

**AMHERST PLANNING BOARD**  
**Wednesday, February 18, 2015 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** David Webber, Chair, Stephen Schreiber, Rob Crouner, Bruce Carson, Greg Stutsman, and Richard Roznoy

**ABSENT:** Christina Calabrese

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

Mr. Webber opened the meeting at 7:05 PM.

**I. MINUTES**

There were no Minutes available for review.

**II. PUBLIC HEARING – ZONING AMENDMENTS**

**A-05-15 Zoning – Butterfield Terrace Rezoning (Petition – Alpert et al)**

To see if the Town will amend the Official Zoning Map to change the zoning designation to Assessor's parcels 11A-66, 11A-67, 11A-71 and 11A-72 from Neighborhood Residence (R-N) to General Residence (R-G).

Petitioners, Michael Alpert and Adam Lussier, presented the proposed zoning map amendment. Petitioner Agnes Ting was not present. The three petitioners own four parcels of land on Butterfield Terrace. They presented a map of the parcels whose addresses are 35, 43, 51 and 61 Butterfield Terrace.

Three of the lots have frontage of 200 feet, 102 feet and 105 feet, respectively, which meets the dimensional requirements of the R-G zoning district. One of the parcels does not have frontage on a road. Altogether the parcels have over 90,000 square feet, or more than 2 acres of lot area. The adjacent parcel of land, with the address of 25 Butterfield Terrace, is already included in the R-G zoning district. Mr. Alpert stated that the petitioners would like to extend the R-G zoning district up the street to include their properties.

To the east lies Pokeberry Ridge which is 100 feet above and 400 feet back from the parcels being proposed for rezoning.

Mr. Alpert read from the Zoning Bylaw the purpose of the R-G zoning district as follows:

“The purpose of the R-G District is 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.”

Mr. Alpert presented a large scale map of the area showing that these properties were closer to the downtown than many areas already in the R-G zoning district. He presented a topographical map and stated that development of these parcels would not impede the view to the west from Pokeberry Ridge.

Mr. Alpert presented photographs of the houses at 35, 43 and 51 Butterfield Terrace and noted that the lots conform to the description of the R-G zoning district, they are within the dimensional requirements for R-G, and the R-G district abuts them along the same street.

Mr. Crouner gave the Zoning Subcommittee report on this proposed change in the zoning map, stating that the ZSC had voted to recommend to the Planning Board that the proposed rezoning was a “good idea” and that the Planning Board should recommend it for adoption to Town Meeting. The ZSC supported extending the R-G zoning district to include these lots.

Mr. Webber asked about proposed new development on the lots.

Mr. Alpert stated that the change would allow the property owners to build something with a Special Permit at a later date, perhaps with an increase in density. The new development could be done without demolition of the existing buildings. There is already student housing in this area. The petitioners would like to support owner-occupancy and maybe senior housing.

Mr. Crouner noted that townhouses and apartments would be allowed by Special Permit in the R-G zoning district, the dimensional requirements would change and smaller lots would be allowed if the change to the zoning map were approved.

Mr. Webber read from the Zoning Bylaw some of the things that would change:

- Owner-occupied duplexes would go from Special Permit (SP) to Site Plan Review (SPR)
- Townhouses would go from No (N) to Special Permit (SP)
- Apartments would go from No (N) to Special Permit (SP)
- There would be changes in the dimensional requirements listed in Table 3 of Article 6 if the properties were to change from the R-N to the R-G zoning district.

Mr. Crouner stated that this change relates to Inclusionary Zoning, whether Article 15 is amended or not. Inclusionary Zoning would apply to the proposed projects, if the zoning map were amended, because the proposed projects would require a Special Permit.

David Markland of 47 Pokeberry Ridge Road noted that these properties were currently zoned R-N and at some point in the past the town had determined that these properties should be Residential Neighborhood. The town had determined the line of demarcation between the R-N and the R-G zoning districts. Impairment to the view won't be the problem, but townhouses and apartments could potentially bring noise and congestion to the area. He expressed concern about the type of development that might be possible with the change of zoning.

Claudia Brown of 47 Pokeberry Ridge Road stated that the neighbors were concerned about the proposed change. It is a small residential area. There are now houses along Butterfield Terrace. The feel of the neighborhood would change with the addition of an apartment complex. People on Pokeberry Ridge are concerned about the proposed change. They already hear the noise from the parties at the University.

Mr. Webber explained the process of zoning amendments. Amendments to zoning are governed by state law, M.G.L. Chapter 40A. The Planning Board needs to hold a public hearing and make a recommendation to Town Meeting about proposed changes to zoning. Town Meeting is an elected body of more than 200 citizens. They will hear a presentation from the petitioners and Town Meeting will discuss the proposed change. Town residents can ask to be heard at Town Meeting. Those who wish to be heard should contact the town staff or the Moderator of Town Meeting. The Finance Committee and the Select Board will also be asked for a recommendation.

