

AMHERST PLANNING BOARD
Wednesday, March 2, 2016 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Stephen Schreiber, Chair, Rob Crouner, Bruce Carson, Richard Roznoy, Greg Stutsman and Christine Gray-Mullen

ABSENT: Pari Riahi

STAFF: Christine Brestrup, Interim Planning Director

Mr. Schreiber opened the meeting at 7:00 PM.

I. MINUTES

Mr. Roznoy MOVED to approve the Minutes of February 17, 2016. Mr. Stutsman seconded and the vote was 6-0-0.

II. ZONING

- A.** Zoning Subcommittee Report – Mr. Crouner gave a brief report about the Zoning Subcommittee meeting of March 2nd. He noted that the ZSC may need to add an article to sort out a potential conflict between medical marijuana facilities and residential uses. If a medical marijuana facility is located on a property, it may preclude a residential use from later being developed on a nearby property (within 300 feet).

The ZSC is also working on standards and conditions for mixed-use buildings. There is a general consensus about the goals, but the exact language is at issue. The ZSC is working on the appropriate combination of residential and non-residential uses in a mixed-use building. The public hearing is scheduled for March 16th.

- B.** Public Comment Period – none

V. OLD BUSINESS

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

It was not yet time for the first public hearing, so the Board turned to Old Business.

SPR2015-00016 – Auto Zone – 373 Northampton Road

Kevin O’Connell, contractor for the Auto Zone, presented the issue. The contractor for Auto Zone, which is being constructed at 373 Northampton Road, has run into a problem with two existing trees, located between the Auto Zone parking lot and the access drive to the Big Y Plaza. During grading and construction of the parking lot the roots of two existing trees have been significantly damaged. The trees appear to be a large maple and an old cherry or other small flowering tree. The extent of the damage is such that the trees are not expected to survive. Mr. O’Connell proposed that, rather than letting them die in place, that the contractor replace the trees with two trees of similar species, in almost the same location as the existing trees.

Mr. Carson asked if the Tree Warden had been consulted. The trees are not in or near the town right of way, so the Tree Warden has not been consulted. Mr. Schreiber recommended that a landscape architect or landscape contractor could decide the best species and an appropriate size tree to replace the trees that are being lost.

Mr. Crouner MOVED that the Board approve the removal of the trees and replacement with trees of similar value and that the choice of tree be reviewed and approved by staff prior to installation. Mr. Stutsman seconded and the vote was 6-0-0.

III. PUBLIC HEARINGS – ZONING AMENDMENTS

A-05-16 Zoning – University Drive Rezoning - OP to B-L (Planning Board)

To see if the Town will amend the Official Zoning Map to change the zoning designation for Parcel 13B-33 on University Drive from Office Park (OP) to Limited Business (B-L).

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

Mr. Crouner presented the ZSC report. The ZSC has been considering this change for a while. The change consists of rezoning the parcel along University Drive known as Map 13B, Parcel 33, from Office Park (OP) to Limited Business (B-L). This change was attempted several years ago. At that time Town Meeting did not approve the change. The ZSC has been approached by a potential owner. The proposed zoning change is in keeping with the general goals of the Planning Board and the Planning Board agreed to sponsor the zoning amendment.

Mr. Crouner explained that most of the property along University Drive is already zoned B-L, including all of the west side and a portion of the east side at the corner of Amity Street and University Drive. The property is not developed. Office Park zoning appears to be a limiting factor since it doesn't allow the wide range of uses that is allowed by Limited Business.

The Planning Board supported this change in the past. The ZSC and Planning Board have received a presentation about the proposed use by the developers who are proposing the zone change. In general the ZSC supports the proposed use. The ZSC recommends supporting this zoning amendment to change the zoning of the property to something more appropriate. The ZSC is aware of concerns on the part of some members of the public about this change. One of the concerns is related to stormwater drainage in the area. There is a potential solution to the drainage problem, which should be a condition of any permit that allows development of the property.

The use that is being proposed is a purely residential use. There is concern that the zoning change will mean that there is less land available for commercial use in town. The zoning change opens up a wide range of retail and commercial uses and auto related uses. Any of these uses in the abstract is appropriate. There is a consensus among ZSC members to recommend this zoning amendment to Town Meeting.

