the demand for private car ownership. Parking structures may become obsolete, he said.

Mr. Tucker stated that there are barriers to construction of private parking lots. Properties are small in the center of town. Numerous small properties will need to be assembled in order to have enough land to build a garage. This will make it more expensive to build a garage.

Mr. Stutsman noted that there are other technologies which will change the landscape for the issue of parking, such as self-driving cars. The ZSC has discussed changing the regulations for parking facilities, which now require a Special Permit for privately owned parking garages.

Ms. Calabrese asked to what degree the work of the Transportation Plan Task Force and the efforts regarding Parking are coordinated.

Ms. Brestrup explained that the town had hired Nelson\Nygaard, a nationally-known transportation planning consultant, to work with the Task Force to develop a Transportation Plan. Nelson\Nygaard is also nationally known as an expert in the issue of parking. Parking will be considered as one aspect of the Transportation Plan. Mr. Bagg noted that the Scope of Services for Nelson\Nygaard was large and would not include specifics about downtown parking, but the consultant is aware of the parking forum process.

At the request of Amherst College, and with the consent of Mr. Webber, Mr. Bagg interrupted his presentation to allow a brief presentation by Tom Davies of Amherst College.

VI. NEW BUSINESS

A. Amherst College – Presentation in accordance with Section 3.211 of the Zoning Bylaw – ED zoning district – Proposed Greenway Dormitories

Thomas Davies, Director of Design and Construction and Assistant Director of Facilities for Amherst College presented a plan for the Greenway Dormitories, a 300 bed project within the ED zoning district. There are no Planning Board issues with regard to this project other than the requirement for an informational overview. The first phase of the project is out to bid and the permit is expected within one month. The project consists of 4 buildings with 75 beds in each, to be located south of the current science complex. He presented the layout of the building and roadway and noted that the architect for the project is Kyu Sung Woo and the landscape architect is Michael Van Valkenberg. There will be an outdoor sports area to the north with a half-court basketball court and sand volleyball. Mr. Davies presented a rendering of the buildings, noting that they will be brick-clad and will be high-efficiency buildings with radiant heating and cooling. The buildings will be linked by bridges. Construction will begin in one month with occupancy expected by September of 2016.

There had been a previous design for a science center to be located on the same hillside, but that project was cancelled. The new location for the science center will be farther to the east. This will provide a better value for the college.

Mr. Davies described the concept for the location of the new buildings along a greenway. The main campus is well-defined at the core, but the cohesiveness breaks down at the edges. The greenway will wrap around the hillside and will provide dramatic improvements to handicapped access and pathways and tie the landscape together.

Mr. Stutsman asked if the construction of the new dorms would coincide with other beds going “off line”. Mr. Davies stated that the 300 new beds would replace 307 existing beds. There is no increase in student enrollment planned at this time.

Mr. Webber thanked Mr. Davies for the presentation.

III. APPEARANCE

Presentation on Zoning Amendment Process and Update on Second Parking Forum – Jeffrey Bagg, Senior Planner (*continued*)

Zoning Amendment Process

Mr. Bagg continued with his presentation, focusing on the zoning amendment process. The Planning Department, the Building Commissioner and the Assistant Town Manager have been meeting for the past year to try to help the Zoning Subcommittee Committee and the Planning Board to work through the long list of zoning amendments that have been under consideration. The current effort is an attempt try to assess and propose ways to improve the process. Mr. Bagg met with the Zoning Subcommittee on December 3, 2014, to review the list as well as goals and prioritization, with an awareness that Inclusionary Zoning is the highest priority. He showed an example of the list from years past, noting that it was overwhelming.

Mr. Bagg presented a rearranged list of possible zoning amendments, showing them in three groups, arranged by priority, Group 1 (the highest priority), Group 2 (secondary priority) and Group 3 (third priority). He suggested that grouping the possible amendments would allow the Planning Board to better assess the amount of time and effort that would be necessary for each amendment. He noted that it would take a significant amount of time to work on Inclusionary Zoning and cautioned the Board against taking up other amendments for the spring.

Mr. Webber expressed support for the timeline concept, noting that it had been hard to get amendments ready for Town Meeting. He agreed that there should be no public hearings after the signing of the Warrant. Mr. Stutsman also expressed support for the reformatting of the list and encouraged the Board to remove items from the list that were no longer considered important.

Mr. Bagg stated that viewing the zoning amendment list in this manner would allow the Board to line up several zoning amendment projects and allow work on the projects to overlap. The timeline would allow the Board to plan for two years into the future.

Mr. Tucker reported on next steps. He described the schedule of upcoming meetings and noted that there would be a meeting in the next weeks of different bodies involved in Inclusionary Zoning, with the consultant. The topics would be Zoning, Non-zoning incentives and Administration. It is essential that Inclusionary Zoning is ready for spring Town Meeting, he said. Mr. Tucker also noted that the town would need to have language ready for the legislature in Boston regarding a Special Act, to allow the town to use a system of tax incentives to support developers in providing affordable housing. In addition there would be a need for someone to administer the system and keep track of the affordable units. This would involve the budget process. The town recently regained its status as a mini-entitlement community with DHCD. The funds for this status begin to come in in October, with the start of the federal fiscal year. Therefore, there will be a longer timeline for the other non-zoning elements of Inclusionary Zoning, such as financial incentives and administration.

Mr. Bagg stated that the conversation about priorities for amendments other than Inclusionary Zoning can wait until March, when the draft Inclusionary Zoning amendment is ready for Town Meeting.