Mr. Webber noted that these properties abut the northernmost section of the R-G zoning district. He read the description of the R-N zoning district, as these properties are currently zoned:

“The purpose of the R-N zoning district is to provide for residential areas of medium densities. In general, the R-N District is appropriate for lands adjacent to higher density residential districts, near arterial or primary residential streets, or in areas transitional between the lower density districts and other districts.”

Joan Burgess of Mount Pleasant stated that she can see the southernmost house from her property. She asked “Why do ‘spot zoning’?” She asserted that these parcels would be a pocket in the middle of the R-N zoning district. Mr. Webber reminded the Board and the public that the properties are connected to an existing R-G zoning district.

Maurianne Adams of Beston Street asked about the maximum density achievable with the aggregating of the properties under the amended zoning. Would Section 15.42 of the amended Article 15, having to do with the loss of Footnote “m” make a difference for the petitioner? How many units could be built on the property now and how many could be built under the new amended zoning?

Mr. Alpert answered that with Footnote “m” there is a requirement for 4,000 additional square feet for each additional unit. This would allow up to 4 units on 51, 61 and 43 Butterfield Terrace, and 2 units on 35 Butterfield Terrace, for a total of 14 units, without market rate cost offset bonus units.

Janet McGowan of South East Street encouraged the Board to balance the issues. She moved to South Amherst to stay away from students. Neighborhoods in North Amherst are losing families and homeowners. The Board should be sensitive to the desires of neighbors. People have expectations when they move to a neighborhood and expect that things will be kept the way they are. Balance is needed for stable neighborhoods.

Mr. Schreiber expressed some indecision about the proposed rezoning. If the property is rezoned to R-G the promises given by the current owners cannot be counted on for the future. However, the change from R-N to R-G seems benign. A Special Permit would still be needed to develop the property and public hearings would be held with input from abutters. If the zoning stays the same the properties will be rented. There may be more official control and more chance for improvements to the properties if the zoning were to change. The properties could provide a buffer for the surrounding neighborhoods.

Mr. Crouner stated that the difference here is that the properties are almost on campus. The whole street “juts into” campus, and it is close to downtown. He asked “Do we want there to be more housing around campus?”

Mr. Webber offered comments. Zoning is supposed to be hard to change. It requires a 2/3 vote of Town Meeting. He understands the concerns of abutters, but the petitioners are being forthright about their plans for the properties. We do want to increase density. The properties are adjacent to the existing R-G zoning district. The properties directly abut the university. This is a prime location and it is part of the Gateway district. Mr. Webber stated that the neighborhood is “walkable” to UMass and to downtown Amherst. There was a strong directive from the Master Plan to build density around UMass and downtown. The properties are in a prime location, adjacent to an existing R-G zoning district. It is a good location for denser housing.

Mr. Roznoy concurred with the ZSC recommendation for the reasons given by the Chair and noted that this is just one step in the process. The decision will be made by Town Meeting.

Mr. Crouner MOVED to close the public hearing and to recommend to Town Meeting that the properties be rezoned to R-G. Mr. Carson seconded and the vote was 5-1-0 (Schreiber opposed).

**A-04-15 Zoning – Inclusionary Zoning (Planning Board)** *(Continued from February 4, 2015)*

To see if the Town will amend Article 4, Development Methods, Article 12, Definitions, and Article 15, Inclusionary Zoning, of the Zoning Bylaw in order to alter the definitions for affordable housing, expand the residential uses and developments required to provide affordable housing, selectively alter the rates at which such housing shall be provided, simplify residential density bonuses, create regulations specific to categories of zoning districts and types of residential development, re-organize inclusionary provisions of the Bylaw, and make other related changes.

Mr. Webber read the description of the proposed zoning amendment and noted that this was a continued public hearing.

Mr. Crouner presented the ZSC report. The ZSC had adopted the version of the Inclusionary Zoning Bylaw drafted by the Chair and had altered it a little. The amended Inclusionary Zoning Bylaw would apply to most uses and development methods. It would specify the nature and characteristics of the affordable units, provide a system of cost offsets and incentives so there would be no “taking” involved. The requirement to provide affordable units means a loss of revenue for the developer. There would be two kinds of offsets:

- Market-rate cost offsets
- Incentives in the Business zones

There would be some ability to modify the requirements.

The ZSC added a definition of Affordable Housing Restriction and changed the definition of Affordable Housing. The Bylaw would apply to developments containing new dwelling units of 10 or more in number. The ZSC did not wish to “dis-incentivize” renovation.

The Planning Board and Zoning Board of Appeals would be referred to as the “approving board”. In the residential zoning districts the affordable units must be available to those making a “low income” and in the Business zoning districts the affordable units can be available to those making a “low or moderate income”. Low income refers to those making 80% or less of Area Median Income. Moderate income refers to those making 95% or less of Area Median Income. The cost of land in the Business zoning districts is much higher and therefore the cost of development is higher in these districts.

Mr. Crouner explained cost offsets. Where affordable units are provided on-site, the “approving board” would allow additional market rate cost offset units to be built. Multi-unit complexes would be allowed to exceed the prescribed number of units per building. Otherwise the market rate cost offset units wouldn’t fit. The additional lot area required for market rate cost offset units would not apply.

