

AMHERST PLANNING BOARD
Wednesday, September 17, 2014 – 6:05 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair, Stephen Schreiber (6:20 PM), Rob Crowner, Bruce Carson, Sandra Anderson, Richard Roznoy, Kathleen Ford (6:10 PM) and Greg Stutsman

ABSENT: none

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

Mr. Webber opened the meeting at 6:05 PM. He explained that tonight's meeting would include a public hearing on the proposed Inclusionary Zoning amendment and a continued public hearing on The Retreat and he outlined how the evening would proceed.

I. MINUTES

Mr. Roznoy MOVED to approve the Minutes of July 16, 2014. Ms. Anderson seconded and the vote was 5-0-1 (Webber abstained).

II. PUBLIC HEARING – ZONING AMENDMENT

A-01-15 – Zoning – Inclusionary Zoning (Planning Board)

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 expand the residential uses and developments required to provide affordable housing, selectively increase the rate of such housing to be provided, simplify 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 preamble and opened the public hearing.

Mr. Crowner explained that the Zoning Subcommittee did not have an Inclusionary Zoning amendment to bring forward at this time. The ZSC is still waiting for a final report from the Planning Board's consultant, Judi Barrett. The proposed amendment will require action from others besides the Planning Board.

Mr. Stutsman stated that he wanted to recap what happened at the Zoning Subcommittee meeting but recommended closing the public hearing prior to having that discussion.

Mr. Stutsman MOVED to close the public hearing. Mr. Carson seconded.

Ms. Ford arrived. (6:10 PM).

Mr. Webber explained that it is a formal requirement that the Planning Board hold a public hearing on proposed zoning amendments that are to be brought to Town Meeting. In this case there is no action possible because there is no zoning amendment being proposed.

The vote was 7-0-0 to close the public hearing.

It was not yet time for the next public hearing so the Board proceeded to the ZSC report.

IV. ZONING

- A. Zoning Subcommittee Report – The Board proceeded to a report and discussion about the ZSC meeting which had been held earlier in the evening, which was focused on Inclusionary Zoning.

Mr. Stutsman stated that the ZSC had held a lengthy and substantive discussion about Inclusionary Zoning elements. Ms. Barrett had made a recommendation to include non-zoning incentives. She had been asked to analyze the effect of Inclusionary Zoning on three parcels in Amherst as well as to explain possible affordable housing tax incentive programs, including those in Truro and Provincetown.

Mr. Stutsman explained the programs in Truro and Provincetown. These programs exempt any affordable units from property taxes. Property owners provide evidence to the assessor that the units are rented to people with low incomes. Ms. Barrett will provide suggestions for how to incorporate tax incentives into a program to encourage affordable units in Amherst.

Mr. Webber observed that the model Inclusionary Elements were listed on a document distributed to the Planning Board members, but are not included in our current Bylaw language. Our goal is to increase the stock of affordable housing in town in a timely manner in the right place. A citizens' petition had been received that would amend the existing Article 15 to require affordable housing with any Special Permit, including those required for dimensional modifications.

Judi Barrett of RKG Associates, consultant to the Planning Board on issues related to Inclusionary Zoning, explained her analysis and stated that it was based on land values. She had created a model and applied it to three properties and made assumptions about affordability. She had concluded that in the center of town where land values are high there is a need for incentives. We should look at affordable housing as a program and Inclusionary Zoning is a piece of it. Inclusionary Zoning has not been very successful around the state, she noted.

Mr. Schreiber arrived (6:20 PM).

Ms. Barrett stated that in areas where land values are high developers lose their ability to recoup their investment, when required to include affordable housing. She described various options: the town can become a partner with the developer, can become a subsidizing agent, can "buy down" rents and can provide tax incentives.

Sarah la Cour, Executive Director of the BID, observed that it was good to have Ms. Barrett's knowledge and expertise and experience across the state to bear on our situation. We should look at the elements that will be most productive for Amherst.

John Fox of Precinct 10 noted that tax incentives are an inefficient way to encourage things that we want. Be careful not to waste tax payers' money. He supported the idea of a tax override for affordable housing.

Mr. Roznoy noted that the Planning Board cannot grant tax incentives. He requested that the Assessor attend a Planning Board meeting to discuss possible tax incentives.

