

AMHERST PLANNING BOARD
Wednesday, June 18, 2014 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair, Rob Crowner, Bruce Carson, Richard Roznoy, and Greg Stutsman
ABSENT: Stephen Schreiber, Sandra Anderson, Kathleen Ford
STAFF: Christine Brestrup, Senior Planner; Jonathan Tucker, Planning Director

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

I. MINUTES

Ms. Brestrup reported that draft minutes for the June 4 meeting were not yet ready for review.

II. PUBLIC HEARING – SUBDIVISION RULES AND REGULATIONS

Town of Amherst Massachusetts – Rules and Regulations Governing the Subdivision of Land

To consider amendments to Section II. F, Fees, to reflect an updated fee schedule for applications related to the Subdivision of Land, and to delete references to fees listed for other Land Use Permit Applications that are not directly related to the Subdivision of Land, in accordance with Rules and Regulations, Section VIII. F. Amendments, and M.G.L. Chapter 41, Section 81Q.

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

Ms. Brestrup explained the need to amend the subdivision regulations in order to alter fees. She explained that the Planning Board had voted twice in the last several months to increase application fees, once on March 19th including all of the Planning Board applications for Site Plan Review, Special Permit and Subdivisions. That included eliminating the separate fee for Site Plan Review for Cluster. Then it became clear that by eliminating that fee and requiring the regular Site Plan Review fee, applicants would be required to pay fees that appear to be excessive for Site Plan Review for Cluster. So the Planning Board voted again on April 16th to reinstate a separate fee for Site Plan Review for Cluster. Since that time staff has been reminded that these fees are listed in the Rules and Regulations Governing the Subdivision of Land. There is a requirement to hold a public hearing to change the Rules and Regulations Governing the Subdivision of Land.

She presented a memorandum describing the change. Staff is proposing that the section containing the fee schedule in the Rules and Regulations be deleted and a new section be added containing the new fee schedule.

The new fee schedule contains exactly the same fees as were voted on March 19th and April 16th, but the Board is now following the requirement to hold a public hearing on the change to the fees.

Mr. Webber reminded the Board that it had discussed this issue at length before.

Atty. Tom Reidy of Bacon Wilson P.C. asked to bring to the Board's attention the requirement that in Section II. F., Fees, there is a requirement that the inspection fee (based on the linear foot of road) be paid at the time of application. However, under Section VIII. C. of the regulations, there is a requirement to pay the inspection fee prior to the endorsement of the Definitive Plan.

He noted that his client (Landmark) was being required to pay the inspection fee of \$65,000 up front. His client is willing to pay the fee at the time a performance bond is due immediately prior to the endorsement by the Board of the Definitive Subdivision Plan.

Mr. Webber indicated that the Board had received a letter to that effect. With respect to this particular requirement it seems like “putting the card before the horse” in requiring the fee to be paid so far in advance of the endorsement of the Definitive Subdivision Plan.

Ms. Brestrup recommended changing the requirement to make it clear when the fee is to be paid. It is confusing to have two sections of the Rules and Regulations say two different things.

Mr. Tucker recommended language stating that the fee would be due within 14 days of approval of the Definitive Subdivision Plan.

Mr. Webber said that the change makes sense since there won't be an inspection fee unless the plan is approved.

Mr. Roznoy asked about the purpose of the inspection fee. Mr. Tucker stated that the fee was established to cover the costs of the Town Engineer and others to conduct the actual inspections of the work as it is proceeding and as it is being completed.

Mr. Roznoy indicated that if there was a conflict it should be corrected, but that case law supported towns charging fees upfront to cover engineering, review and other costs. He supported revising the regulations to be more consistent.

Ms. Brestrup indicated that whatever the Board decided, it would not affect The Retreat, the application for which was grandfathered by the submittal of the Preliminary Subdivision Plan last year.

Mr. Webber said that there was concern about the right way to approach the question. He asked if the Planning Board wanted to continue to assess the fee upfront or wait to assess the inspection fee until after the Definitive Subdivision Plan is endorsed by the Planning Board.

There was discussion about the timing of the fee payment.

Mr. Stutsman favored the approach in Mr. Tucker's language, but asked to see the relevant language regarding timing of the payment of the fee.

The fee becomes relevant when the inspectors are actually out on the site inspecting the project.

The risk to the town would be if the Board approves the Definitive Subdivision Plan and then the applicant fails to pay the inspection fee.