Tom Reidy, an attorney with Bacon Wilson, Kirsten Brown, a developer with North Star and Bob Clark, an engineer with Allen & Major, presented information on the proposed development. Mr. Reidy noted that there is a 16,000 SF office building to the south of the property. He noted that the property is surrounded by the open space set aside for the Charles Lane development and The Arbors. Mr. Reidy noted that there is a wide variety of uses both at Newmarket Center, north of the property, and across the street on the other side of University Drive.

The property proposed for rezoning is 5.8 acres in size, 2.3 acres of which is undevelopable wetlands. His clients had the wetlands flagged and surveyed and submitted an ANRAD (Abbreviated Notice of Resource Area Delineation). After a third party review and adjustments to the wetland edges, the Conservation Commission issued an order agreeing with the wetland delineation. That leaves 3.5 acres of developable land. There are many constraints on this property for commercial use.

During the 2010 proposed rezoning there was no wetland delineation and there had been concerns expressed about drainage issues which the potential developer did not address at that time.

The maximum lot coverage and building coverage are greater with B-L zoning than with OP zoning. However, given the wetland constraints the proposed development would cover only 40% of the site with lot coverage and 10% of the site with building coverage, which is well within the maximum allowances for the OP zoning district.

Mr. Reidy noted that University Drive does flood. Mr. Clark has spoken with Jason Skeels, Town Engineer about the drainage system. If the rezoning is successful, the developers will study the existing drainage issues. They will manage the runoff produced by the proposed development and may offer to mitigate the existing problems.

Mr. Reidy showed a conceptual plan with 29 townhouses and 58 parking spaces. He also showed a perspective drawing. Mr. Reidy noted that this property currently pays only \$4,600 in taxes because it is in Chapter 61A. If the rezoning is successful the owner will submit a Notice of Intent to sell the property and to change the use, starting the process to remove the property from Chapter 61A.

Mr. Reidy stated that his client is willing to mitigate the negative effects of developing farmland by contributing to a fund to purchase an APR on land in another part of town. There are approximately 3 acres of usable farmland on the site.

The proposed development would require the provision of affordable units because a Special Permit is required to develop townhouses. All of the uses allowed in the Office Park zoning district are allowed in the Limited Business zoning district.

Mr. Reidy noted that University Drive is a main thoroughfare into the main part of downtown Amherst from Route 9.

Mr. Reidy pointed out the edges of the wetlands on the concept plan and described how the wetlands were delineated and he described the ANRAD process.

Mr. Roznoy asked to hear from the engineer, Mr. Clark, about the issues of flooding. He noted that comments from a former Town Engineer had provided a “daunting scenario” at Town Meeting.

Mr. Clark reported that he had spoken with Jason Skeels, Town Engineer, about the drainage issues on University Drive. In big storm events University Drive tends to flood. There is a bottleneck in the pipe sizing, where a pipe goes from a larger diameter to a smaller diameter. There is also a culvert that may be a problem. Mr. Clark stated that if the property is rezoned and the proposed project moves ahead, his firm will study and model the stormwater runoff situation with a program known as HydroCAD to determine what might be done to alleviate the problems.

Mr. Roznoy noted that the town is only considering a zone change at this time and he asked what will happen if the property is rezoned. Mr. Stutsman asked for a rough plan for mitigation of the drainage problems.

Mr. Clark stated that one solution would include increasing the pipe size of the undersized pipe, looking at the existing box culvert and also looking at secondary discharge points. He noted that any proposal to fix the problem would be reviewed by the Town Engineer.

Mr. Crowner stated that he had voted against the rezoning last time because of concerns about unknowns regarding wetlands and drainage issues. He had supported the underlying aim of the zone change but didn't have the answers to questions about wetlands and drainage issues. He has changed his position. The proponent of the zone change has taken the time to delineate the wetland edges and has examined the drainage issue with the Town Engineer. He is confident that they [the developer and Town Engineer] can figure out a solution.