IV. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT

SPR2015-00006 & SPP2015-00002 – 134 Montague Road – Atkins North – Joint Public Hearing *(continued from November 19, 2014)*

Request Site Plan Review approval under Section 3.350.2 of the Zoning Bylaw to renovate and reuse a 4,200 SF former cow barn to retail space and associated site improvements, including seasonal outdoor dining and live and pre-recorded music, under Sections 5.041 and 5.042 of the Zoning Bylaw, and request Special Permit approval under Section 9.22 of the Zoning Bylaw to allow continued commercial service vehicles to enter property from Montague Road (Map 5A, Parcel 139, COM zoning district)

Mr. Webber read the request for Site Plan Review and Special Permit, noting that this was a continued public hearing. He also read a letter, dated December 17, 2014, from the applicant's consultant, R. Levesque Associates, requesting withdrawal of the request for approval of live and pre-recorded music.

Mr. Schreiber MOVED to approve the withdrawal without prejudice of the request for live and pre-recorded music at the site. Ms. Anderson seconded and the vote was 7-0-0.

Mr. Webber invited the applicant to present new information and any changes to the plans.

Rob Levesque of R. Levesque Associates, Inc. and Chris Farley of Kuhn Riddle Architects presented the changes.

Mr. Levesque stated that the applicant was requesting approval of a Special Permit for access through 134 Montague Road for deliveries and for a sign at the corner of Montague and Cows Road. He noted that he had submitted a letter in support of the Special Permit.

Ms. Brestrup explained that the sign did not require a Special Permit but could be approved under Section 8.5 of the Zoning Bylaw. The Special Permit is only required for commercial access across residential property.

Mr. Levesque presented Sheet C-4, Layout Plan. He also referred to a letter dated December 16 2014, which describes the existing curb cut and the existing and historic use of this curb cut to provide access to the commercially-zoned property over the residentially-zoned property. This access has been in existence and continues to be in existence. The applicant is asking to continue that use for a number of reasons, including the separation of pedestrians (who enter the building from the west) from commercial vehicles (which approach the building from the east).

In the current Site Plan all pedestrian patrons will come in on the west side of the building. The east side is for deliveries and will have a loading dock. The Site Plan seeks to keep commercial traffic on the east side of the building and allow children, the elderly and adult customers to enter the building from the west. The existing buildings, including the barn to the east of the cow barn and the house at 134 Montague Road, will mask or shield the area from direct views. The Planning Board may wish to consider a condition that the area be further screened from view. The letter addresses how this proposed access meets the Special Permit criteria.

The Site Plan proposes this location for the loading dock because of the way that the existing structure sits on the site and how it will be used in the architectural design. Reuse of this building doesn't lend itself to a different location for the loading dock.

A directory sign is proposed to be located at the corner of Route 63 and Cows Road. This is a very important sign for the development of the area, understated, and black. A sign of 12 square feet is allowed, but this sign needs to be larger than 12 square feet because it needs to be seen by people driving down Route 63. Mr. Levesque referred to a composite photograph showing the proposed sign in the landscape.

Mr. Webber acknowledged receiving copies of the applicant's submittal, including photographs of the signs set into the landscape.

Mr. Levesque noted that the applicants had also submitted images showing the actual vehicles that would be used by Atkins for deliveries, including three vans and a box truck, not major commercial vehicles. Local deliveries will be made from the existing Atkins store in South Amherst. The applicant also provided photographs of trucks and other vehicles that have driven through the site recently, some of the images captured by the security camera on site.

Mr. Webber acknowledged receipt, since the last meeting, of letters from citizens, both from individuals and from a group of citizens and photographs of signs and delivery vehicles and other vehicles.

Ms. Brestrup stated that the Board had also received excerpts from a revised Stormwater Report, revised plans which were received from Mr. Levesque at the last meeting, a letter from Mr. Levesque to which he referred in his presentation, a letter from JSP, traffic engineers who had conducted the initial traffic study, commenting on the traffic related to the commercial vehicles which would be using the property.

Mr. Levesque summarized the letter from JSP regarding the commercial traffic. The letter concludes that it makes sense to separate pedestrians from the commercial vehicles that would be entering the site.

Mr. Webber asked about the number of vehicles that would be expected. Mr. Levesque stated that there would be approximately 10 commercial vehicles per day, from local farms and other vendors and from Atkins Market in South Amherst. He quoted from the letter from JSP which stated that "this amount of traffic will have little to no bearing on traffic operations or capacity conditions at any intersection within the immediate area".

Mr. Webber acknowledged that the Planning Board had already reviewed documents from the Fire Department and the Town Engineer.

Melissa Perot of 15 Summer Street read from a letter that she later submitted to the Planning Board. Her comments referred to the following:

- The Master Plan and its query about the kind of community that we want Amherst to be in the future and things that need to be done today to create this kind of community
- The changes that have occurred in North Amherst in the past five years
- The improvements that have been made to the Library
- The re-emergence of NAVIS, the North Amherst Village Improvement Society
- The charrette conducted by the Cecil Group
- Efforts to rezone areas of North Amherst which failed at Town Meeting
- The idea of a food market for North Amherst and where it should be located (in the Trolley Barn)
- The request for a Special Permit for commercial access over residentially zoned land which should be denied
- Recent changes that have been made to the driveway at 134 Montague Road
- Her request that the Planning Board influence the town to make improvements to Sunderland Road and Cows Road for commercial access and to promote public transport and pedestrian access.

Janet Keller of Precinct 1 commented on the following:

- Enthusiastic support for Atkins North and the work that Ms. Jones has done;

- Support for seasonal outdoor dining with care for people's quiet enjoyment of their homes;
- Request that signs on residential property be placed and sized to fit in with rural residential neighborhood;
- Assurance that the driveway off Montague Road will have a low number of vehicles and low impact vehicles, like cars and pick-up trucks and not allow commercial through traffic.