For Business zones, Building Coverage and Lot Coverage can increase by a certain percentage and the height and number of floors can increase to accommodate the market rate cost offset units.

A developer might be able to request a Special Permit to put some units off-site or pay a fee-in-lieu. Off-site units would only be allowed in the Business zoning districts. Criteria for fees-in-lieu could be described in the “approving board’s” Rules and Regulations.

Mr. Crouner described in further detail what certain sections of the zoning amendment would do.

The ZSC is still not working with a final document and has recommended that the Planning Board continue this public hearing to the next Planning Board meeting.

Mr. Webber expressed support for the proposed changes. However, he expressed concern about leaving in “fees-in-lieu” without including criteria associated with this option. The Rules and Regulations might be too lenient. He recommended taking out the option for “fees-in-lieu” if criteria for applying these fees can’t be included. Payment of fees-in-lieu will result in a delay in construction of affordable units.

Mr. Webber also recommended adding back Section 15.7 which would require the “approving board” to adopt rules and regulations to effectively implement the provisions of the Inclusionary Zoning article.

Mr. Roznoy stated that, although he had missed some recent meetings, he had been reading the Minutes and watching videos of past meetings. He asked why conventional subdivisions were exempt from the Inclusionary Bylaw requirements.

Mr. Crowner explained that Inclusionary Zoning would, ideally, apply to all development methods, including conventional subdivisions. However, they have their own set of rules and regulations and Inclusionary Zoning would be more complicated to apply to conventional subdivisions. It might be possible to include conventional subdivisions in the future.

Mr. Webber suggested that the subdivision regulations could be revised to include such a requirement. It was noted that Cluster Subdivisions are not exempt and will be subject to the Inclusionary Zoning Bylaw.

Mr. Roznoy stated that Section 15.40, Additional Market Rate Offset Units, was not clear.

Mr. Crowner explained the calculations. Mr. Webber suggested putting examples into a table to demonstrate how the calculations would work.

Janet Keller of Precinct 1 urged the Board to consider the public benefit along with the developer benefit. She noted that for a low income household, one unit out of ten units was not a lot and only represented an 8.3% gain when market rate offset units are offered at a rate of 2:1. She noted that other towns offer market rate cost offset units at a rate of 1.5:1.

There was discussion about the modifications of dimensional requirements that were being considered – 20% across the board.

Ms. Keller cautioned against offering some of the dimensional modifications that were being considered. She also urged the Board to take out the option for payment of fees-in-lieu. The neighborhoods will experience more density and less zoning control, she asserted.

Mr. Tucker noted that the only units that would be eligible for dimensional modifications would be the market rate cost offset units.

There was discussion about the extent of the dimensional modifications that were being proposed.

Ms. McGowan objected to the 20 point increase across the board for dimensional modifications and urged the Board to drop payments in lieu.

There was further discussion about dropping payment of fees-in-lieu.

Mr. Tucker noted that it would be helpful to provide pictorial examples of what some of these dimensional modifications would allow. He noted that, for an 80,000 square foot lot, the allowable lot coverage would be 28,000 square feet, if an increase of 20 points in lot coverage (15% to 35%) were allowed.

Maurianne Adams thanked the Zoning Subcommittee and Mr. Tucker for their work and asked about the default for additional lot area per family in the R-G zoning district (2,500

square feet). She asked that it be made clear to the public that there is a default if Footnote “m” does not apply.

Ms. Adams reminded the Board that Inclusionary Zoning is not the only mechanism available for the creation of affordable housing. She noted that the town can now use the Amherst Community Land Trust. She expressed concern about large developments being possible in the R-G zoning district and made other comments about modifications and waivers, including urging the Board to remove the option to pay fees-in-lieu.

There was further discussion about Section 15.42 as well as the findings that the Board would need to make and the criteria that the Board would need to meet in order to grant a Special Permit for modifications or waivers.

Mr. Stutsman noted that there was a requirement that 50% of the affordable units be provided on-site before an applicant could even apply for a waiver or modification. He stated that Amherst has already been active in promoting affordable housing projects.

There was further discussion about whether to include the option for fees-in-lieu, including the fact that it hasn't worked elsewhere, and it is cumbersome to enforce, but on the positive side, it would provide flexibility and the money could be used to “buy down” from 95% to 80% or from 80% to 60% the affordable units that are provided.

Mr. Webber strongly recommended taking out this option because he wants the affordable units to be built at the same time as the main development, he doesn't like the delay in producing the affordable units, it takes the town a long time to move on projects, the article needs to pass Town Meeting and this provision has received a lot of opposition. He asked for a “straw poll” and the vote was 3 in favor and 3 opposed to keeping the option for fees-in-lieu. He agreed to leave the option in at this time and create a final version of the article at the next Planning Board meeting.

Mr. Crowner MOVED to continue the public hearing to 8:00 p.m. on March 4, 2015. Mr. Carson seconded and the vote was 6-0-0.