Mr. Stutsman noted that any proposed project would be required to address drainage issues. Both the Planning Board and the Zoning Board of Appeals have criteria that they must consider when reviewing a project. Both sets of criteria include stormwater management as an item that needs to be

adequately addressed. Mr. Carson noted that the issue of stormwater management will be the same as it would be under the existing zoning, for projects that are allowed in the Office Park zoning district.

Steve Kravitz, former owner of the Amherst Center for Extended Care and current owner of The Arbors, spoke in opposition to the rezoning:

- The proposed use is incompatible with surrounding uses; this may become student housing, which is incompatible with the two existing residential buildings serving elders;
- Traffic is an issue on University Drive; elders cross the road to go shopping; the crosswalk is a problem;
- The town needs an understanding of the possible uses; the proponents should submit greater detail about their proposed project;
- The piping under University Drive is in a state of disrepair; broken pipes between Blue Hills Road and University Drive were never fixed.

The Board had received copies of a map of the area showing distances from proposed medical marijuana facilities to the property that is proposed for rezoning. Ms. Brestrup explained that the Zoning Bylaw prohibits a medical marijuana facility from being located within 300 feet of a residential building.

Anne Marley, owner of the building at 100 University Drive, spoke in opposition to the proposed rezoning and made the following comments:

- She referred to the Minority Planning Board Report to Town Meeting from several years ago;
- She asserted that the Town Engineer, the Wetlands Administrator and the Building Commissioner all agreed that there is a drainage problem in the vicinity of University Drive;
- She stated that the Office Park (OP) zoning district limits a building's footprint more than the Limited Business (B-L) zoning district does;
- The property proposed for rezoning was once owned by Lincoln Pulp and Paper, in common with 100 University Drive; Mohammad Idrees bought the property in 2003 for \$213,000;
- She is opposed to the zone change because it is not good for the neighborhood or the town;
- There is no proposal as to how to deal with the stormwater;
- What has changed since the Minority Report was written?
- She questioned the mix of uses that are allowed by Limited Business.

Mr. Schreiber reminded the Planning Board and the public that the current development proposal is not necessarily what will be proposed for development on the site.

Maurianne Adams of Beston Street referred to the Minority Report from 2010, stating that the situation as described is serious. The town needs to deal with the drainage problem before rezoning the property. Rezoning has the potential to make a bad situation worse. She is concerned that if the property is rezoned we will need to figure out a solution to the drainage problems as we go.

Mr. Schreiber noted that the parcel is developable as it is, without rezoning. The uses allowed in the OP zoning district are also allowed in the B-L zoning district.

Ms. Adams asked about the proponents plan to ensure that there is zero net increase in runoff from the property.

Mr. Roznoy reminded the Board and the public that the current proposal is for a zone change. If the project comes for Site Plan Review with the Planning Board it will need to address the Site Plan Review Criteria, listed in Section 11.24 of the Zoning Bylaw, some of which refer directly to drainage and flooding. The Planning Board is required to apply these criteria.

Mr. Stutsman agreed that drainage issues must be addressed for any project. He suggested asking the Town Engineer to speak with Town Meeting and the Planning Board about drainage issues on University Drive.

Mr. Crouner MOVED to close the public hearing and that the Planning Board recommend that the proposed rezoning of this parcel be adopted by Town Meeting. Mr. Roznoy seconded.

Roula Kofides spoke in opposition to the rezoning. Her family owns the property at 55 University Drive. She is concerned that the rezoning will affect the types of tenants that she can have in her building.

The vote was 6-0-0 to recommend the zoning amendment to Town Meeting.

IV. PUBLIC HEARINGS – SITE PLAN REVIEW

SPR2016-00009 – Raymond Goulet RGC LLC – 362 Henry Street

Request Site Plan Review approval to construct a new five-bedroom single-family home to be operated by ServiceNet as a group home for five residents (Map 9A/79, R-O zoning district)

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

Ray Goulet, contractor for the project, presented the application. He described the project. He stated that the exterior lights on the site would all be downlights and would not shine onto adjacent properties. They are meant to light the walkways and parking area. In addition to the plants shown along the front of the house there will be plants installed to screen the air conditioner and generator on the south side of the building. The generator will run one time per week for 20 minutes to make sure that the generator remains in working order.

Mr. Schreiber reviewed the Site Visit Report and the Development Application Report.