Ms. Brestrup recommended adding to VIII. C. 3. the language “paid to the Town Treasurer prior to endorsement of the Definitive Plan.” This way the Board would not endorse the Plan until the applicant had paid the fee.

Mr. Stutsman suggested adding the phrase to Section II. F. Fees, “payable in accordance with Section VIII. C. 3.”

Mr. Roznoy suggested an introduction to Section II. F. that should say “Other than inspection fees the following application fees shall be paid at the time of the filing of subdivision applications:”

There was no further public comment.

Mr. Roznoy MOVED to close the public hearing and to adopt the fees as shown in the memo provided at the hearing, adding the phrase “other than the inspection fees”. Mr. Stutsman seconded the Motion and it passed unanimously 5-0-0.

III. TOWN MEETING

A. Signing of Attorney General Forms – The Board signed the forms for Articles 25 and 28 from the 2014 Annual Town Meeting.

B. Zoning Amendment Process

Mr. Crowner reported that the Zoning Subcommittee was aware that there was a sense of fatigue about zoning amendments, as well as confusion on the part of citizens as to where zoning amendments come from, why they were so numerous, and the rapid pace of amendments. The Subcommittee had discussed doing a “reset”, re-launching the traditional Zoning Forum, perhaps as a series of zoning forums conducted out in the community.

For the Fall 2104 Special Town Meeting, the Subcommittee recommended just focusing on inclusionary zoning. The zoning forums could help the community redo its zoning schedule for the next few years. A planned, more deliberative process would provide longer periods of time to work on complicated amendments.

At the same time, the Subcommittee was aware that the current Zoning Bylaw is not adequate for Amherst’s needs. A lot of work needs to be done. Along with the “reset”, the Planning Board should keep working on the ongoing issues so it doesn’t lose ground. There are articles the Board has already begun, but it was important to step back and consider where we are.

Mr. Webber said he agreed. There was a strong sense of fatigue in the community. Working on inclusionary zoning and parking issues made sense. He thought it was time to review the Municipal Parking District once more. The Board should do a “reset” to double-check its priorities, but keep moving forward.

Mr. Stutsman recommended getting together with stakeholders for both inclusionary zoning and parking regulations. Both also involve non-zoning changes to move forward. Reaching out to others was important. He recommended July 9 as a date for the first public meeting.

Mr. Webber said it could be held as a public hearing with stakeholders invited. Ms. Brestrup recommended calling it a forum because “hearing” has a specific legal meaning.

Mr. Stutsman suggested July 23 as a back-up date.

Mr. Carson favored July 9 and starting preparations as soon as possible. More information was needed about non-zoning inclusionary incentives—tax assessment policy, etc.

The Board members discussed issues they wanted raised during the forum for public reaction.

Mr. Webber wanted to hear public reactions to the idea of allowing a 6th floor for inclusionary projects in the B-G District.

Ms. Brestrup suggested the issue of different affordability rates for mixed-use centers.

Mr. Carson said he had doubts about fees-in-lieu and wanted public reaction.

Mr. Stutsman said that the biggest disconnect was about the issue of profit. People wanted a clear picture of the financial aspects of development.

Mr. Webber said that the big picture was how much affordability could be required without putting a damper on housing development generally.

Mr. Tucker said the nexus issue was important.

Mr. Webber said the town may have to look at other non-zoning cost offsets in centers. Mr. Crowner said the business community should be asked about that.

Mr. Webber noted that there was no difference between residential and business assessments in Amherst. That should be looked at.

Mr. Crowner said it would be important to know if any public works projects were coming down the road that would need to be aligned with new zoning.

Those to be invited included the Town Manager, Assessor, DPW Superintendent, and the PVPC consultant, who should be asked to come prepared with information. Others to invite included the Chair of the Select Board, the BID, CAN (Coalition of Amherst Neighborhoods), UMass and Amherst College representatives, the U3 consultants, Town Meeting members, developers, the Amherst Area Chamber of Commerce, AHA, Peter Jessop of Habitat for Humanity, property owners and others.

Mr. Webber said there should be a second forum in August. Organizational details and scheduling were discussed.

Janet Keller recommended putting a strong emphasis on inclusionary zoning and pulling in people to air those issues. She suggested including how communities like Cambridge use inclusionary covenants and fees-in-lieu with consistent criteria. Mr. Stutsman responded that any such information should include key housing market metrics indicating the differences between communities, to enable accurate comparisons to Amherst's circumstances.