### **III. PUBLIC HEARING – SITE PLAN REVIEW**

#### **SPR2015-00009 – Sigrid Miller Pollin for Crotty Hall – 418 North Pleasant Street** *(Continued from December 3, 2014 and January 21, 2015; February 4, 2015)*

Request Site Plan Review approval under Section 3.330 of the Zoning Bylaw, to construct a Net-Zero Energy office building, two stories at street and three stories at rear, for the non-profit Research Support Fund organized under Section 501 (c) (3) of the Internal Revenue Code, including site improvements (Map 11A-30, R-G zoning district)

Mr. Schreiber recused himself and left the meeting.

Mr. Webber read the description of the application and announced that this was a continued public hearing. Several speakers offered comments in support of the application to construct the new building.

Professor Robert Pollin of the Economics Department at UMass stated that he and his colleagues were proud to be building this new building. It will create major opportunities to strengthen research in the field. The building will be built with union labor and will house the Political Economy Research Institute (PERI). He read from a January 26 memorandum stating that PERI will focus on job creation and income inequality. The building will be a “net zero” building. It will be named after Jim and Pam Crotty who have lived in Amherst for many years. Professor Crotty is a world-renowned economist.

Deputy Chancellor Robert Feldman of UMass spoke as a representative of UMass in support of the new building. He expressed excitement about the new building which will house students and faculty. It is an innovative building that fits in with the university's long range plan.

Professor Gerald Epstein, Chair of the Economics Department, stated that the Economics Department is scheduled to move into Crotty Hall. The new building is vital for the future of the Economics Department. It will allow the department to settle in one place, cooperate on their work and become an even more world-renowned department. There will be a synergy between the existing Gordon Hall and the proposed Crotty Hall.

Professor Heidi Garrett-Peltier spoke in support of the new building. She gave her credentials and stated that she is associated with PERI and currently has an office in Gordon Hall. She lives in Amherst with her family in a house designed by Sigrid Miller Pollin. She praised the well-designed new net-zero building.

Thomas Herndon, research assistant and graduate student, spoke in support of the new building. He became famous recently for his critique of a paper published by Harvard University Professors Reinhart and Rogoff, "Growth in a Time of Debt". He asserted that graduate students would be positively affected by the construction of the new building in terms of learning, teaching and research. Graduate students need more space to do their work.

Sigrid Miller Pollin presented the application. The applicant had met twice with the Conservation Commission and had received approval from the Commission for the proposed building and site work. The applicant had met with the Zoning Board of Appeals regarding an appeal of a decision of the Building Commissioner and the ZBA had overturned the decision of the Commissioner in favor of the applicant, allowing the applicant to adhere to a side yard setback requirement of less than 20 feet.

With regard to Section 3.01 of the Zoning Bylaw, the second principal use on the property (Crotty Hall) is complementary to the existing principal use (Gordon Hall). The applicant submitted a letter dated October 28, 2014, describing the use of the two buildings and stating that the uses were complementary.

With regard to the boundary issues that had been brought up at the first session of the public hearing the applicants had a second survey of the property done by a different surveyor.

With regard to the requested waiver from the parking requirement, the applicant has submitted information from UMass stating that occupants of the new building will be able to park in the nearby UMass parking lots.

With regard to handicapped parking, the applicant has submitted a revised Site Plan showing two proposed handicapped parking spaces, an addition of one space over the previous plan.

Ms. Miller Pollin presented drawings showing the location of the residences on Phillips Street in relation to the proposed new building. She presented a sketch of the layout of the new reduced parking area. She showed a conceptual plan of the central area between the buildings and described the landscape and stormwater management plan and stated that there would be additional landscaping. The trees have been moved away from the sanitary sewer line, as requested by the Town Engineer. The southern boundary of the property is proposed to be landscaped with native shrubs and grasses. In terms of lighting the spotlights have been removed.

With regard to the Traffic Impact Statement, traffic counts derived from Mass DOT have been submitted. Vehicular access to the building is estimated to be about 166 trips per day. There are 11,300 trips on North Pleasant Street per day. This amounts to a 1.5% increase in traffic. Therefore no Traffic Impact Statement is needed.

Ms. Miller Pollin presented the Drainage and Utilities Plan and the Stormwater Management Plan. She requested a waiver from strict requirements of the Zoning Bylaw with respect to signs. She showed photographs of the existing signs at Gordon Hall and the proposed signs for Crotty Hall. The new building is proposed to have a free-standing sign near the road and a sign mounted on the building, similar to the signs for Gordon Hall.

Ms. Miller Pollin presented images of the proposed building, including:

- Cross Sections & Elevations showing adjacent buildings
- Cross Section of the Site from the First Baptist Church to 11 Phillips Street
- Cross Section through the Site looking west
- Images of nearby houses and Crotty Hall
- View from Phillips Street with proposed plantings
- Rendering – view from northwest showing proposed stepped gardens
- Rendering – view from North Pleasant Street showing Crotty Hall, Gordon Hall and the nearby sorority building

Jim Turner of 23 Phillips Street presented a list of issues and suggestions and read and distributed a letter dated February 18, 2015. The issues contained in the letter included the following:

- Doubts about the accuracy of the applicant's survey of the property;
- The required side setback being 20 feet, versus the proposed side setback being 10 feet;
- The ZBA's overturning of the Building Commissioner's determination on the side setback;
- The impact to the wetland buffer zone;
- The pedestrian shortcut that should be blocked by new plantings;
- The loud existing air conditioning unit on site and what can be done to limit the noise;
- Compliance with state law regarding Public Private Partnerships;
- Property taxes that will not be paid to the town;
- A request that the project be redesigned.