Three Planning Board members had attended the Site Visit. Mr. Schreiber read the questions that were asked at the site visit.

- 1) How will the site be managed once construction is complete?
- 2) Will there be entries/exits to the outside from each bedroom?
- 3) How many of the trees along the road will be cut in order to construct the septic system?
- 4) What type of exterior lighting will be used?

Board members noted that the Management Plan that was submitted with the application appeared to be somewhat “thin”.

Mr. Crouner acknowledged that the applicant can choose to site a facility such as this in any part of town but it would be better to site it closer to the center of town and on a bus route.

Scott Tundermann, owner of the property to the west (Parcel 6C-9), offered comments and questions. He recently purchased a 19 acre parcel of land behind the property at 362 Henry Street. He expressed concerns about how heavily the property would be used. He asked “what does the ServiceNet program do?” He expressed concerns about lights in this otherwise fairly dark part of town.

Chris McDowell of CIL [Corporation for Independent Living] Realty of Massachusetts, owner of 362 Henry Street, stated that his corporation has bought the land and will develop it for ServiceNet. It will be operated as a group home. It will have 2 to 3 staff members on site 24 hours a day. It will be constructed as a single-family home. The exterior lights will be

spotlights or floodlights with motion sensors that will turn on when a vehicle goes in or out of the property. The lights will be downcast.

CIL Realty purchases the land and builds the house. CIL uses a “triple net lease” to lease the property to ServiceNet for a period of 25 years. There are 4 or 5 other houses in Amherst that are operated this way. There have been no problems or issues with any of them.

Mr. Roznoy asked how often people will come and go from this house.

Mr. McDowell said that it is likely that the residents of this group home will be elderly people coming from another home in Easthampton. There will likely be 2 staff people at a time on site. The staff will rotate through 3 shifts per day. The residents will not have automobiles. There will be one person per bedroom. Staff members will not reside on site.

Ms. Gray-Mullen asked about the number of parking spaces.

Mr. McDowell explained that because of shift changes there will be a need for parking spaces for two shifts at the same time. There is also a need for a space for an accessible van and for spaces for visiting family members. The site needs at least 6 parking spaces. Seven (7) parking spaces are shown on the plan.

Diane Kelly of 339 Henry Street asked about whether this area is appropriate for this type of home and asked for more information about who would be living in the house.

Ms. Brestrup explained that residents of a group home have certain privacy rights under state law that prevent the town from delving too deeply into the internal management of the facility and information about who would live here.

Mr. Stutsman agreed that the facility could be more centrally located. He noted that there is one located on West Street, towards Hampshire College.

Board members asked whether the Fire Department had commented on this application. The house will be sprinklered and therefore the Fire Department will not have concerns.

Jess Ortiz of 365 Henry Street noted that there is an entrance/exit from each bedroom and asked if the residents will be using these separate entrances and exits or whether they will typically use the main front and rear doors. She also asked why the septic system is sized for 10 people. Will this allow ServiceNet to add people to the group home in the future?

Keith Terry of Sherman and Frydryck stated that the septic system is sized larger than for a typical 5 bedroom home because of the particular use. It is not large enough to add residents to the group home.

Mr. McDowell stated that this will be a group home licensed for 5 residents. The building needs an exit door off each bedroom to allow fast evacuation in an emergency. Some residents may need to be wheeled out on their beds. Typically the residents will only use the front and back doors.

The generator will be run by propane, from a tank buried on-site. The exterior lights will be downlights. There will be a light at each door off each bedroom and on the back side of the house to light the parking lot. The lights will be residential style, with two heads each. Mr. Goulet presented an example of the light fixtures, which have shields to keep them from shining up. There will also be carriage lights on the exterior walls.

Mr. Carson asked about landscaping around the parking lot, since it will be visible from neighbors properties. Mr. McDowell stated that there was no landscaping planned for the parking lot because it will be behind the house. Board members agreed that a condition of approval would require landscaping around the parking area.

Mrs. Whitmore of 379 Henry Street asked if Henry Street is zoned for business. She asserted that the use of this home as a group home is a business use.

