

**AMHERST PLANNING BOARD**  
**Wednesday, August 6, 2014 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** David Webber, Chair, Stephen Schreiber, Rob Crowner, Bruce Carson, Sandra Anderson, Kathleen Ford, Richard Roznoy, and Greg Stutsman

**ABSENT:** none

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

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

**I. MINUTES**

The Minutes of July 30, 2014, were not yet available for review.

**II. ZONING**

**A.** Zoning Subcommittee Report – Mr. Crowner reported that there would be a public hearing on Inclusionary Zoning on September 17<sup>th</sup>. The ZSC also wants to bring an article on Special Districts, Section 3.2 of the Zoning Bylaw, to Fall Town Meeting. This amendment would involve renumbering and editing Section 3.2 to make room for new special districts. There would be no substantive regulatory change, just changes to clarify portions of the Bylaw. And there would be a minor change to allow the Board granting the permit for the use to grant any ancillary Special Permit – a change that has been part of other zoning amendments for years. The public hearing on the amendment to Section 3.2 is scheduled for October 1<sup>st</sup>.

Mr. Crowner reported that there would be a public forum to discuss zoning and non-zoning issues related to parking on September 23<sup>rd</sup>.

Mr. Webber reported that Rob Morra, Building Commissioner, is still interested in bringing an Accessory Home Business amendment to Town Meeting.

**B.** Public Comment Period – none

It was not yet time for the scheduled public hearing, so the Board turned to Old Business, New Business and a report on the Transportation Plan.

**V. OLD BUSINESS**

**A. SPR2014-00003 and SPP2014-00003 – Trolley Barn Development LLC – 68 Cows Road**

Review of revised design for retaining wall associated with construction of mixed-use building (Map 5A, Parcel 108, COM & R-O zoning district)

John Kuhn of Kuhn Riddle Architects presented the original retaining wall detail that was prepared by The Berkshire Design Group and approved by the Planning Board. The original detail showed Versa Block as the wall material. Instead of the approved wall, large concrete block pieces had been installed (2 x 2' x 4'). The wall is about 7 ½ feet high at the corner and is located at the northwest corner of the parking lot. The wall in the original drawing was curved. The wall as installed is straight, with a 90°

corner. There has been no change in lot coverage. Arborvitae have been planted as screening along the west side of the wall.

Building Commissioner, Rob Morra, has requested that a letter from Civil Engineer Mark Darnold be submitted to him stating that the wall as constructed is structurally adequate. The project needs approval from the Planning Board for the change in the wall in order to receive a Certificate of Occupancy. The new larger blocks are too hard to install on a curve and therefore the wall was installed without the curve.

Mr. Schreiber MOVED to approve the change in the detail and configuration of the retaining wall. Ms. Anderson seconded. Mr. Crowner requested an amendment to the motion that would require that the letter from the engineer be submitted to the Building Commissioner as requested. Ms. Ford seconded the amended motion and the vote was 8-0-0.

**B.** Signing of Decisions – the Board signed the following decision:

SPR2014-00015 – Ron Bohonowicz for Crocker Farm School – 280 West Street

**C.** Topics not reasonably anticipated 48 hours prior to the meeting

## **VI. NEW BUSINESS**

Topics not reasonably anticipated 48 hours prior to the meeting – Mr. Roznoy requested that the Board schedule a time for Building Commissioner, Rob Morra, to come in to talk about what types of projects require Site Plan Review. We need to have agreement about what level of project or change to a project requires Site Plan Review. He suggested a meeting sometime in October. Mr. Webber agreed that the Board should meet with Mr. Morra to discuss this topic.

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

Transportation Plan Task Force – Mr. Roznoy presented a report on progress by the Transportation Plan Task Force, which is comprised of members of the Public Works Committee, the Planning Board and the Public Transportation and Bicycle Committee. Town Meeting appropriated funds to hire a consultant to prepare a Transportation Plan. Nelson\Nygaard has been hired. The consultant is scheduled to meet with the TPTF in September. Further details about the Transportation Plan process will be on the website. Mr. Webber thanked Mr. Roznoy for keeping things going regarding the Transportation Plan.