Dave Ziomek, Director of Conservation and Development, stated that staff has been having discussions with the Town Manager and the Assessor about tax incentives. Mr. Ziomek will take information from tonight's discussion back to the Town Manager.

Mr. Stutsman would like the Planning Board to meet with the Select Board and to have a dialogue with the Select Board and the Assessor on tax incentives.

Mr. Tucker reviewed the list entitled “Inclusionary Elements Not in the Current Zoning Bylaw Language” that might be incorporated into an Inclusionary Zoning program. He noted that the issues related to standard subdivisions had not been resolved.

Helen Berg expressed concern about requiring only 10% affordable housing in mixed-use centers and stated that she would like to encourage more growth in businesses in these centers.

Mr. Crowner stated that the Planning Board would like to have Inclusionary Zoning but doesn't want to prevent growth in mixed-use centers.

There was discussion about the level of income that should be served by affordable housing. Ms. Barrett noted that for units set aside for those making less than 80% of Area Median Income, DHCD can sign off on deed restrictions for the units and the deed restrictions can be in perpetuity. For units above 80% DHCD doesn't sign off on them and they are not counted on the affordable housing inventory. Deed restrictions for units serving those making over 80% AMI can only last for 30 years.

Mr. Tucker noted that the AMI for a family of four at 80% is currently \$63,400. That includes the maximum yearly income from all sources.

There was further discussion about the Springfield Metropolitan Area Median Income. Ms. Barrett explained that the numbers are generated by HUD [U.S. Department of Housing and Urban Development]. The numbers are different depending on where you are in the country.

There was further discussion about the level of affordability that would be appropriate for Amherst.

Mr. Webber stated that units with affordability for those with 80% of AMI have the most subsidies available to them, but they don't benefit the middle market. He stated that any units that are built will ease the market.

Mr. Webber summarized the comments that were received at the forum on Inclusionary Zoning in July. Participants do not want to see a separation between rich and poor; they don't want affordable units to be put off until later, but rather built at the same time as the market rate units; in general they do not favor off-site affordable units.

Ms. Anderson talked about the example of affordable units that were built in Provincetown. They are the same in look and quality as other units in town, exactly the same as market-rate units.

Ms. Barrett stated that her philosophy about fees-in-lieu has changed over time. Sometimes a site cannot accommodate more housing and fees-in-lieu becomes a good alternative. It is important to work in concert with developers. Some towns require that a developer provide at least ½ of the affordable units on-site or off-site before resorting to fees-in-lieu for the remaining portion. However, towns need a plan for how to use the fees collected. It is necessary to have a fund and have someone or some group have fiduciary responsibility for the fund. She also noted that the cost to create a single-family rental unit is different from the cost to create a single-family home.

Ms. Berg asked about family housing versus individual housing. Mr. Tucker stated that the Inclusionary Zoning amendment that was under consideration did not specify a bedroom count.

Ms. Barrett cautioned that Amherst not get too specific about bedroom count in order to stay in compliance with Federal Fair Housing rules.

Mr. Tucker listed more elements of a good Inclusionary Zoning bylaw. The system needs to work for everyone and flexibility should be built into the system.

Joan Burgess of Mount Pleasant Street asked what happens if a developer provides an excess of affordable units. She also asked about the segregation of affordable units. Mr. Tucker stated that existing regulations prohibit the segregation of affordable units.

Mr. Stutsman stated that managing affordable housing credits, which might be offered to a developer for building an excess of affordable units, would be very complicated.

Ms. Barrett encouraged the town to lay out as many options as possible. The developers who are building more affordable units are the non-profits. The town should encourage public and non-profit organizations to create deeply affordable housing. For-profit developers will not create more affordable units than is required. Ms. Barrett encouraged the town to provide incentives for non-profits and public entities as well as for for-profits.

Mr. Roznoy noted that Habitat for Humanity builds only affordable units. If credits were offered they could build affordable units and sell their credits to a developer.

Ms. Barrett explained the importance of have a housing coordinator to monitor affordable units. Some towns have affordable units that haven't been monitored. These towns have had their 10% affordability status challenged because they have not been monitoring their affordable units. She noted that for small developers, affordability is intimidating. They need someone to help them to administer affordable housing. A lot of communities in eastern Massachusetts have a housing coordinator funded by CPA funds.