Board members informed her that the group home is a non-profit educational use and is allowed in the R-O zoning district by Site Plan Review.

Mrs. Whitmore asserted that it is wrong to allow businesses to be established in this district. She asked about the number of people who would be housed.

Mr. Schreiber stated that there would be 5 residents plus staff.

Ms. Brestrup explained that the Building Commissioner has recently begun to require group homes to go through the Site Plan Review process. This is the first such home that has gone through this process. Therefore, the Building Commissioner has granted a Building Permit for the foundation only to allow the contractor to construct a foundation for the building, so that he wouldn't be delayed too long while waiting for Site Plan Review approval. Meanwhile, the Planning Board has an opportunity to review other aspects of the site design.

Mr. Crouner questioned which section of the Zoning Bylaw this project should be reviewed under – Section 3.330.0, Non-profit educational and religious uses or Section 3.336.1, Philanthropic or charitable medical or residential facility.

Since both uses are allowed by Site Plan Review in the R-O zoning district, the distinction was considered not to be a crucial distinction, except that it may set a precedent. Ms. Brestrup will confirm the Section of the Bylaw with the Building Commissioner.

Board members discussed waivers and conditions.

Waivers

- Sign Plan
- Traffic Impact Statement

Conditions

1. Exterior lighting shall be Dark Sky compliant and/or downcast and shall not shine onto adjacent properties or streets;
2. The building and site improvements shall be constructed in accordance with the approved Site Plan;
3. A revised Landscape Plan shall be submitted to the Planning Board for review and approval showing landscape screening around the parking area;
4. 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;
5. One paper copy of the final revised plans and one electronic copy shall be submitted to the Planning Department.

Mr. Stutsman MOVED to close the public hearing and to approve the Site Plan Review application with conditions as discussed. Mr. Carson seconded. Mr. Roznoy proposed amending the motion to include waivers for the Sign Plan and the Traffic Impact Statement. Mr. Stutsman accepted the amendment and Mr. Carson seconded the amended motion. The vote was 6-0-0.

SPR2016-00010 – Ronald LaVerdiere – 417 West Street

Request Site Plan Review approval to add two apartments to the previously-approved mixed-use building (Map 19D/2, B-VC zoning district)

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

Ron LaVerdiere, the applicant, presented the application. He would like to add two apartments to the mixed-use building at 417 West Street. Mr. LaVerdiere explained that the building was approved for 17 dwelling units and about 10,000 square feet of office space. At the time of the previous Site Plan Review he had asked that the parking be limited to 95 parking spaces, to share with the other mixed-use building on the property. This number is slightly reduced from the requirement for the two uses – that of office space and dwelling units. Mr. LaVerdiere described what he called “cross parking”, or parking shared by office tenants and residential tenants. The shared parking on this site works because the office tenants are one-site in the daytime and the residential tenants are on-site in the evening and at night.

The existing building at 417 West Street contains 17 apartments, as follows:

- 14 – one bedroom apartments
- 2 – two bedroom apartments
- 1 – one bedroom apartment in the basement (or ground floor)

The mixed-use building at 433 West Street, which shares parking with 417 West Street, contains 3 apartments in addition to office space.

Mr. LaVerdiere stated that he and his management staff took 30 parking counts in the parking lot over a period of 60 days to find the average number of parking spaces that were being used and the average number of spaces that were empty. They did the counts at different times of the day:

- 9:00 a.m.
- 11:00 a.m.
- 1:00 p.m.
- 3:00 p.m.

They found that the minimum number of spaces that were empty at any one time was 24 empty spaces. Sometimes there were as many as 55 empty spaces.

The conclusion offered by Mr. LaVerdiere is that the parking numbers on the site work well and that adding two more one-bedroom apartments would not overtax the parking on-site. The parking is “underutilized” he said.

Mr. LaVerdiere stated that the total number of apartments on site now is 20 – 17 in the 417 West Street building and 3 in the 433 West Street building. The 21st apartment needs to be handicapped accessible, according to the Building Code. Therefore he is asking to add one accessible apartment and one typical apartment. He has also added a handicapped accessible parking space and an accessible walkway from the HC parking space to the outside door of the accessible unit. The two apartments that are proposed to be added are on the ground floor or basement level. The handicapped apartment will be the only apartment to have direct outside access.