Louis Greenbaum of 298 Montague Road commented as follows:

- Expressed concern about the degree of change that would occur with the proposal and concern about the preservation of the Cowls homestead
- Noted that this area is proposed to be part of a Local Historic District
- Expressed concern about the potential for 16-wheelers coming into the driveway
- Stated that Cowls Lane can provide commercial access and is big enough to accommodate large trucks
- Expressed concern that neighbors would be subject to noise and a change of use
- Stated that neighbors have a right to enjoy quiet and privacy
- Expressed concern about quiet and the integrity of the residential neighborhood.

Hilda Greenbaum of 298 Montague Road commented as follows:

- Asked about Planning Board jurisdiction over a Special Permit under Section 9.22 of the Zoning Bylaw, for commercial access over a residential zone
- Recommended that the Planning Board impose a condition on the size and number of trucks allowed to enter the site off Montague Road.

Ms. Brestrup explained that Section 9.22 of the Zoning Bylaw authorizes the Planning Board, as the Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of the Bylaw, to grant a Special Permit to allow a change to a non-conforming use of land. [Section 9.22 was changed during the Annual Town Meeting of 2013 to allow the Planning Board to grant such a Special Permit.]

Ms. Calabrese noted that some of the documentation received by the Planning Board states that the use of the driveway at 134 Montague Road to access the new Atkins North Market will need approval from the state.

Mr. Levesque stated that there is a requirement to obtain a permit from the state (Mass DOT) to access a state highway. Montague Road (Route 63) is a state highway.

Mr. Crouner stated that he supported the proposed use of the driveway as appropriate and not more detrimental to the neighborhood, but he expressed concern about possible future use. He asked if the Board could approve the access specifically for this use. He asked if the Board denied the access for the Atkins North Market, would access by other the trucks that come in [existing access by Cowls] now be denied.

There was discussion about this being a process to review proposed access by Atkins but was not intended to restrict existing access by Cowls.

Ms. Brestrup suggested that the Board could make clear in the conditions of the decision that it was approving commercial use of the driveway for Atkins use only. Other pre-existing uses would not be affected, but other future uses would need to be approved by the Planning Board or Zoning Board of Appeals.

Ms. Anderson offered comments about future development of the site. She stated that she had no problem with the proposed access, but noted that if the rest of the Mill District were to be

developed and want to use this driveway for access, the new developers should come back to the Planning Board to obtain permission to use the driveway, if they wanted to do so.

Mr. Carson asked the applicant to explain the proposal, mentioned at the previous public hearing session, to use the second driveway from Cows Road to access Atkins and whether the second driveway would still be needed.

Ms. Jones stated that the second driveway from Cows Road currently provides access to her office. She stated that she does not wish to eliminate a curb cut because it is used as a through access for her property.

Mr. Webber acknowledged receipt of photographs of the vehicles that Atkins proposes to use. He listed some of the types and models of the vehicles that are proposed to be used:

- Standard extended cargo vans (two of these)
- A Ford Transit Connect mini-van
- A 16-foot box truck, double-axle with a single set of wheels on the back

There are no 16-wheel trucks proposed to be used by Atkins North. The dump truck that uses the site now does not have 16 wheels, but appears from the photograph to have 14 wheels, at most.

John Thibbitts of Atkins Farms Market stated that Atkins has delivery vehicles that make deliveries around town. If a customer places an order by 11:00 a.m. the order can be delivered by 4:00 p.m. The box truck they use is the size that can be rented from Ryder. There are no air brakes on the trucks that Atkins uses. The trucks are not trailer trucks. There are other smaller trucks, such as the milk truck from Mapleline Farm, used for home-delivery. The trucks described [in this public hearing] are the only trucks that Atkins uses. Three-quarters of the vehicles making deliveries to the site will come from Atkins. One-quarter of the vehicles making deliveries to the site will come from local farms. There is no vehicle larger than a pick-up truck making deliveries from local farms. Any semi-trucks will go to the Atkins Country Market store in South Amherst. That size truck will not come to Atkins North, he said.

Mr. Webber asked if commercial and customer traffic is separated at the current Atkins Market location. Mr. Thibbitts stated that traffic is separated at the current Atkins Market location and it works well. The two parking lots for customers are separated from delivery vehicles. The store tries to maintain a "country market feel" he said. Atkins wants to keep delivery vehicles separate from customers at Atkins North.

Mr. Webber noted that there had been a proposal discussed at the last meeting to have delivery vehicles come to the site through the driveway off Cows Road and that this would still require that the vehicles pass through a residential zone. He asked if this access route was still being considered and if it would work for Atkins.

Mr. Thibbitts stated that Atkins could make this work, but a straight line access from Montague Road to the loading dock would be best. The driveway access would be the best as designed, but Atkins is willing to work with the Planning Board on the issue of access.

Ms. Anderson asked about hours of delivery. Mr. Thibbitts stated that the store would be open from 7:00 a.m. to 7:00 p.m. and that is when deliveries would occur. There will be no overnight deliveries. Atkins plans to minimize deliveries, as it is a cost to them to have multiple deliveries.

Mr. Webber stated that the Board had heard from neighbors and abutters that the entry and exit of commercial vehicles onto Montague Road will be a hazard. Mr. Webber stated that he does not share this opinion. He lives on Montague Road, although he is not an abutter. There are

over 5,000 cars a day that pass this property. This is not a quiet residential neighborhood. This is a commercial highway, a state highway with heavy traffic. There is a posted 35 mph speed limit, but many vehicles exceed 35 mph, often up to 50 mph or higher. The Atkins vehicles will come from the south. Mr. Webber passes the site frequently and has seen commercial traffic in and out of the driveway.