Maurianne Adams of Beston Street asked about a point at the bottom of page 3 of the "Inclusionary Elements" list, as follows:

"Consider whether to bring to Fall Special Town Meeting an interim amendment that modifies Section 15.10 so as to apply inclusionary requirements to any residential project involving a Special Permit, whether required for the use or development, or requested in order to modify dimensions, parking, etc."

She asked for the Planning Board's opinion on this option and noted that it would be valuable to have a forum to hear from the development and building community about what would work in Inclusionary Zoning.

Mr. Webber stated that the language in the existing Zoning Bylaw, Article 15, is ambiguous in Town Counsel's opinion. The Planning Board has been interpreting it one way and the petition article interprets it another way.

Mr. Crouner noted that the list of "Inclusionary Elements" includes all of the things that have been suggested or proposed.

Mr. Webber stated that he would welcome discussion with the business community about Inclusionary Zoning.

Vince O'Connor of Summer Street referred to the ZBA's recent Special Permit granted to Presidential Apartments. He stated that 57 [54] units were being added to the development and that 6 of the units would be affordable. The Housing Authority will help in selecting tenants. He suggested that the Planning Board look at Presidential as a model.

Mr. Roznoy suggested scheduling another public forum to discuss Inclusionary Zoning, to hear from developers and to get more input from the Assessor, the Town Manager, and others, with the topic to be non-zoning incentives for affordable housing. Other invitees

might include: the Building Commissioner, the Chamber of Commerce, the BID, the Select Board, CPAC, Housing and Sheltering Committee and the Finance Director.

Mr. Roznoy stated that the non-zoning approach should be looked at from two perspectives: 1) that of the Select Board and the Assessor and 2) that of the developers, the business community.

Ms. Ford suggested meeting with representatives of Valley CDC, HAP and other non-profits involved in developing affordable housing.

Mr. Stutsman stated that the first public forum on Inclusionary Zoning was a good one. One reason that Ms. Barrett was hired as a consultant is that she understands the needs of developers. He expressed concern about the level of expectation that was being directed towards Ms. Barrett's upcoming report.

Ms. Barrett clarified that she has worked in the past with municipalities but has not worked with developers. Developers can answer the question of what will work for them. Representatives of the town should meet with developers to understand their costs. She suggested that a couple of Planning Board members and members of the town staff meet with developers to determine what would work.

III. 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 and August 6, 2014)*

Request to withdraw without prejudice the Definitive Subdivision Plan application

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 agenda item regarding this application. He read the letter from the applicant's attorney requesting withdrawal without prejudice of the Definitive Subdivision Plan. He noted that the Planning Board's options were to reject the request to withdraw or approve the request to withdraw. The phrase "without prejudice" means that the applicants could submit the same plan in the future. The phrase "with prejudice" means that the applicants could not submit the same plan in the future [without a vote of the Planning Board to allow the resubmittal]. The zoning freeze will no longer be in effect. The applicants are forfeiting the fees paid to the town.

Ellen Pile of Bridge Street stated that she appreciated all of the time the town has taken on this application. She thanked staff members for the time and effort that they had expended. The staff was professional, attentive to detail and supportive, she said. This project was hard for the community and time consuming for everyone.

Mr. Crouner suggested coming up with a list of issues that need to be dealt with now that the project is not going forward. Board members began to develop a list as follows:

- Define what is student housing;
- Determine whether what was proposed was an appropriate development for that area or whether it was something else;
- Resolve the amenity lot issue;
- Fix the common land standards in Article 4 of the Zoning Bylaw;
- Resolve these issues before the next development such as this comes forward;

Resolve whether non-owner-occupied duplexes are approved by the Definitive Subdivision Plan and Cluster Subdivision Site Plan Review or whether they need a Special Permit;

Define a “social dormitory or similar use”;

Mr. Stutsman MOVED to close the public hearing and to grant the request to withdraw without prejudice the Definitive Subdivision Plan application for The Retreat. Mr. Carson seconded.

Mr. Webber acknowledged that the issues listed clearly brought out flaws or ambiguities in the Bylaw.

The vote was 8-0-0.

Mr. Schreiber left the meeting (8:05 PM).

