

**AMHERST PLANNING BOARD**  
**Wednesday, March 4, 2015 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

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

**ABSENT:** none

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

Mr. Webber opened the meeting at 7:01 PM.

**I. MINUTES**

Mr. Schreiber MOVED to approve the Minutes of January 21, 2015. Mr. Carson seconded and the vote was 6-0-1 (Roznoy abstained).

**II. APPEARANCE – John Musante, Town Manager – Update on Non-Zoning Property Tax Incentives for Affordable Housing**

Mr. Musante gave a presentation on Affordable Housing Property Tax Incentives. He praised the work of the Planning Board on the Inclusionary Zoning bylaw amendment.

Zoning incentives are the first choice [in helping developers to be able to afford the cost of including affordable units]. Property tax incentives will be considered when zoning incentives are not enough to create affordable units.

Mr. Musante has been working with the Planning Department staff, the Finance Director, the Assessor and state officials to develop a program of tax incentives.

There are currently three options that are being explored:

- 1) UCH-TIF (Urban Center Housing – Tax Increment Financing) – an existing state program administered by DHCD (Department of Housing and Community Development) to promote affordable housing in urban centers
- 2) City of Boston legislation filed recently on behalf of Mayor Walsh to allow tax incentives to be used to encourage the provision of work force housing
- 3) Special Tax Agreement – needs a Town Meeting vote to authorize the Select Board to submit a Special Act to the state legislature to allow the town to put in place a tax incentive program to encourage affordable housing

The first option, UCH-TIF, has been in place for 15 – 20 years. It was established to encourage affordable housing in urban centers. Our downtown would be eligible. It is an existing program, with no need for a Special Act, but it has strict regulations and less flexibility. Projects need to be 25% affordable. A lower percentage is possible if it can be proven that a project is not possible with 25% affordable units. Also, all units must be affordable to those making 80% or less of AMI. The town would need to submit a Plan and to designate a Zone.

The second option, City of Boston Special Act, was filed by the House Chair of the Housing Committee. It would allow municipalities a local option to implement a special tax assessment plan. It would allow more flexibility. The special tax is limited to a 5 year period.

The third option, Special Act, would allow Amherst to create its own legislation. Town Meeting would authorize the Select Board to submit a Special Act to the legislature. It could allow a property tax reduction for a period of up to 10 years. The town has no specific proposal ready as of this date.

Mr. Musante noted that the Select Board would be signing the Warrant for Spring Town Meeting on March 23<sup>rd</sup>.

Mr. Webber thanked Mr. Musante for his presentation.

There was discussion about the merits of the various options.

Mr. Webber noted that Judi Barrett, consultant to the Planning Board on Inclusionary Zoning, had said that the non-zoning piece is really important.

### III. PUBLIC HEARING – ZONING AMENDMENTS

#### **A-06-15 Zoning – Municipal Parking (MP) District Amendments (Petition – O’Connor et al)**

To see if the Town will amend Sections 7.43 and 7.91 of the Zoning Bylaw to: 1) remove an existing exemption, and thereby require, the provision of parking spaces for the majority of multi-unit residential uses permitted in the Municipal Parking (MP) District, and 2) to remove the ability of permit granting bodies to modify parking requirements for any residential uses in the MP District.

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

Mary Wentworth of 22 Lessey Street and a Town Meeting member presented the petition. She asserted that the identification of the proponent of the article was not correct. The petition should be identified as having been submitted by “Amherst Community Planners”.

She noted that the petition doesn’t need a lot of explanation because the written statement “describes the intention”.

Mr. Webber asked what problem the petitioners were trying to address.

Ms. Wentworth stated that there is no requirement for residential units in the Municipal Parking District (MPD) to provide parking spaces. There is a problem regarding where tenants of projects will park.

There have been changes in the zoning regulations over the years to expand the MPD. It was increased in size to include areas up to Triangle Street and parcels off Triangle and Kellogg Avenue. Spring Town Meeting in 2008 approved changes. Included in those changes was a proposed change to the wording of the purpose of the district.

Ms. Wentworth read from the proposed purpose of the district as described in the Planning Board Report to Town Meeting from Spring 2008. At the time Town Meeting voted to change the MPD it was told that parking in the downtown was assumed to be a public responsibility. The current zoning amendment petition attempts to roll back the zoning changes to the MPD.