Ms. Anderson stated that this is overall a great project. She encouraged the applicants to consider using the driveway off Cowls Road, north of 134 Montague Road, in the future if there is further development on the site. She has no problem with the proposed use of the driveway off Montague Road as it is currently proposed, but she suggested that the town look at the entrance to Summer Street which may need to be realigned in the future.

Mr. Carson agreed with this assessment and stated that if there is future development on the site the new applicants will need to come to the Board for permission to use the driveway. Mr. Stutsman also agreed.

Ms. Calabrese agreed with Ms. Anderson's assessment. Separating service vehicles from customers provides a good experience for the customers, since they will not be in the middle of the delivery path. She suggested placing a condition on the types of trucks that can use the driveway. The types of trucks shown in the photographs do not seem to be detrimental, she said.

Mr. Webber suggested limiting the use of the driveway by commercial vehicles to use by Atkins, with deliveries to occur between 7:00 a.m. and 7:00 p.m., with no semi-trucks or tractor-trailer trucks allowed to go in and out and with proposed subsequent use of the property by others required to come to the Board for approval.

He noted that Section 9.22 of the Zoning Bylaw allows a pre-existing non-conforming use to be expanded or changed as long as it is not substantially more detrimental to the neighborhood. The driveway access can be limited to the current usage plus vehicles associated with Atkins.

If a new owner buys the store and proposes a similar use there would be no substantial change in use and the Special Permit may apply.

Ms. Anderson recommended placing a condition on the size of vehicles allowed.

Mr. Webber stated that it is clear that there is some substantial commercial use of this driveway to serve the existing uses on this property. Whatever the Board does on this application should not interfere with the existing use of the site by Cowls.

Ms. Brestrup suggested placing conditions on the size and types of vehicles that make deliveries to Atkins, but placing conditions on the existing or future use of the driveway is outside of the realm of this permit process. If Atkins deviates from the conditions placed on it the Building Commissioner can take action.

Mr. Webber asked about pedestrian access to the site. He noted that there is an existing sidewalk along the west side of Montague Road that continues up to Ball Lane. He also noted that the applicant is proposing a sidewalk along the south side of Cowls Road in front of the Atkins North store. He asked if the sidewalk along Cowls Road could be continued to connect with the sidewalk along Montague Road.

Mr. Levesque stated that work on the site had been confined to the leased area for Atkins, but the sidewalk could be extended to Montague Road, possibly in using gravel, because of cost constraints. Ms. Jones agreed to this proposal.

There was discussion about the proposed sidewalk extension, with Ms. Calabrese expressing concern about extending a sidewalk to a point where there is no crosswalk across Montague

Road. After discussion Board members agreed that a sidewalk would improve pedestrian safety and noted that there is already a sidewalk along the west side of Montague Road, to which the new sidewalk could be connected. There is a crosswalk just south of the Summer Street intersection. Board members acknowledged that the place where the sidewalk would be built would be built partially on town property, within the town right-of-way.

The condition can read that “The applicant shall work with the Town Engineer to design and develop a sidewalk along the south side of Cowls Road.” Ms. Jones suggested that it could be a walking path at first, rather than a paved sidewalk. Mr. Webber stated that the path should be able to be plowed.

The Board turned to the issue of signs. Ms. Anderson observed that these were “great signs”, incorporated for scale and wayfinding, with a consistent logo and the “deliveries only” sign is small, she said.

Ms. Brestrup explained the proposed signs and how they could be approved based on sections of the Zoning Bylaw. The path to approval of the signs is described in the Development Application Report. There are six signs altogether. One thing that wasn’t included in the DAR was a reference made by Ms. Keller to Section 8.11, which states that “No billboard, nor any sign on which the principal product or service advertised is not regularly produced or available on the premises, shall be erected or maintained in any Residence District”. That section of the Bylaw would need to be waived or modified, under Section 8.5.

Mr. Crouner stated that, while he liked the design of the signs and would be happy to vote for them under a Special Permit, he felt that some of the signs required a Special Permit, under Section 8.101 [for signs larger than 12 square feet in a Residential District] and he would not vote for them.

Mr. Webber read Section 8.5 of the Zoning Bylaw, Modification and Waivers, and stated that this section allows other sections or subsections of the Article 8 to be waived or modified by the Permit Granting Board authorized to act under the applicable section of the Bylaw for compelling reasons of public convenience, public safety, aesthetics, or site design.

Mr. Crouner reiterated that signs larger than 12 square feet in a Residential District require a Special Permit, according to Section 8.101.

There was discussion about the size of the sign proposed for the corner of Montague Road and Cowls Road, in the residential zoning district, and the information that is proposed to be displayed on it, including information about businesses that are not on the property of 134 Montague Road.

Mr. Webber acknowledged Mr. Crouner’s point, but noted that, along with residential uses along Montague Road, there is also a towing company and a strip mall along the road. He was not convinced that the sign was incongruent with the neighborhood.

He noted that the large sign will tend to slow traffic. There will be more pedestrian traffic along the sidewalk as a result of Atkins being opened and the larger sign will help drivers to slow down as they turn into Cowls Road to approach Atkins. He stated that a larger sign would be approvable for compelling reasons of safety. The bigger the sign the further away a driver will be able to see it.

Ms. Anderson stated that only a piece of this site is residential, the part that borders Montague Road. Most of the site is commercial. She supported approving the signs as requested.