IV. ZONING (*continued*)

A. Zoning Subcommittee Report – The Board continued to list issues about the Zoning Bylaw and Subdivision Regulations that need to be addressed as a result of what was learned during review of The Retreat.

- Identify what student housing is and where it is appropriate;
- Evaluate and possibly limit rental by the bedroom;
- Evaluate the ratio of housing units or bedrooms to parking spaces;
- Consider changes to Section 4.334 of the Zoning Bylaw; this section lists the kinds of uses qualify for common land use in cluster subdivisions; the section should be clarified so as not to include significant structures that involve covering the land
- Define a cul-de-sac and make it clear that it doesn’t mean a loop road;
- Draft better regulations about developing on steep slopes;
- Clarify the requirements for a Yield Plan.

There was discussion about what happens with a property that lies in two zoning districts. Mr. Tucker stated that whatever zoning district is on the spot where the development is proposed is the zoning that applies. In this case, although the frontage on the property is in one zoning district [R-N], the R-O zoning district, where the development was proposed to occur, is set back from the road by 200 feet. Zoning on this site may need to change. Cushman Village needs to reconsider what it wants to be. The Village Center needs a plan.

Ms. Ford stated that the issue of context needs to be considered when zoning districts are crafted. Each zoning district needs to be looked at and the town needs to imagine what could go in a particular district. The intent for one zoning district is very different from the intent for another zoning district.

Mr. Stutsman stated that in looking at the issue of student housing and social dormitories the town needs to be cautious about looking at the type of people who will occupy a space. We need to consider what the word “student” means.

Ms. Brestrup noted that changes need to be made to both the Zoning Bylaw and the Subdivision Regulations. More design requirements should be included in the Subdivision Regulations.

Requirements that could be better addressed in both the Zoning Bylaw and Subdivision Regulations include:

- Allowed steepness of slopes in general;

- Height and length of retaining walls;
- Length of steepness slopes on roadways;
- Footnote “k” in Table 3; there are currently no criteria to guide the Planning Board in granting further modifications to dimensional requirements for Cluster Subdivisions;

Projects should be in keeping with topography and the environment. How can we modify our Bylaw and Subdivision Regulations to give us projects that we like and want and that we feel good about?

While the Zoning Bylaw can only be changed by a vote of Town Meeting, the Subdivision Regulations can be changed by the Planning Board after a public hearing.

Mr. Webber stated that the design requirements in the Subdivision Regulations are lacking. There is too much discretion. The regulations are missing certain things that are included in the subdivision regulations of other towns.

Mr. Carson stated that the Board needs input from the DPW regarding steep slopes and retaining walls. What the developer was requesting seemed to be beyond what the town would want if the town were required to maintain the streets in the future. We need to ask what the DPW would find reasonable for design criteria if the town has to maintain what is built.

Mr. Roznoy stated that the depth and slope of the sewer system was an issue.

Ms. Pile stated that there needs to be a discussion of the R-F (Fraternity Residence) zoning district and definitions for dormitories and student housing. Residents of Cushman have done a lot of research on student housing, including its financing. Amherst is a targeted college town and is on a list of places that developers are considering based on UMass’s statistics. It is profitable for them to invest in student housing. Purpose-built student housing is not the same as Olympia Place. There is a pattern of use that is not the same as that of Pufton Village. These purpose-built developments compete with each other to get “the best buzz” among students. Zoning regulations can address the patterns of use, she said. Ms. Pile offered to participate, with the Planning Board, in discussions about student housing.

Chris Pile of 110 Bridge Street stated that the Yield Plan was a crucial element in evaluating The Retreat. Having the Yield Plan fit the topography would be important. Tightening up on the regulations regarding the building circles in a Cluster Subdivision would also be useful.

Mr. Webber listed “rent by the bedroom” as an important issue for the general rental registration bylaw. A clearer definition of rooming houses could be added to the Zoning Bylaw.