Mr. Webber questioned Mr. Turner about whether the applicant had attempted to work with him on the survey dispute. Mr. Turner stated that he was not contacted by the applicant and that he questioned the validity of the surveys. Mr. Webber noted that the applicant had agreed to contact Mr. Turner and he was disturbed that they had not done so.

Maurianne Adams of Beston Street commented on the Site Plan Review criteria. She asked that the Planning Board address some of Mr. Turner's challenges. She referred to Sections of the Bylaw as follows:

- 11.2401 – the Planning Board should ask the applicant to find ways to discourage foot traffic down the driveways along Phillips Street and Fearing Street and plant dense vegetation if needed;
- 11.2402 – the Planning Board should require that the applicant protect the abutting property from noise that may come from the new building;
- 11.2414 – the Planning Board should require an uninterrupted vegetative buffer along the southern property line;
- 11.2416 – the Planning Board should protect adjacent properties from noise and do what is possible to protect neighbors.

Ms. Adams urged the Board to require buffering to keep the surrounding neighborhoods intact.

Jian Chang of Phillips Street commented on the amount of noise that emanates from the existing air conditioning unit from April to October, day and night, every day. It is very loud. Conditions of the 2002 Site Plan Review approval for Gordon Hall required the applicant to take noise mitigation measures, which they have not done. The noise affects the physical and emotional health of the neighbors. She stated that she had complained about the noise on several occasions and she urged the Board to place conditions on the new project with regard to noise mitigation. She presented a photograph of the existing air conditioning unit and a written statement about the unit.

Mr. Roznoy asked about the complaints made by Ms. Chang and whether she had met with representatives of the building. Ms. Chang described the nature of her complaints.

Winifred Manning of Nutting Avenue spoke in support of Ms. Chang. She agreed that the use of the building sounds good but that the owners of the property have indicated a disregard for the impact of the buildings on the neighborhood in terms of noise and lighting. There should be a barrier between the new building and the adjacent residential properties.

Mr. Roznoy asked if Attorney Albano would give a brief presentation about the boundary line issue.

Mr. Pollin stated that two surveys had been done of the property, one by Harold Eaton & Associates (for the applicant) and one by Heritage Surveys (for UMass). The surveys were done independently.

Attorney Albano stated that two surveyors have surveyed the property. He explained some of the background of the parcels and the abutting parcels on Phillips Street. He had done a Title Search and tracked all the parcels and stated that he had a presentation ready for the Planning Board's viewing if it would be useful. But given the Title Search and the two surveys he stated that there was no question that the boundary as shown on the two surveys is correct. He noted that the resolution of boundary disputes is not in the purview of the Planning Board.

Mr. Webber posed a question assuming that Mr. Turner is correct. He stated that the Planning Board has a ruling from the ZBA stating that the building needs to be a minimum of 10 feet from the property line. He asked about where the property boundary dispute is and whether it would affect the 10 foot setback. If Mr. Turner is correct, does the building encroach on that 10 foot zone? Mr. Albano stated that the building would not encroach on the 10 foot zone.

Mr. Webber asked Mr. Turner to show which section of the boundary line is disputed. Mr. Turner presented information about the original lot, noting areas where the boundary may be in question. Mr. Turner's property abuts the applicant's property at the southwest corner. He stated that he did not hire his own surveyor or lawyer because he could not afford to do so. It is too expensive to engage in a court battle. He objected to the cutting of trees along the southern property line. He has copies of all the deeds for these properties.

Mr. Turner showed that his property abuts the subject property at a point where the building will be well beyond the 10 foot setback.

Mr. Webber stated that the Planning Board is not in a position to examine all the title documents. Even if the lot line is in doubt, it doesn't affect the setback issues and therefore it is not within the scope of the Planning Board's review.

Attorney Albano stated that Mr. Turner raised questions but did not have facts to back up his assertions. He introduced Randy Izer of Harold Eaton Associates who prepared the survey on which the Site Plan is based.

Mr. Izer stated that he had met with Mr. Turner on site. He had reviewed with Mr. Turner how the property was surveyed and why.

The Board discussed whether to continue the public hearing to another night. Mr. Roznoy recommended that the applicant return to the Board at a later date with information about noise factors and landscape issues.

Mr. Pollin stated that the applicant is dissatisfied with the existing chiller and will move it and replace it as part of the project. However, the occupants of Gordon Hall have not received any complaints from abutters about the noise or lighting issues.