Ms. Brestrup stated that if the Board were concerned enough about this issue, Board members could ask the applicant to submit a Special Permit application for the signs that deviate enough from the dimensional requirements of the Bylaw, and not rely on Section 8.5.

Mr. Crowner stated that the signs as presented are what the Board wants and he encouraged the Board to require a Special Permit for the larger signs in the Residential District.

Mr. Webber suggested a compromise having to do with the uses for which the individual business signs are displayed on the directory sign. There was further discussion about the suggestion, and the Board members realized that the 12 square feet would apply regardless of the uses for which the signs are displayed.

Ms. Brestrup expressed her opinion that the signs that deviate from sections of Article 8 could be approved under Section 8.5. If the Board feels that they are reasonable signs for the use that is being proposed and reasonable locations, the Board can comfortably approve them under Section 8.5.

Mr. Webber suggested that the Board take separate votes on this one sign. He stated that he was inclined to approve the signs under Section 8.5.

Mr. Stutsman agreed and noted that Section 8.5, the authorization to waive sections of Article 8, came into being as an effort to streamline the approval process. Changes were proposed to Section 8.41 (directional or identification signs) that would have precluded a Board's ability to waive sign requirements. The ZBA had previously had the ability to waive or modify sign requirements under Section 8.41 and encouraged the Planning Board to add back in the ability to waive or modify sign requirements. Mr. Stutsman was comfortable using the waiver for the signs that are proposed to be over 12 square feet in the Residential District.

There was discussion about the measurement of signs.

Ms. Brestrup referred to Section 8.041, 1) of the Bylaw, regarding Maximum Surface Area, which states that "The surface area of any sign, either freestanding or attached, shall be considered to be the full visual presentation of the sign's display, including all lettering, numerals, symbols, decorative borders, background surface, framing, or ornamental structure, whether open or enclosed." The proposed signs in the Residential District do exceed 12 square feet, she said.

The Board members reviewed the proposed signs as follows:

Sign #1, location Sunderland Road – 10 feet tall, 27 square feet

Location on the west side of Sunderland Road, proposed for the Commercial Zoning District, can be approved under Section 8.41, for an off-site directional or identification sign, on the opposite side of the roadway from the Mill District. It requires specific findings, which were discussed by the Board as follows: it would serve the public convenience because it would notify the public, especially coming from the north, regarding the existence of the Mill District & the proposed uses on the site, it will not endanger the public safety because there is no sidewalk and no pedestrian traffic on that side of the road, it would have the effect of slowing traffic turning onto Cows Road and give advance notice of the existence of Atkins. The size, location and design is not detrimental to the neighborhood. It is across from the Harp and near the Survival Center and is near land owned by Cows. The Board agreed by consensus to approve the sign under Section 8.41.

Sign #1, location Montague Road – 10 feet tall, 27 square feet

Location at the eastern end of Cows Road at the intersection of Montague Road and Cows Road, proposed for the R-N Zoning District, can be approved under Section 8.5 of the Zoning Bylaw. It is larger than 12 square feet and higher than 4 feet and also deviates from Section 8.11 of the Bylaw. It requires specific findings, which were discussed by the Board as follows: for compelling reasons of public convenience and public safety, because of the high speed traffic on Montague Road, the sooner the drivers are able to see the sign from either direction, the better it will be for the safety of those turning onto Cows Road. The findings are that the sign will aid the public convenience and promote public safety because it will have the effect of slowing traffic turning onto Cows Road and give advance notice of the existence of Atkins. The size, design and location of the sign will not be detrimental to the neighborhood and the sign is consistent with the existing commercial uses along Montague Road.

Mr. Stutsman MOVED to approve the sign (Sign #1) at the intersection of Sunderland Road and Cows Road as proposed and with the findings as discussed. Ms. Anderson seconded and the vote was 7-0-0.

Mr. Stutsman MOVED to approve the sign (Sign #1) at the intersection of Montague Road and Cows Road as proposed and with the findings as discussed. Ms. Anderson seconded and the vote was 6-1-0 (Crownor opposed).

Sign #2 – to be located at the front of the Atkins North building, along Cows Road, between the two driveways. The sign is proposed in the COM zoning district and is proposed to be 14 square feet in area and about 6'-4" high. It is located 1 to 2 feet from the property line and is closer than ½ the front setback distance to the property line and therefore requires approval under Section 8.5, with specific findings. Only monument signs are allowed to be located less than ½ the front setback distance from the property line. This is a freestanding sign, not a monument sign. It is also located less than 30" from the sidewalk.

Mr. Webber commented that this is a safe place to put a sign. It is proposed to be located on a grassy strip between the parking lot and the road and between the two driveways and doesn't block the view from either driveway. It is 70 to 80 feet from each driveway. This sign can be approved under Section 8.5 for compelling reasons of public convenience, public safety, aesthetics and site design. It allows for safe pedestrian and vehicular movement in and out of the site and doesn't interfere with the site lines. This is the logical location for the sign in the grassy median. The applicant's consultant states that the sign can be located at least 30" from the public sidewalk so there is no reason to waive that requirement.

Mr. Stutsman MOVED to approve this sign (Sign #2) in front of the building along Cows Road with the findings as discussed. Ms. Anderson seconded and the vote was 7-0-0.

Sign #3 – to be located on the north side of the delivery access driveway off Montague Road, as shown in the composite photograph (a location which differs from the location shown on Sheet C-5 which shows it on the south side of the driveway). It is proposed to be 12 square feet in area and 6 feet high. This sign is very similar to that approved for the Trolley Barn, according to Ms. Jones. The surface area includes the decorative gear and therefore it must be approved under Section 8.5 because it is proposed to be 6 feet tall, higher than the 4 feet allows in the R-N Zoning District in accordance with the Bylaw.