Mr. LaVerdiere stated that the “cross parking” concept works better than anticipated for the concept of a mixed-use building.

Mr. Schreiber acknowledged receipt of a Site Visit Report.

Mr. Crouner stated that a question that came up during the site visit was “what are these two units replacing?” They are replacing storage units and adding value to the building.

Ms. Brestrup recommended that the Board consider waiving the parking requirement for the two additional dwelling units. The Zoning Bylaw contains a requirement for two parking spaces per

dwelling unit. The Board is authorized to waive the parking requirement, under Section 7.9 of the Zoning Bylaw, for compelling reasons of safety, aesthetics or site design.

There were no changes made to the outside of the building, other than adding a handicapped parking space and a walkway to the handicapped accessible apartment.

There was no public comment.

The Board discussed waivers and conditions.

Waivers

- Landscape Plan
- Lighting Plan
- Soil Erosion Plan
- Traffic Impact Statement
- Waiver under Section 7.9 of the Zoning Bylaw from the requirement for four parking spaces for the two additional apartments (2 spaces per dwelling unit = 4 parking spaces)

Conditions

- None

Mr. Crowner MOVED to close the public hearing, to approve the Site Plan Review application, to waive the additional parking requirement, and to find that the applicant meets all relevant criteria of Section 11.24 of the Zoning Bylaw. Mr. Carson seconded and the vote was 6-0-0.

V. OLD BUSINESS

A. Signing of Decision

SPR2016-00008 – Hampshire College – 1095 West Street – Solar installation – the Board signed the decision.

B. Topics not reasonably anticipated 48 hours prior to the meeting – Mr. Crowner reported that the Zoning Subcommittee had talked about adding an item to the Warrant for Town Meeting. It would add the word “existing” to the Medical Marijuana Zoning Bylaw, referring to residential buildings so that the 300 buffer between medical marijuana facilities and residential uses would only apply if there were an existing residential use. There was further discussion about this topic.

Mr. Schreiber stated his opinion that a prohibition against a residential use coming onto a site after a medical marijuana facility was located nearby would constitute a taking without compensation.

Mr. Stutsman wondered if locating a residential use within 300 feet of a medical marijuana use would then make the medical marijuana use non-conforming.

Mr. Crowner stated that the Board could wait until the fall to bring this change to Town Meeting.

The Board members agreed that the requirements of the Zoning Bylaw with respect to medical marijuana uses apply only to those uses and not to the other uses listed in the use chart.

There was consensus among Board members to add the word “existing” to the medical marijuana section of the Bylaw so that the 300 foot buffer zone would only apply to existing residential uses.

VI. NEW BUSINESS

- A. CPTC Brochure – Board members acknowledged receipt of the brochure.
- B. Topics not reasonably anticipated 48 hours prior to the meeting – none

VII. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VIII. UPCOMING ZBA APPLICATIONS – none

IX. UPCOMING SPP/SPR/SUB APPLICATIONS – Ms. Brestrup reported on upcoming Site Plan Review applications.

X. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Bruce Carson – no report

Community Preservation Act Committee – Pari Riahi – no report

Agricultural Commission – Stephen Schreiber – no report

Transportation Task Force – Christine Gray-Mullen and Rob Crowner – The next meeting of the TTF is March 3.

Design Review Board – vacant – no report

Housing and Sheltering Committee – Greg Stutsman – no report

Zoning Subcommittee – Rob Crowner, Bruce Carson and Greg Stutsman – report previously given

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman – The subcommittees are continuing to meet. The Culture, Arts and Living Subcommittee is proposing an arts zone in the Gateway area of town, between the University and the downtown.

XII. REPORT OF THE CHAIR – Mr. Schreiber reported on the new design building that is being built at UMass on North Pleasant Street. He encouraged Board members to go by and look at it and he promised a tour of the building for Board members.

XIII. REPORT OF STAFF – none

XIV. ADJOURNMENT

The meeting was adjourned at 9:18 PM.

Respectfully submitted: Approved:

Christine M. Brestrup
Interim Planning Director

Stephen Schreiber, Chair

DATE: _____