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

### **SPR2015-00001 – Elm Electric – 32 Northampton Road (Newport Hall – Amherst College)**

Request Site Plan Review approval to remove existing 5 kW generator and replace with new 20 kW generator located approx. 60 feet from building, east side, and install 1,000 gallon underground propane tank (Map14A, Parcel 189 & 190, R-G zoning district)

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

Tom Hartman of Coldham & Hartman Architects and Steve Slapski of Elm Electric presented the application.

A generator is proposed to be added to Newport House, an Amherst College dormitory. Newport House is adjacent to College Hall, the building on the corner of Northampton Road (Route 9) and South Pleasant Street (Route 116). The old generator will be removed. A 7 foot long concrete pad will be installed and the new generator will be placed on top of the pad.

There will be an underground propane tank installed to the north of the generator, with a small hatched access. The area is nicely planted and screened now and no plants will be disturbed during installation. The noise of the generator will be about 70 decibels. Street level noise is about 50 decibels. The only residential abutter is the President's House.

Mr. Hartman presented a photograph of the proposed generator. It will be about 4 feet tall and would be about the size of a big ice chest. It won't be seen from Route 9. A similar generator is in place at the President's House next door.

Mr. Webber asked if there were any safety issues around the installation or operation of the generator that the Board should know about. There are none.

Mr. Webber reviewed the Site Visit Report.

Mr. Roznoy noted that the proposed generator will be "even more innocuous" than the picture that was submitted, because there is a lot of shrubbery in the area that will conceal the location. It fits in the space nicely and will be concealed, he said.

Mr. Webber reviewed the Development Application Report. He noted that five waivers have been requested:

- Landscape Plan
- Erosion Control Plan
- Lighting Plan
- Sign Plan
- Traffic Impact Statement.

Mr. Webber noted that there were some small issues identified in the Report, one of which was about existing vegetation or screening following the installation.

Mr. Hartman stated that there is a substantial amount of existing vegetation, which will not be disrupted during installation. There will be minimal erosion. The process of installation will take two days.

Ms. Anderson stated that the new generator will be larger than the one that is in place now, but it will be sited in an area that will not be seen. Additional landscaping is not required.

Mr. Schreiber asked why natural gas was not being used. Mr. Hartman stated that, by code, a generator may not be fueled only by natural gas because of the possibility of disruption of supply. Two sources of fuel are allowed.

There was no public comment.

The Board found that this generator installation is in compliance with the review criteria contained in Section 11.24 of the Zoning Bylaw.

Ms. Anderson MOVED to close the public hearing and to approve the Site Plan Review application with waivers as requested. Mr. Roznoy seconded and the vote was 8-0-0.

#### Waivers

- Erosion Control Plan
- Lighting Plan
- Sign Plan
- Traffic Impact Statement
- Management Plan

Conditions

- 1) The applicant shall submit a Landscape Plan for review and approval by the Planning Board.
- 2) The parking spaces shall be constructed so as to be at 90° to the edge of the driveway.
- 3) Landscaping shall be installed in accordance with the approved Landscape Plan and, once installed, shall be continually maintained. All disturbed areas shall be loamed and seeded, unless otherwise specified;
- 4) One paper copy of the final revised plans and one electronic copy shall be submitted to the Planning Department.

It was not yet time for the next public hearing, so the Board turned to other untimed items.

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

Pioneer Valley Planning Commission – Bruce Carson – no report

Community Preservation Act Committee – Sandra Anderson – no report

Agricultural Commission – Stephen Schreiber had volunteered to act as the Planning Board’s representative on the Agricultural Commission at an earlier meeting but had not yet been contacted by the Ag Com. Ms. Brestrup offered to inform the Agricultural Commission again that Mr. Schreiber is willing to serve as Planning Board representative.