Mr. Crouner presented the ZSC report. The Planning Board, the Select Board and town staff are in the midst of studying downtown parking. They are aware of a perception that there is a parking problem or crisis. There have been two parking forums already and another one is scheduled.

The Planning Board is cognizant of this issue. It is not clear yet if there is a problem or not. It is not clear that mandating provision of parking on site is the solution. There are many ways to deal with the issues related to parking. He enumerated some of the other solutions.

The ZSC acknowledges the concern and recommends that the article be referred back for continuing study. The ZSC recommendation was unanimous.

John Kuhn, of 147 Chestnut Street, a homeowner and a business owner in Amherst, spoke in opposition to the proposed zoning amendment. There have not been many buildings built downtown in the last 40 years – Tucker Taft and Boltwood Place to name a few. He asserted that the attempt to build a parking garage was a failure. He urged the Planning Board to recommend that the article be defeated. The town wants to promote density in the downtown, according to the Master Plan.

Mr. Webber asked if the ZSC had discussed a recommendation to defeat the article.

Mr. Crouner noted that parking is a major topic of conversation in town. A recommendation to defeat the proposed amendment might insult the people who care deeply about the issue of parking. The town needs to look at the issue. The Planning Board is working on it. A recommendation to refer acknowledges the Planning Board's ongoing work.

Mr. Crouner noted that the article could be split into two parts – the first part proposing to remove residential uses from the parking exemption and the second part proposing to do away with the possibility of a modification to parking requirements.

Mr. Tucker noted that a motion to refer can name a specific entity such as the Planning Board or Select Board. These entities are already working on the topic of parking.

Mr. Roznoy **MOVED** to recommend dismissal. Mr. Schreiber seconded.

Mr. Roznoy stated that a motion to refer this article would be a mistake. He objected to the fact that the petitioners had not brought their idea for a zoning amendment to the ZSC and Planning Board before submitting it as a petition article.

Mr. Crouner noted that bringing an idea about a zoning change to the ZSC and Planning Board is not the only path. He noted further that the ZSC and Planning Board had favored the previous petition article to rezone parcels along Butterfield Terrace and that article had not been brought to the ZSC beforehand.

Mr. Tucker noted that zoning amendments can come to Town Meeting via many avenues and that there is no limitation on a citizen's right to submit a petition to amend zoning.

Mr. Stutsman offered further support for referral. The article is symbolic, he said. If the Planning Board recommends that it be dismissed, it may not be clear that the Planning Board takes the issue seriously.

The vote was 3-4-0 and the motion was defeated.

Mr. Crouner **MOVED** to close the public hearing and to recommend to Town Meeting that the article be referred to the Planning Board. Mr. Carson seconded and the vote was 6-0-1 (Roznoy abstained).

The Board agreed to refer to the petitioners as Amherst Community Planners in the Planning Board report to Town Meeting. The Select Board and Town Manager, with advice from Town Counsel, will decide how the petition article appears on the Town Meeting Warrant.

Ms. Wentworth had left the meeting prior to the vote.

**A-07-15            Zoning – Mixed-Use Building Amendments (Petition – O’Connor et al)**

To see if the Town will amend Section 3.325, Mixed-use Building, of the Zoning Bylaw, to: 1) add Special Permits to the current Site Plan Review approval permit requirement for mixed-use buildings in the B-G, B-L, B-VC, B-N, and COM districts; 2) add to the Standards and Conditions for mixed-use buildings new requirements for application materials addressing parking needs and a parking plan; 3) create distinct permit requirements for mixed-use buildings in the B-G District, with buildings of up to three (3) floors permitted under a Site Plan Review approval, and buildings of 4 or more floors requiring a Special Permit; 4) prohibit residential units on ground floors or basements, and; 5) require that a minimum of 40 percent of total gross floor area of any mixed-use building be restricted only to retail or commercial uses.

Mr. Webber read the preamble and opened the public hearing. He asked if anyone were present to represent the article. No one came forth so Mr. Webber explained the article. He noted that staff had prepared a detailed report dated February 27, 2015.