Mr. Webber asked that the police and fire departments also be asked about the issues associated with taller buildings, along with the Health Department. Ms. Brestrup suggested adding the Chamber of Commerce.

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

IV. OLD BUSINESS

- A. Signing of Decisions – none ready.
- B. SPR2013-00011 – Amherst College – Garman House – 62 Boltwood Avenue – changes to driveway

Mr. Tom Hartman presented proposed changes to the design of a driveway for Garman House at 62 Boltwood Avenue. The driveway would be narrowed to 12 feet in width and granite curbs added to prevent parking along the driveway. The Fire Department and Town Engineer had no problem with reducing the width of the driveway. The original proposal

had included 4 parking spaces. The current proposal included 7 spaces and a handicapped parking space. Currently up to 10 cars park there, regardless of marked spaces. The proposed changes, including the granite curb, will deliberately reduce the ability of students to park cars next to the building. In special circumstances, they could park on the grass.

Mr. Crowner MOVED to approve the changes as proposed. Mr. Carson seconded and the Motion passed unanimously 5-0.

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

V. NEW BUSINESS

- A. The Retreat – Definitive Subdivision Plan and Site Plan Review – consultant for third party review.

Mr. Roznoy summarized the progress in obtaining a third party consultant. Mr. Roznoy, Ms. Ford, Mr. Tucker, Ms. Brestrup, Ms. Willson (Wetlands Administrator), and Mr. Skeels (Town Engineer) had reviewed and graded the three proposals received from Fuss & O’Neill, Pannoni Associates, and B.L. Companies. The committee met on Friday, June 13. Following the application of criteria, most of the committee members favored Fuss & O’Neill. One favored Pannoni Associates. Fuss & O’Neill had been selected as the primary candidate. References had been checked following the meeting and had been consistently positive. The price proposal was \$20,700 plus \$700 for each additional meeting beyond the scope of the RFP. The committee recommended Fuss & O’Neill to the full Board as the third party peer review consultant for The Retreat.

Mr. Webber thanked the members of the committee.

Mr. Roznoy MOVED that the Planning Board approve retaining Fuss & O’Neill as the third party peer review consultant on this project. Mr. Carson seconded, and the Motion passed unanimously 5-0.

Mr. Webber noted that new documents associated with the project had been placed on the Planning Board’s webpage. Ms. Brestrup reviewed the bulk of the project documents for the Board, including numerous large and technical reports. She indicated that she would prepare a summary. Mr. Webber recommended that members of the public visit the Planning Department to view the documents.

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

VI. FORM A (ANR) SUBDIVISION APPLICATION

Ms. Brestrup described the survey plans for properties involved in a proposed Town acquisition of land in the Watershed Protection (WP) District. Atty. Tom Reidy of Bacon Wilson P.C. reported on progress with relation to this Town purchase of approximately 12 acres of land in the Atkins Reservoir watershed from W.D. Cows, authorized by the Fall 2013 Special Town Meeting under Article 10. The Select Board had accepted a draft deed and the closing was scheduled for the coming Friday. There were two buildable flag lots. The remaining lots were not buildable, and were being set aside and deeded to the Town for water supply protection and conservation under the control of the Select Board. Mr. Webber said that it met the ANR criteria.

VII. UPCOMING ZBA APPLICATIONS

Ms. Brestrup described an upcoming variance request for 908 South East Street. The Board was not interested in reviewing the application.

VIII. UPCOMING SPR/SPP/SUB APPLICATIONS

Ms. Brestrup described upcoming applications, including the upcoming Visitor's Center for Hampshire College.

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Mr. Webber reported that the Town-Gown Steering Committee is scheduled to meet Thursday, June 26 from 4-6 PM at the UMass Police Station. The consultants have been at work talking to stakeholders, and will submit a preliminary report.

Mr. Roznoy reported that the Transportation Plan Task Force would be interviewing consultant candidates on Monday, June 23.

X. REPORT OF THE CHAIR

Mr. Webber thanked staff for posting the documents and materials pertaining to The Retreat on the Town website.

XI. REPORT OF STAFF – none.

XII. ADJOURNMENT

The meeting was adjourned at 8:29 PM.

Respectfully submitted: Approved:

Christine M. Brestrup
Senior Planner

DATE: _____
David Webber, Chair