Transportation Plan Task Force – Richard Roznoy and Rob Crouner – report given earlier in the meeting

Amherst Redevelopment Authority – vacant

Design Review Board – Kathleen Ford – no report

Housing and Sheltering Committee – Greg Stutsman – no report

Town Gown Study Steering Committee – David Webber and Greg Stutsman – Mr. Webber reported that the TGSSC had received a presentation on preliminary findings from the consultant, U3. The consultant had noted that there had been population and demographic changes in Amherst. They gave specific proposals about use of some parcels of UMass land for mixed use buildings. Public/private partnerships were discussed. Mixed-use buildings could include residential use and entrepreneurial spinoffs, for example. The consultant was advising the town and the university on setting up a process for the town and UMass to continue to work together. A link to the consultant’s report is on the Town website. Final recommendations will be made in September. Ms. Anderson noted that Mass General Laws currently prohibit public/private partnerships for building residential halls for UMass. Mr. Stutsman reported that the consultant had said that public/private partnerships could be viable with agreement from the state legislature. Mr. Webber stated that the consultants had done a thorough job.

Master Plan Implementation Committee – vacant

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

**IV. PUBLIC HEARING – DEFINITIVE SUBDIVISION PLAN FOR CLUSTER SUBDIVISION**

**SUB2014-00002/M23945 – Retreat at Amherst LLC – Henry Street, Market Hill Road and Flat Hills Road** *(Continued from July 30, 2014)*

Request approval for a 136 lot Definitive Subdivision Plan for a Cluster Subdivision, in accordance with Section 4.3 of the Amherst Zoning Bylaw and M.G.L. Chapter 41, Section 81T (Map 6A, Parcels 84, 91, 95 and 96, R-N and R-O zoning district)

Mr. Webber read the description of the application and explained that this was a continued public hearing, continued from July 30, 2014. He gave an introduction and stated that the meeting would include the following topics:

- Town Counsel Joel Bard – report on the litigation regarding the zoning and land use on this project;
- Tom Houston consultant representing Save Historic Cushman – presentation of an analysis of the Definitive Subdivision Application;
- Working Session with Planning Department staff.

Mr. Bard introduced himself. He noted that the Planning Board might have been surprised recently to learn that Mr. Bard had offered opinions in writing on issues that the Planning Board had not yet decided. The Board had seen the brief that Mr. Bard had filed in the Land Court the previous week with regard to a lawsuit that had been filed by residents of the area against the Town of Amherst, the Building Commissioner, Landmark Properties and W.D. Cows.

Mr. Bard explained that M.G.L. Chapter 240, Section 14A, allows owners of land to file a complaint in Land Court even though there is no pending controversy, and no action has been taken by the Planning Board or the Building Commissioner.

A property owner can ask the Land Court to interpret the local zoning bylaw with respect to how it might affect land that they own or with respect to their plans for their land or someone else's plans for land abutting theirs that they believe might affect their land.

Mr. Bard explained when the case was filed, what the law allows, why he needed to file the brief last week and what the schedule of the case might be going forward.

Mr. Bard stated that it was really too early for the Court to rule on these questions. The legal positions expressed in the brief are those of Town Counsel and not necessarily the positions of staff or of the Planning Board. The Board will be making decisions on this application and is not bound by the attorney's opinion. The Building Commissioner is also not bound by the attorney's opinion.

Mr. Bard explained what the legal arguments would be. He predicted a decision on the case in 9 to 12 months from the date that the arguments were made. He predicted that the case would still be pending when the Planning Board made its decision. He predicted that the Planning Board's decision would be appealed and that he would request that the two cases be consolidated.

Mr. Bard explained the issues in the case as framed by the plaintiff and noted that a cross claim had been made by Landmark and Cows against the town.

Tom Houston of PSC, Professional Services Corporation, PC, who had been hired by Save Historic Cushman, opponents to the application, presented a report criticizing the project and including a list of 122 items, analyzing the Definitive Subdivision Plan application and noting potential problems with zoning, construction details of proposed roadways, safety and design of

proposed roadways, compliance with the Subdivision Regulations, sight distances, centerline grades, sanitary sewers, stormwater management, water supply, earthwork, wetlands, traffic, and other topics. He submitted a written report, dated August 5, 2014, along with a description of the services offered by PSC and a document explaining the consulting firm's experience.