Mr. Crowner presented the ZSC report. The focus of the article is on the business centers and uses in the business centers. The ZSC did not want to recommend dismissal since there were some interesting ideas contained in the proposed amendment, such as what constitutes a mixed-use building. Although there is a lot going on in this article, there are things that were left out that are necessary to make it work. It is beyond the ability of the Planning Board to adjust the article before Town Meeting. However the ZSC is willing to look at it in the future. The ZSC voted 4-1-0 (Carson opposed) to recommend referral. Mr. Carson would have recommended dismissal because the article is too extreme.

Ms. Calabrese asked what it means to refer back to the Planning Board. Can the Planning Board say that it will look at the mixed-use building bylaw but reject this article?

Sarah la Cour, Executive Director of the BID, stated that this article is problematic and extreme. It would be dangerous to downtown. The Planning Board can consider looking at the mixed-use building regulations. She urged the Planning Board to recommend dismissal.

Mr. Tucker noted that there is no permitting standard to apply to 3 out of 5 zoning districts, and no mechanism to determine how the requirement for a Special Permit would apply. That is one of a number of technical problems with the article. Mr. Tucker recommended that petitioners check with the Town Moderator to see what parts of the article might be able to be amended. He stated that the petitioners may be able to move a version of the article that affects only two districts, if the Town Moderator agrees.

Mr. Webber stated that he was opposed to every section of the proposed amendment. Mixed-use is the one category of use that is coming to fruition in the downtown. The proposed amendment would be detrimental to mixed-use. He recommended defeat of the article rather than referral. He noted that Town Meeting had recently passed an article having to do with mixed-use buildings.

Mr. Stutsman stated that he appreciated the goal of promoting more commercial space in downtown.

Mr. Tucker stated that although the concepts are worth discussing, the mechanisms are not functional.

Mr. Schreiber MOVED to close the public hearing and to recommend dismissal. Mr. Stutsman seconded and the vote was 6-0-1 (Crowner opposed).

**A-04-15            Zoning – Inclusionary Zoning (Planning Board)**  
*(Continued from February 4, 2015 & February 18, 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 noted that this was a continued public hearing. He read the description of the proposed zoning amendment.

Mr. Crowner presented the ZSC report. The ZSC had not made any changes to the article and recommended unanimously the March 2, 2015 version of the article.

Mr. Stutsman stated that the ZSC was still wrestling with the issue of criteria for off-site units. The ZSC recommended that the Planning Board hold a public hearing on criteria related to off-site units, to be contained in the Planning Board's Rules and Regulations. There is language that has already been prepared.

Michael Burkhart of 92 Aubinwood Road spoke in opposition to aspects of the Inclusionary Zoning bylaw amendment. He expressed concerns about the following issues:

- Whether provision of off-site units runs counter to the Fair Housing Law
- The level of income of the people who are to be served by the new affordable units
- The fact that people of low income, minorities and people of color, specifically Latino, Black and Asian people were not consulted during the development of this bylaw amendment
- The need for 3 and 4 bedroom units to serve families
- The assertion that this bylaw would contribute to current levels of segregation in town
- The need to look at communities around the country for examples of Inclusionary Zoning that work.

Mr. Stutsman noted that the zoning article doesn't mention classes of people but only talks about income levels.

Mr. Webber acknowledged that valid concerns had been raised. However, Mr. Burkhart seemed to be referring to an earlier draft of the amendment. The provision of off-site units had been vetted with housing expert, Judi Barrett. She is satisfied that the bylaw is legally defensible. Affordable housing will either be provided in the same building or in the same neighborhood.

Sarah la Cour of the BID noted that the process leading up to this public hearing included both a zoning and non-zoning piece. The town is close to having the zoning piece worked out, but hasn't yet achieved a balance with the non-zoning piece. The Inclusionary Zoning bylaw amendment may need more work if it will need to stand on its own. It may be necessary to look at fees-in-lieu and dimensional modifications again. The zoning may need to stand alone and as such it may defer or stifle development in the downtown in its current form.

Mr. Roznoy agreed with Ms. la Cour's comments and with the Chair that the non-zoning piece is not ready. He noted that it was over a year ago that the non-zoning piece was identified as being important.

Board members urged the town to come up with non-zoning incentives as soon as possible. Mr. Webber encouraged staff to look at other communities that have submitted special legislation for tax incentives and to model our legislation on what other communities have successfully done. Mr. Tucker stated that the community of affordable housing consultants will know about any such examples.