There was discussion about the measurement of signs.

Ms. Brestrup referred again to Section 8.041, 1) of the Bylaw, regarding Surface Area.

Mr. Webber asked that Sheets C-4 and C-5 be corrected to show the real proposed location of Sign #3.

Mr. Crowner stated that approval of Sign #3 should require a Special Permit, in accordance with Section 8.101 of the Bylaw. He had the same reservations about this sign as for the sign at the corner of Montague Road and Cowls Road.

Mr. Webber stated that Sign #3 could be approved under Section 8.5, with the same findings as for the sign at the corner of Cowls Road and Montague Road [that it will aid the public safety because drivers will be able to see the sign from either direction and it will have the effect of slowing traffic and will give advance notice of the location of the delivery driveway. It will not be detrimental to the neighborhood and is consistent with the commercial uses along Montague Road.]

Mr. Stutsman MOVED to approve Sign #3 in the location on the north side of the delivery access driveway off Montague Road, with findings as discussed. Ms. Anderson seconded and the vote was 6-1-0 (Crowner opposed).

Signs #4, 5 and 6 meet the requirements of the Zoning Bylaw and can therefore be approved outright. These signs are all mounted on the building, and meet the requirements of the Zoning Bylaw with respect to size and location.

Mr. Webber stated that he objected to the uplights on Sign #6 and asked that the sign be illuminated by gooseneck downlights which could be attached to the back of the sign.

Mr. Farley noted that other signs are proposed to be lit, but would all be lit from above.

Mr. Stutsman MOVED to approve Signs #4, 5 and 6, with the condition that Sign #6 be lit with down lighting. Ms. Anderson seconded and the vote was 7-0-0.

Ms. Brestrup noted that the Board could waive the requirement for landscaped islands in the parking lot, under Section 7.9 of the Zoning Bylaw, as they did for the Trolley Barn, because the Landscape Plan shows sufficient landscaping around the parking lot and landscaped islands often cause problems with plowing of snow. The applicant presented the Landscape Plan. Mr. Webber agreed to this waiver.

Mr. Webber acknowledged receipt of a letter, dated November 19, 2014, from Building Commissioner, Robert Morra, with respect to seasonal outdoor dining and the multiple principal uses on the site. Mr. Morra's letter stated that he had reviewed the layout of the outdoor dining area and found that the use will not obstruct safe passage and use of proposed walkways, and will not unduly hinder safe exit from or access to the building in case of fire or other emergency. Mr. Morra's letter also found that the site contains several uses and that the proposed use will be complementary to the existing uses and will be suitably located in the Commercial District where the purpose of the district is to provide areas for a wide range of retail uses and services and commercial activities.

Mr. Stutsman MOVED to approve the proposed use as being complementary to the existing uses. Ms. Anderson seconded and the vote was 7-0-0.

Mr. Stutsman stated that he would be happy to allow the site furniture associated with the seasonal outdoor dining to remain in place throughout the year, as provided for in Section 5.0410 of the Zoning Bylaw.

Mr. Webber stated that the Planning Board agreed with the Building Commissioner's findings regarding seasonal outdoor dining.

Board members listed possible conditions for the Special Permit for commercial access to the delivery entrance at Atkins North over an existing non-conforming access driveway from Montague Road:

- 1) Deliveries shall be limited to the hours of 7:00 a.m. to 7:00 p.m.
- 2) No vehicles with more than 4 axles shall travel over the access driveway from Montague Road for the use of Atkins North Market. There shall be no tractor trailers using this driveway for access to Atkins North Market.
- 3) The use of the driveway for commercial access over residentially zoned land shall be limited to use associated with Atkins North Market, except for the pre-existing non-conforming uses documented during the public hearing.
- 4) If the Management Plan of this use changes the tenant or manager shall submit a revised Management Plan to the Planning Board for review and approval.

The Board found, under Section 10.38 of the Zoning Bylaw, Special Permit, with respect to the request to allow continued commercial service vehicles to enter property from Montague Road over residentially zoned land that the project complies with the relevant and applicable sections of Section 10.38, and complies specifically with subsections of 10.38 as follows:

- 10.380 – The proposal is suitably located in the neighborhood in which it is proposed;
- 10.381 – The proposal is compatible with existing uses; the continued use of the 134 Montague Road access driveway is consistent with the existing uses by Cowls Building Supply and W.D. Cowls, Inc. of the subject property;
- 10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians;
- 10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements; the proposed access over the R-N zoning district does not negatively impact vehicular and pedestrian safety within the site or in relation to adjacent streets; the proposed access in fact improves vehicular and pedestrian safety within the site because it separates deliveries and customer uses on the site; based on the submission of the traffic report from JSP, traffic engineers, the proposed use of this driveway is not likely to have detrimental or significantly adverse impact on traffic patterns in the area; the use is consistent with the existing Cowls building on Cowls Road [the Trolley Barn];
- 10.388 – The proposal for access over the R-N zoning district to access this commercial use ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the use; adequate space has been provided at the east side of the existing cow barn; this area has been separated from the patron parking areas and pedestrian traffic.

Mr. Stutsman recommended incorporating, for the Special Permit, all of the suggested conditions from page 6 of the letter from Rob Levesque, dated December 16, 2014.