Mr. Webber thanked Mr. Houston for his presentation. Mr. Crouner asked about the process for verifying the recommendations and findings presented by Mr. Houston. Mr. Houston suggested that the applicant provide a point by point response, to be evaluated by Mr. Houston.

Mr. Stutsman noted that the Board had received a Preliminary Report from the Planning Board's peer review consultant, Fuss and O'Neill.

Steve Savaria of Fuss and O'Neill stated that his firm had not had much time to review the project, but would have its report at the end of the specified review period. It was helpful to have the PSC report. However, Fuss and O'Neill will conduct its own review.

There was discussion about some aspects of the design of the stormwater management system, specifically with respect to removal of objects and suspended solids, and oil and petroleum.

Ms. Brestrup presented a review of the plans with focus on the amount of cutting and filling, extent of tree clearing, depth of the proposed sewer line, centerline grades of roadways, length of cul-de-sacs, height and length of retaining walls, and other issues.

Christopher Pile of 110 Bridge Street noted that he had submitted written material to the Board. He referred to recommendations contained in a letter dated December 10, 2014, and stated that the number of units should be reduced. He commented on the number of units, the grading of the roadways, the length of the loop road, problems with the Yield Plan, wetlands, snow storage and parking. He recommended that the roads be designed to meet subdivision standards and encouraged the Board not to grant any waivers. The Yield Plan had not been revised from that submitted with the Preliminary Subdivision Plan application. He urged the Board not to approve the Definitive Subdivision Plan.

Ken Pransky of 180 Flat Hills Road stated that the plan is not in keeping with the surrounding neighborhood. He talked about the socio-economic impact of the project and the project's overall effect on the neighborhood character. He spoke in opposition to the proposal to house 650 students in a clustered development in the R-O zoning district.

Mr. Webber asked that Fuss and O'Neill analyze the Yield Plan and identify the lots that don't comply with requirements.

Tony Wonseski, Civil Engineer with SVE Associates, representing the applicant, stated that the applicant and SVE Associates were reluctant to revise the plans until they had received all of the comments.

The Board stated that it would like to learn more about the following:

- Hear a full report from Fuss and O'Neill;
- Learn more about the Traffic Impact Statement;
- Review of the Yield Plan

Ms. Brestrup noted that the TIS may need to be revised. The original scope for the TIS was agreed to with the Town Engineer based on the roadways being gated. The current proposal does not include gated roadways.

Mr. Roznoy urged the applicant not to address the issues in a piecemeal fashion. It is also incumbent upon them to defend the Yield Plan, to show where lots are not buildable.

Mr. Schreiber stated that there have been consistent comments about certain issues that have arisen from the review. These things require that the applicant go back to the drawing board. The steepness of the roads is a huge problem; the cut and fill is huge. Cluster subdivisions are supposed to be gentle on the land. The project needs to be redesigned.

Mr. Tucker stated that the Definitive Subdivision Plan has to be reviewed within the constraints of the Subdivision Regulations. There will also be a Site Plan Review process. He noted that the plan would need to be significantly changed in order to address the issues that will come up during Site Plan Review.

Mr. Tucker reminded the Board that a public hearing had been scheduled for Inclusionary Zoning on September 17<sup>th</sup>.

The Board and Attorney Tom Reidy discussed a possible request for an extension of time for a decision on the subdivision plan application to October 26. Ms. Brestrup noted that the applicant would need to submit a letter of request.

Mr. Roznoy MOVED to continue the public hearing to September 17, 2014, at 7:00 p.m. The public hearing for Inclusionary Zoning was scheduled to begin at 6:00 p.m. Mr. Stutsman seconded and the vote was 8-0-0.

**XI. REPORT OF THE CHAIR – none**

**XII. REPORT OF STAFF – none**

**XIII. ADJOURNMENT**

The meeting was adjourned at 10:21 PM.

Respectfully submitted:                      Approved:

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Christine M. Brestrup  
Senior Planner

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David Webber, Chair

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