Ms. Miller Pollin stated that the applicant will move the chiller to the rear of Gordon Hall. An updated, quieter unit for Gordon Hall will be installed and will be screened with shrubs. The developers of Crotty Hall are looking into mechanical systems to be used in conjunction with the new building. These new air conditioners will also be located behind Gordon Hall. The applicants also intend to create a dense buffer along the southern property line.

Mr. Webber reviewed the changes in the Development Application Report (DAR) and noted that the Board had received responses to the issues raised in the DAR from the Berkshire Design Group. He also noted that the Board had received a decision from the ZBA with regard to the reduced setback requirement, waiving the 20 foot required setback and giving the applicants a reduced 10 foot setback requirement. Mr. Webber asked if the Planning Board had the authority to move the setback back to 20 feet after the ZBA's action.

Ms. Brestrup explained that the Planning Board can be comfortable living with the ZBA's decision. She had asked the Building Commissioner about whether the Planning Board could require a greater setback. The Building Commissioner stated that the Planning Board has jurisdiction over setback issues. Even though the ZBA made a certain decision, the Planning Board still has the ability to decide on an appropriate setback, if it wishes to do so. She offered to check with Town Counsel on this question if the Planning Board so desired.

Mr. Roznoy stated that if the Planning Board imposed a 20 foot setback, it would be an exercise in futility since the Building Commissioner would try to enforce that and the applicant would take the Building Commissioner's decision to the ZBA, which has already ruled on the matter. Mr. Roznoy referred to the concept of "municipal estoppel" in advising the Planning Board not to make a decision that ran counter to the ZBA's decision. Mr. Stutsman and Mr. Carson agreed with Mr. Roznoy's recommendation.

Mr. Webber offered comments as follows:

- The building is being squeezed into a tight site;
- The applicant is getting some leeway in terms of the side setback because of the proposed use of the building [as a non-profit educational institution];
- The Board has received a decision from the ZBA with regard to the side yard setback;
- The drawings presented to the Conservation Commission show a revised and corrected property line on the west side of the sidewalk along North Pleasant Street;
- Mr. Turner's issue with the boundary is outside of the Planning Board's purview;
- There has been a revision to the parking lot, showing two handicapped parking spaces;
- The applicant still needs a waiver from the requirement for 90 parking spaces with 4 handicapped spaces;
- The proposed ground mounted lighting has been removed;
- The Erosion Control Plan has been found to be adequate by the Conservation Commission and the Town Engineer;

- The Stormwater Management Report, dated December 17, 2014, and a revised Report dated January 26, 2015, have been submitted and reviewed by the Town Engineer; the Town Engineer has received the revised plans and has not expressed concerns;
- The proposed signs exceed the maximum size allowed and will need a waiver.

Mr. Webber quoted from the revised DAR, with respect to signs, as follows:

“State law does not allow municipalities to unduly regulate educational and religious uses and frowns on the use of Special Permits for these uses.

The use of the site is a non-profit educational use and therefore the Board may wish to consider granting a waiver or modification of the sign requirements for this site as authorized by Section 8.5 of the Bylaw.

The applicant has submitted a request for waiver or modification of the sign requirements under Section 8.5.”

There was further discussion about the oversized signs. Mr. Crouner noted that Section 8.101 of the Zoning Bylaw requires a Special Permit for oversized signs (over 12 square feet) in the R-G zoning district. He did not believe that the requirement for a Special Permit could be waived or modified under Section 8.5. He would not be able to vote to approve the Site Plan Review application if the oversized signs were included. Although he had no objection to the signs as designed he believed that they required a Special Permit.

Ms. Brestrup noted that five affirmative votes were needed to approve the Site Plan Review application. There were five members of the Board present and eligible to vote. (Mr. Schreiber had recused himself and Ms. Calabrese was absent.) Without Mr. Crouner’s affirmative vote the application could not be approved. She suggested that the Board could require that the applicant apply for a Special Permit for the signs and that the Board not approve the signs at this time. Without the signs, Mr. Crouner would feel comfortable voting to approve the Site Plan Review application.

Ms. Brestrup suggested an alternative – the Board could postpone the vote and wait for Ms. Calabrese’s return. Ms. Calabrese could invoke the Mullen Rule, as permitted in the Planning Board’s Rules and Regulations, review the recording and records of this meeting, and the Board could vote at its next meeting.

Mr. Webber continued to review the DAR. He noted revisions and responses as follows:

- The grass path had been changed to a paved path and ramp for handicapped access from the parking lot to the entrance to the building;
- The benches would now have armrests;
- The bench detail now shows sustainable FSB hardwood in place of Ipe;
- There were revisions to the Landscape Plan to show larger trees at the west side of the property;
- Revised perspective drawings had been presented and submitted;
- Comments received from the Fire Department with respect to access to the site had been answered by a letter from the applicant’s contractor, Mr. Rideout, and the Fire Department was satisfied with the response; the applicant will pave a section of the area for Fire Department access during construction;
- The Conservation Commission had voted to approve the plan with conditions;
- The requirement for a Traffic Impact Statement could be waived;
- There was no review needed by the Historical Commission;
- The issues listed in the Minutes of December 3, 2014, had been addressed.