Conditions (for Special Permit)

1. The loading dock shall be screened from Montague Road with low native shrubs, fencing or both at a minimum height of three feet.
2. Hours of operation and delivery shall be limited to allow for adequate protection of abutters; specifically deliveries shall be limited to the hours of 7:00 a.m. to 7:00 p.m.
3. No idling of vehicles shall be allowed. “No idling” signs shall be posted at the loading and refuse area.
4. Headlights from delivery vehicles shall be turned off while unloading.
5. No overnight parking of delivery vehicles shall be allowed.

6. No vehicles with more than 4 axles shall travel over the access driveway from Montague Road for the use associated with Atkins North Market. There shall be no tractor trailers using this driveway for access to Atkins North Market.
7. This Special Permit is not transferrable to other future tenants/uses on the site.
8. The use of the driveway for commercial access over residentially zoned land shall be limited to use associated with Atkins North Market, except for the pre-existing non-conforming uses documented during the public hearing.
9. If the Management Plan of this use changes, the tenant or manager shall submit a revised Management Plan to the Planning Board for review and approval.

The Board found, under Section 9.22 of the Zoning Bylaw, Special Permit, with respect to the request to allow continued commercial service vehicles to enter property from Montague Road over residentially zoned land:

That the existing non-conforming use of the driveway as commercial access over residentially zoned land may be changed to use by delivery vehicles to the Atkins North Market because the specified use is not substantially different in character or in its effect on the neighborhood or on property in the vicinity than the existing non-conforming use and will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

Mr. Stutsman MOVED to close the public hearing on the Special Permit and that the Board make the findings as discussed and grant the Special Permit as requested with conditions as discussed. Ms. Anderson seconded and the vote was 6-0-1 (Crownier abstained).

Mr. Crownier explained that he abstained because he had reservations about the project's compliance with sign regulations under Section 10.386.

The Board found under Section 11.24 of the Zoning Bylaw, Site Plan Review, as follows:

- 11.2400 – The project is in conformance with all appropriate provisions of the Zoning Bylaw with the exception of the provisions requiring the Special Permit for use of the driveway for commercial deliveries over residentially zoned land, which will be allowed by Special Permit, the requirements of the sign regulations which will be modified under Section 8.5 of the Zoning Bylaw and the requirement for landscaped islands in the parking lot, which will be waived under Section 7.9 of the Zoning Bylaw;
- 11.2401 – Town amenities and abutting properties will be protected because detrimental or offensive actions are not planned for this site;
- 11.2402 – Abutting properties will be protected from detrimental site characteristics resulting from the proposed use; lighting will be downcast and will not shine onto adjacent properties; the new site improvements are thoughtfully designed to improve the site substantially and to reduce dust with paving and landscaping; the existing cow barn will be renovated and improved which will substantially improve the aesthetics of the site;
- 11.2403 – Adequate recreational facilities, open space and amenities will be provided because this project will provide much needed amenities for North Amherst by providing a real food store as well as outdoor dining and a place for community gatherings in North Amherst Village Center;
- 11.2410 – Unique or important natural, historic or scenic features will be protected; the barn building will be preserved as a result of its renovation for use as a retail store for Atkins North;

- 11.2411 – Proposed methods of refuse disposal are described in the Management Plan; they are considered to be adequate;
- 11.2412 – The ability of the proposed sewage disposal and water supply systems to serve the proposed use is considered to be adequate; the property is connected to the town sewer and water systems; the Town Engineer has reviewed the project and has not expressed concerns with the proposal regarding these issues; sewage disposal and water supply systems will be subject to the conditions of the Town Engineer;
- 11.2413 – The ability of the proposed drainage system within and adjacent to the site to handle any runoff resulting from the development is considered to be adequate; runoff from the improved site will be reduced from existing conditions; the Town Engineer has reviewed the project and has commented on the stormwater management plan; the Town Engineer’s comments have been addressed by the applicant’s consultant;
- 11.2414 – Provision of adequate landscaping is considered to be satisfactory; the Landscape Plan will provide an improvement over existing conditions;
- 11.2415 – The Erosion Control Plan has been submitted; it has been reviewed by the Town Engineer and has been found to be satisfactory;
- 11.2416 – Adjacent properties will be protected from the intrusion of various types of nuisances, including pollution and noise; the new site improvements will reduce dust with paving and landscaping; the loading dock will be screened; conditions of the Special Permit will require that deliveries be made only between the hours of 7 a.m. and 7 p.m.;
- 11.2417 – Protection of adjacent properties by minimizing the intrusion of lighting has been discussed; all exterior lighting will be required to be downcast and dark-sky compliant;
- 11.2418 – N/A
- 11.2419 – N/A
- 11.2420 – Although this project lies within the boundaries of the COM zoning district, the Planning Board deems the project to be an improvement over existing conditions and states that it has been well designed; the Planning Board does not believe it necessary to formally apply the Design Review principles and standards as set forth in Sections 3.204 and 3.2041 of the Zoning Bylaw; the renderings and site plans submitted with the application provide sufficient information as to the design of the building;
- 11.2421 – The development is sufficiently consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development;
- 11.2422 – N/A
- 11.2423 – There is more than one building on the site and the buildings relate harmoniously to each other in architectural style, site location and building exits and entrances; the renovated barn will relate harmoniously to the existing barn and to the residential buildings on the site along Montague Road;
- 11.2424 – Screening will be provided for the loading dock and dumpster area, because conditions of the Site Plan Review and Special Permit approval will require such screening;
- 11.2430 – The site has been designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties; the applicant has agreed to extend the sidewalk along the south side of Cows Road via a gravel path to the existing sidewalk that runs along Montague Road; circulation for delivery vehicles has been separated from customer circulation, which will increase safety for pedestrians entering the building;