Maurianne Adams of Precinct 10 offered the following comments:

- Zoning is not the only mechanism to solve the affordable housing problem
- The residents were assured that the non-zoning piece would precede the zoning amendment
- It would be a mistake to go forward without the non-zoning piece
- Town Meeting will want to know what the entire package includes (both zoning and non-zoning tax incentives)

Ms. Brestrup stated that the Town Manager is working very seriously and diligently with the Finance Director and the Assessor and contacts at the state level on this issue. While it is unfortunate that there are three possible routes to offering tax incentives, the Town Manager is seriously exploring all of them. He has also been talking to staff in the Planning Department about the various options. His intention is to have something ready by the time the town Warrant is signed.

Mr. Stutsman stated that the finance article will precede the zoning amendment on the Warrant. He stated that he would be willing to attend a meeting with the Select Board on the issue of the tax incentives if that would be useful.

Mr. Tucker stated that the zoning may be in effect prior to the tax incentives being in place, because of the legislative process. The zoning amendment may need to stand on its own for a while.

Mr. Carson stated that whatever can be done that is the simplest and most direct should be done and the methods that seem more complicated such as UCH-TIF could come at a future time.

Ms. Brestrup noted that the UCH-TIF is something that is already in place. The Boston legislation and the local Amherst legislation would have to go through the legislature.

Mr. Tucker noted that the UCH-TIF requires the creation of a Plan and a District that is then submitted to DHCD for approval. That tool requires that 25% of the units be affordable and it does not have flexibility in terms of the affordability level. The maximum income level is 80%.

Ms. Brestrup noted that there is flexibility in terms of the 25% but it has to be dealt with on a case by case basis. Each project has to apply to DHCD for a waiver and show DHCD why the project would not be able to go ahead if it had to provide 25% affordable units.

Mr. Stutsman agreed that once Town Meeting passes the Inclusionary Zoning amendment, it is acceptable that there is a lag time before the tax incentives are available. However, he stated that it was important for the process to include both Inclusionary Zoning and the non-zoning tax incentives on the Warrant. He spoke in support of the Special Tax Agreement over the other two options.

Mr. Webber stated that in his opinion the Inclusionary Zoning stands on its own, barely. There is a bare minimum of incentives. It is on the verge of stifling development. However, it is much better than what is currently in the Zoning Bylaw and he advised against qualifying the Planning Board's vote by stating that support of the Inclusionary Zoning amendment is contingent on the tax incentive piece passing. He supported recommending the Inclusionary Zoning Bylaw amendment without regard to the financing incentives. He praised the work of the ZSC and the public with regard to this amendment. He offered to help with the financing piece if that would be useful.

Mr. Crouner agreed with this position and noted that the Planning Board would know, before Town Meeting, whether the financing piece is on the Warrant or not. The Planning Board should recommend this article at this time. Later on, if the financing article does not appear on the Warrant the Planning Board can discuss and make a choice about how to handle the situation. Mr. Stutsman agreed with that approach.

Janet McGowan of South East Street expressed concern about the idea of tandem Town Meeting Warrant articles. She didn't understand why developers should be offered dimensional modifications as well as tax incentives. She thought that "extra lot coverage and an extra floor" should suffice. She objected to allowing an extra story in the R-N district. She didn't understand how the tax incentives would work and was reluctant to support them without understanding them.

Ms. Brestrup explained that the tax incentives would be offered where the dimensional modifications may not work. That is particularly the case in the Business districts where it is hard to take advantage of dimensional modifications. In the outlying districts there is more land available to developers to take advantage of dimensional modifications to allow developers to include market-rate cost offset units.

Mr. Webber noted that the Planning Board has, in the past, recommended a zoning article only if a prior related article passes or does not pass, depending on the circumstance. That approach could be taken here. The Planning Board could recommend that if the financial incentives pass the Inclusionary Zoning amendment should be adopted and if the financial incentives do not pass the Inclusionary Zoning amendment should not be adopted. In the end, Mr. Webber stated that, in his opinion, the Inclusionary Zoning article stands alone, just barely, even without the financial incentives.