Mr. Webber reviewed the list of outstanding items from the December 3, 2014 Minutes. He noted that the only issue remaining to be addressed was the requirement for an impenetrable barrier to keep people from crossing through the property of Gordon Hall and Crotty Hall and entering onto the residential properties adjacent to the south. Ms. Miller Pollin stated that the revised Landscape Plan, as submitted to the Conservation Commission, and which the Planning Board now has, shows such an impenetrable barrier.

Mr. Webber noted that the Board would not be able to approve the proposed signs at this time. Ms. Miller Pollin stated that she would come back with a Special Permit application for the signs.

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 doubling of the side yard setback for educational and religious uses and the requirement for on-site parking; the Zoning Board of Appeals has issued a decision on the side yard setback requirement, overturning the determination of the Building Commissioner, allowing a side yard setback of less than 20 feet, finding that the 20 foot setback was unreasonable in this case and that the 10 foot setback is appropriate; the Planning Board can grant a waiver from the requirement for on-site parking because of the proximity of the University of Massachusetts parking lots and a letter from the University stating that occupants of the new building are eligible to obtain parking permits to park in the UMass parking lots;
- 11.2401 – Town amenities and abutting properties will be protected because detrimental or offensive actions are not planned for this site; in addition there will be a requirement for increased planting along the southern border for purposes of limiting foot traffic and for screening of the new building; the new air conditioning unit will be a quiet model and will be located far from the adjacent homes and the existing air conditioning unit will be relocated and replaced; lights will be downcast and will not shine onto adjacent properties or streets;
- 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; an uninterrupted vegetative buffer will be installed along the southern border of the property for purposes of limiting foot traffic and for screening of the new building; air conditioning units will be relocated to a location to the rear of Gordon Hall;
- 11.2403 – Adequate recreational facilities, open space and amenities will be provided because this project will include a landscaped open gathering space between the proposed building and Gordon Hall; the landscaped open space will contain benches and gardens for use by occupants of Gordon Hall and Crotty Hall;
- 11.2410 – N/A;
- 11.2411 – Proposed methods of refuse disposal are described in the Management Plan; they are considered to be adequate; there will be dumpster area at the west end of the parking lot for trash and recyclables; the dumpster area is proposed to have a cedar-sided enclosure; a private company will be contracted to collect the trash and recyclables;

Judy Fogg, owner's representative for the Research Support Fund, testified that the trash and recycling will be held in separate barrels and will be picked up by Duseau Trucking (trash) and Alternative Recycling (recycling).

- 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 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; the Stormwater Management Plan has been reviewed and approved by the Conservation Commission;
- 11.2414 – Provision of adequate landscaping is considered to be satisfactory; the applicant will install an uninterrupted vegetative barrier along the southern border of the property;
- 11.2415 – The Erosion Control Plan has been submitted; it has been reviewed by the Town Engineer and the Conservation Commission and has been found to be satisfactory;
- 11.2416 – Adjacent properties will be protected from the intrusion of various types of nuisances; the new air conditioning unit for Crotty Hall will be a quieter model and will be located remotely from the adjacent properties to the south; the existing air conditioning unit for Gordon Hall will be relocated and replaced; there will be a condition about the allowable noise level;
- 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; previously proposed ground-mounted floodlights on the south side of the building have been eliminated;
- 11.2418 – N/A;
- 11.2419 – Wetlands will be protected in accordance with the provisions of the Wetlands Protection Act and the Amherst Wetlands Bylaw; the proposed development has been reviewed and approved by the Conservation Commission and the Commission has issued an Order of Conditions;
- 11.2420 – N/A;
- 11.2421 – The development is sufficiently consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development; the development is consistent with existing institutional buildings in the area including the First Baptist Church and Gordon Hall; the development is also sufficiently consistent with the development of residential properties to the south; the applicant has submitted cross sections and elevations showing that the proposed building is not inconsistent with surrounding buildings and development;
- 11.2422 – The building site avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes and wetlands; the proposed development has been reviewed and approved by the Conservation Commission;
- 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 existing building and the proposed building are both modern in style and are architecturally compatible;
- 11.2424 – Screening will be provided for the dumpster area and air conditioning units, as required by conditions;
- 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;
- 11.2431 – The location and number of curb cuts is designed to minimize turning movements and hazardous exits and entrances; there is only one curb cut and the change proposed for the curb cut is de minimis;

- 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 existing building, near the entrance; the parking lot will be safer for pedestrians and vehicles with fewer parking spaces;
- 11.2433 – N/A; pedestrian access to the properties along Phillips Street will be blocked with vegetation at the request of neighbors; pedestrian access between Gordon Hall and Crotty Hall will be adequate;
- 11.2434 – N/A;
- 11.2435 – N/A; joint access to the existing building and the proposed building will be provided via one central driveway;
- 11.2436 – The requirement for a Traffic Impact Report will be waived;
- 11.2437 – N/A.