- 11.2431 – The location and number of curb cuts is designed to minimize turning movements and hazardous exits and entrances;
- 11.2432 – The location and design of parking spaces, bicycle racks and drive aisles will be provided in a safe manner; bike racks will be provided at the front of the building, near the employee entrance; the bike rack will be the same as the one at the Trolley Barn;
- 11.2433 – Provision for access to adjoining properties has been appropriately provided;
- 11.2434 – N/A
- 11.2435 – Joint access driveways between adjoining properties have been provided; the Special Permit will allow a driveway that provides joint access to the house at 134 Montague Road as well as to the loading dock for Atkins North;
- 11.2436 – A Traffic Impact Report and a supplementary document describing vehicular access to the loading dock, have been submitted; the Traffic Impact Report is acceptable;
- 11.2437 – The Traffic Impact Report has been submitted to the Planning Board; the project complies with the standards set forth in paragraphs 1 through 4 of Section 11.2437 of the Zoning Bylaw.

Waivers

Waiver, under Section 7.9 of the Zoning Bylaw, of the requirement for landscaped islands in parking lots (Section 7.110)

Waiver or modification of sign requirements for sign at corner of Montague Road and Cows Road, sign at delivery access driveway and sign in front of the building, under Section 8.5 of the Zoning Bylaw

Conditions for Site Plan Review

1. The applicant shall submit a revised Landscape Plan if the second barn, to the east of the cow barn, is demolished, to screen the loading dock from view from Montague Road.
2. Furniture associated with the seasonal outdoor dining may remain in place during the winter months, from November 1 to April 1 of each year.
3. The applicant shall work with the Town Engineer to design and construct a sidewalk or pathway along the south side of Cows Road. The sidewalk should be able to be plowed.
4. All exterior lighting shall be dark sky compliant. Exterior lighting shall be downcast, shielded and shall not shine onto adjacent properties or streets.
5. The property shall be managed in accordance with the Management Plan submitted as part of this application.
6. Landscaping shall be installed in accordance with the Landscape Plan and, once installed, shall be continually maintained. All disturbed areas shall be loamed and seeded, unless otherwise specified.
7. One paper copy of the final revised plans and one electronic copy shall be submitted to the Planning Department.

Ms. Brestrup explained that there is a 12 month demolition delay on the second barn, to the east of the cow barn. The 12 month period expires on July 23, 2015, after which time the applicant may demolish the barn if another use or location has not been found for it. This second barn is currently screening the loading dock area.

Mr. Stutsman MOVED to close the public hearing and to approve the Site Plan Review application with requested waivers and conditions as discussed. Ms. Anderson seconded and the vote was 6-0-1 (Crownier abstained).

Mr. Webber announced that Ms. Anderson had submitted her resignation from the Planning Board and that this would be her second to last meeting. He thanked her for her service and stated that she will be missed.

VI. NEW BUSINESS

B. Chapter 61A Withdrawal Request – Jean K. Cannon & John W. Wysocki – Henry Street

Ms. Brestrup explained the request for withdrawal from Chapter 61A for these properties on Henry Street and noted that the Planning Board needs to make a recommendation to the Select Board on whether the town should exercise its right of first refusal on these properties. The owner is proposing a change in use to a residential use. The Conservation Commission has already considered this request and has recommended to the Select Board that the town not exercise its right of first refusal to purchase these three properties.

Mr. Crowner stated his opposition to the withdrawal. He noted that it was not the Planning Board's place to determine whether the properties should be purchased by the town or not. But the Planning Board has an interest in this. It does not serve any planning goals to release the property. He would like the Planning Board not to make a recommendation to let the properties go. It is in an outlying area, it is not on a transportation route, it's not in a Village Center and there are no sidewalks. Development of this property would not be in accordance with the Master Plan.

Mr. Webber stated that he did not think that the town should buy the property. But he agreed that development of this property does not meet the goals of the Master Plan.

Mr. Schreiber MOVED that the Planning Board recommend to the Select Board that the town not exercise its right of first refusal on these properties. Mr. Carson seconded.

Janet Keller of Pulpit Hill Road noted that there is nearby habitat and she would support the town's preserving the property. Mr. Crowner agreed with Ms. Keller's comment.

Mr. Schreiber stated that he is also against sprawl. He noted that the Master Plan and the Zoning Bylaw are not always in concert. The circle for Cushman Village Center [on the Land Use Policy Map] is close to this property.

Mr. Stutsman expressed support for the motion, stating that he shares the concerns expressed by others, but he would defer to the Conservation Commission in this case. Mr. Webber also expressed support for the motion, despite misgivings about sprawl.

The vote was 6-1-0 (Crowner opposed).

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

VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VIII. UPCOMING ZBA APPLICATIONS – none

IX. UPCOMING SPP/SPR/SUB APPLICATIONS – none

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS – none

Pioneer Valley Planning Commission – Bruce Carson
Community Preservation Act Committee – Sandra Anderson
Agricultural Commission – Stephen Schreiber
Transportation Plan Task Force – Richard Roznoy and Rob Crowner

Amherst Redevelopment Authority – vacant
Design Review Board – vacant
Housing and Sheltering Committee – Greg Stutsman
Town Gown Study Steering Committee – David Webber and Greg Stutsman
Master Plan Implementation Committee – vacant
Zoning Subcommittee – Rob Crowner, Bruce Carson, Greg Stutsman and Stephen Schreiber

XI. REPORT OF THE CHAIR – none

XII. REPORT OF STAFF – none

XIII. ADJOURNMENT

The meeting was adjourned at 10:35 PM.

Respectfully submitted: Approved:

Christine M. Brestrup
Senior Planner

David Webber, Chair

DATE: _____