Janet Keller of Pulpit Hill Road echoed Mr. Webber's comments. She noted that a lot of hard work, thought and good faith had gone into the preparation of this article. It is the best that people could produce, having worked hard to get here. It is better than not having the affordable units, and as long as it doesn't destroy our landscape, she would support it.

Maurianne Adams agreed with Ms. Keller's comments, but she expressed concern about the possibility that the tax incentives will not be ready and/or will not pass Town Meeting. She is concerned that developers will be discouraged from developing in the downtown and business districts without tax incentives and will therefore be encouraged to develop in outlying areas.

Mr. Tucker noted that new development is expensive and part of the intent is to help developers break even.

Mr. Crouner MOVED to close the public hearing and to recommend that Town Meeting approve this article. Mr. Carson seconded and the vote was 7-0-0.

Mr. Roznoy commended the ZSC for its work.

**IV. ZONING**

- A.** Zoning Subcommittee Report – Mr. Crowner reported that the ZSC will be getting started on planning for the next Town Meeting in the fall.

Mr. Roznoy requested time at a future Planning Board meeting to hear an update on pending litigation.

Mr. Roznoy MOVED that the Planning Board hold an Executive Session at a future date to hear about pending litigation. Mr. Stutsman seconded.

Mr. Roznoy requested a brief status report and noted that Attorney Joel Bard, Town Counsel, would not be expected to attend. The Board decided that April 1<sup>st</sup> would be an appropriate date.

The vote was 7-0-0 to hold an Executive Session for the purpose of discussing pending litigation.

- B.** Public Comment – none

**V. OLD BUSINESS**

- A.** Signing of Decision – SPR2015-00011 – Robert Harris for Grand Chapter of Phi Sigma Kappa – 510 North Pleasant Street – The Board signed the decision.

- B.** Topics not reasonably anticipated 48 hours prior to the meeting – none

**VI. NEW BUSINESS**

Topics not reasonably anticipated 48 hours prior to the meeting

Mr. Tucker reported that the town is in the process of switching to electronic filing. There are no corresponding regulations in the Planning Board Rules and Regulations governing the requirement to file electronically. There was further discussion about the Planning Board's requirements. Currently applicants are requested to submit one hard copy and an electronic copy. Mr. Webber agreed to put an item on a future agenda to revise the Planning Board's Rules and Regulations.

Mr. Webber stated that he was interested in having the Planning Board discuss and possibly make a recommendation on the proposal regarding the Puffer's Pond Bridge.

**VII. FORM A (ANR) SUBDIVISION APPLICATIONS**

The Board endorsed the following ANR plans:

ANR2015-00007 – Betandri LP – 310 South East Street

ANR2015-00008 – Howard Ewert – 69 Pelham Road

**VIII. UPCOMING ZBA APPLICATIONS – none**

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS – none**

**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 reported that the Ag Commission passed a resolution to ask the Select Board to ask the Amherst Farmers’ Market to open up the Farmers’ Market to all Amherst farmers. The Select Board has issued a directive to the Farmers’ Market directing it to be more inclusive. The alternative is that the Select Board could issue an open RFP to seek another entity to operate the Farmers’ Market. There have been a number of complaints by Amherst farmers about not being able to join the Farmers’ Market.

Transportation Plan Task Force – Rob Crowner – no report

Amherst Redevelopment Authority – vacant – no report

Design Review Board – vacant – Ms. Brestrup reported that the DRB is in need of members. The Select Board appoints people to the DRB. The Planning Board nominates a representative, and then the Select Board would appoint that person. Mr. Schreiber stated that he would consider being appointed to the DRB once his term on the Planning Board has expired. He could fill a position as an architect and/or as the Planning Board’s representative.

Housing and Sheltering Committee – Greg Stutsman – no report

Town Gown Study Steering Committee – David Webber and Greg Stutsman – Mr. Webber reported that the Town Manager and Chancellor of the University would be recommending that a new group be formed to carry on the work of the Town Gown Study Steering Committee. The new group would be called the University and Town of Amherst Collaborative (UTAC). Mr. Stutsman reported that the Town Manager’s Budget would include an Economic Development Coordinator, which was one of the recommendations of the TGSSC.

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 – none**

**XII. REPORT OF STAFF – none**

**XIII. ADJOURNMENT**

The meeting was adjourned at 9:20 PM.

Respectfully submitted:

Approved:

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

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

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