The Board found under Section 3.01 of the Zoning Bylaw, that the two Principal Uses on site, Gordon Hall (existing) and Crotty Hall (proposed) are complementary to each other. The Board relied on testimony given at the public hearing and on written documents submitted by the applicant and by the Building Commissioner, to make this finding.

Mr. Carson MOVED to close the public hearing and to approve the Site Plan Review application with conditions and waivers as discussed and with the requirement that the Sign Plan for any proposed oversized signs be submitted as a Special Permit application to the Planning Board. Mr. Stutsman seconded and the vote was 5-0-0.

#### Waivers

- Traffic Impact Report
- On-site parking requirements under Section 7.90 of the Zoning Bylaw

#### Conditions

1. Given the tight nature of the site, a Construction Logistics Plan shall be submitted to the Planning Board, the Town Engineer, Superintendent of Public Works and the Building Commissioner for review and approval prior to the issuance of a Building Permit. It shall include, at a minimum, the following information:
  - a. Construction timeline and expected completion dates for each phase
  - b. Location of parking for contractors
  - c. Location of on-site and off-site staging, such as for construction vehicles, including cement trucks
  - d. Location of fencing around construction site
  - e. Location of “jersey barriers”, if any
  - f. Details and locations of directional, marketing and job signs related to construction
  - g. Emergency contact information, such as name and cell phone number of developer and contractor
  - h. Information about construction signs, including advertising signs for contractor, developer and architect
  - i. Any other relevant information that they may request.
2. Air conditioning units and mechanical equipment:
  - a. The applicant shall submit a revised Site Plan to the Planning Department staff for review and approval showing the location of the air conditioning units for both buildings.
  - b. The air conditioning unit for Gordon Hall shall be relocated to a location that is remote from the residences along Phillips Street and shall be screened.

- c. The new air conditioning unit for Crotty Hall shall be a quieter model and shall be installed in a location that is remote from the residences along Phillips Street and shall be screened.
  - d. Noise from the mechanical equipment on site, including existing and proposed air conditioning units, shall not exceed ambient noise levels at the property lines.
  - e. The applicant shall submit catalog cuts to Planning Department staff for the new air conditioning units along with information about noise produced by both units sufficient to show that the noise level shall not exceed the ambient noise level at the property line.
3. The applicant shall apply for a Special Permit from the Planning Board under Section 8.101 of the Zoning Bylaw to obtain approval for any proposed signs with a total area in excess of 12 square feet.
  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. An uninterrupted landscape buffer shall be installed along the southern property line sufficient to prevent foot traffic from passing through the Research Support Fund site and crossing through private residential property along Phillips Street.
  7. 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.
  8. One paper copy of the final revised plans and one electronic copy shall be submitted to the Planning Department.

#### **IV. ZONING**

- A. Zoning Subcommittee Report – report already given
- B. Public Comment Period – comments already given

#### **V. OLD BUSINESS**

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

#### **VI. NEW BUSINESS**

- A. Transportation Plan – Draft Existing Conditions – Draft dated 2/13/15 delivered to the Board and receipt acknowledged.
- B. Topics not reasonably anticipated 48 hours prior to the meeting

#### **VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none**

#### **VIII. UPCOMING ZBA APPLICATIONS**

The Board declined to review the following ZBA applications:

**ZBA FY2015-00022 – Margaret Starkweather** – For a Special Permit to formalize an existing second dwelling unit, as a Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 110 Sandhill Road (Map 5B, Parcel 90, R-N Zoning District)

**ZBA FY2015-00024 - Diane & Aaron Bagg** – For a Special Permit to modify conditions of ZBA FY2004-00018 to alter and enlarge the approved parking area and increase the number of parking spaces, at 296 North Pleasant Street (Map 11C, Parcel 172, R-G Zoning District)

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS**

Ms. Brestrup reported that Amherst College was proposing to make improvements to Marsh House, an existing dormitory on Lessey Street.

**X. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – Bruce Carson – no report

Community Preservation Act Committee – vacant – no report

Agricultural Commission – Stephen Schreiber – no report

Transportation Plan Task Force – Rob Crowner reported that the Transportation Plan would consist of three parts: Existing Conditions, Needs Assessment and Recommendations. Eventually the Planning Board will be asked to vote to adopt the Transportation Plan as part of the Master Plan.

Amherst Redevelopment Authority – vacant – no report

Design Review Board – vacant – no report

Housing and Sheltering Committee – Greg Stutsman – no report

Town Gown Study Steering Committee – David Webber and Greg Stutsman – no report

Master Plan Implementation Committee – vacant – no report

Zoning Subcommittee – Rob Crowner, Bruce Carson, Greg Stutsman, Stephen Schreiber and Christina Calabrese – report given earlier in the meeting

**XI. REPORT OF THE CHAIR** – no report

**XII. REPORT OF STAFF** – no report

**XIII. ADJOURNMENT**

The meeting was adjourned at 10:47 PM.

Respectfully submitted:                      Approved:

\_\_\_\_\_  
Christine M. Brestrup  
Senior Planner

\_\_\_\_\_  
David Webber, Chair

DATE: \_\_\_\_\_