- B.** Public Hearing & Outreach Schedule – The Board discussed a schedule for public hearings on the two proposed zoning amendments: Special Districts Reorganization and the Petition Article on Inclusionary Zoning. Mr. Crouner noted that the ZSC had talked about outreach for a completed Inclusionary Zoning article but there is no need for that outreach now.
- C.** Public Comment – see above

V. OLD BUSINESS

- A.** Signing of Decisions – The Board signed the following decisions:
SPR2014-00019 – Archipelago Investments – Olympia Place – 57 Olympia Drive

SPR2014-00020 – Survival Center – 138 Sunderland Road

SPR2015-00002 – Emily Dickinson Museum – 280 Main Street

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:

The Board received copies of the CPTC [Citizen Planner Training Collaborative] brochure of training sessions offered for the fall. The Board also received copies from an excerpt from a book entitled Walkable City: How Downtown Can Save America One Step at a Time by Jeff Speck. Mr. Carson had received permission from the author to provide these copies. Mr. Webber thanked him and encouraged members of the Board to read the excerpt which presents an innovative approach to the issue of parking.

Ms. Ford announced that the October 1st Planning Board meeting would be her last meeting. Mr. Webber thanked Ms. Ford for her service. Members of the Board said that they would miss Ms. Ford and they offered their best wishes for her in the future.

VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VIII. UPCOMING ZBA APPLICATIONS – The Board declined to review the following ZBA applications:

ZBA FY2015-00007 – Knight Properties, LLC - For a Special Permit to extend and alter a pre-existing non-conforming three family dwelling by formalizing an existing fourth unit, under Section 9.22 of the Zoning Bylaw, at 33 Phillips Street (Map 11A, Parcel 37, R-G Zoning District)

IX. UPCOMING SPP/SPR/SUB APPLICATIONS – The Board will be holding public hearings on the following applications on October 1, 2014:

SPR2015-00004 – First Baptist Church – 434 North Pleasant Street – Request Site Plan Review approval to install temporary units at the rear of the parking lot to be used by Craig’s Place shelter to feed the homeless

SPR2015-00005 – Amherst College – 100 Military Road – Request Site Plan Review approval to replace boiler for the Bunker

SPR2015-00003 & SPP2015-00001 – Joint Public Hearing – Archipelago Investments LLC – 1 East Pleasant Street (the Carriage Shops) – Request Site Plan Review approval for a mixed-use building containing dwelling units in combination with ground floor retail/commercial uses and parking, and associated Special Permit to modify maximum building coverage (70 to 80%) and maximum height (55’ to 60’)

The Board discussed the schedule for upcoming meetings and which Board members would be able to attend.

Board members discussed putting online the information about the Carriage Shops applications. Staff will post this information online in the next few days and send announcements to the Planning Board members and to the ZSC distribution list.

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Bruce Carson – no report

Community Preservation Act Committee – Sandra Anderson reported that CPAC would be meeting on September 30th.

Agricultural Commission – Stephen Schreiber – no report

Transportation Plan Task Force – Richard Roznoy and Rob Crowner – Mr. Roznoy reported that the Transportation Plan is now underway and that the TPTF has been holding regular meetings with consultants, Nelson\Nygaard, by telephone. Transportation Days will be held on October 17 and 18, to coincide with the Apple Harvest Festival. Transportation Days will be an outreach effort by the TPTF and Nelson\Nygaard to learn about existing conditions in town and what people would like to see included in the Transportation Plan.

Amherst Redevelopment Authority – vacant

Design Review Board – Kathleen Ford reported that the DRB had met recently and had reviewed signs for Mom’s Dumpling & Noodle Restaurant, Crazy Noodle, Judie’s and a banner for The Mercantile.

Housing and Sheltering Committee – Greg Stutsman – no report

Town Gown Study Steering Committee – David Webber and Greg Stutsman – Mr. Stutsman reported that the TGSSC had met on September 4th without the consultant to discuss the report and next steps. There will be one more meeting with the consultant.

Master Plan Implementation Committee – vacant

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

XI. REPORT OF THE CHAIR – Mr. Webber thanked everyone for their hard work and acknowledged that there had been a good discussion about Inclusionary Zoning that evening. He also encouraged Board members to attend the fall courses offered by the CPTC.

XII. REPORT OF STAFF – Mr. Tucker had reported earlier in the evening that there was an upcoming vote on independence for Scotland [scheduled for September 18th] and that the three-day New Hampshire Highland Games would be held in Lincoln, New Hampshire, over the weekend.

XIII. ADJOURNMENT

The meeting was adjourned at 8:52 PM.

Respectfully submitted: Approved:

Christine M. Brestrup
Senior Planner

David Webber, Chair DATE: _____