Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Barry Roberts

Date application filed with the Town Clerk: April 29, 2005

Nature of request: Petitioner seeks a Special Permit, under Section 9 and Section 3.322 of the Zoning Bylaw, to convert the existing funeral home on the premises to two (2) dwelling units and to construct an additional four (4) townhouse units attached to the existing funeral home, for a total of 6 dwelling units at 151 Amity Street. (During the public hearing this request was modified to include only three (3) additional townhouse units, for a total of 5 dwelling units.)

Location of property: 151 Amity Street, (Map 14A, Parcel 25, R-G Zone)

Legal notice: Published in the Daily Hampshire Gazette on May 25 and June 1, 2005, and sent to abutters on May 24, 2005.

Board members: Zina Tillona, Ted Rising and Joan Golowich

Submissions:
Prior to the public hearing which was scheduled for June 9, 2005, the following documents were submitted:

By the applicant
- A set of plans prepared by William A. Canon, Landscape Architect, entitled "Existing Conditions Plan – Sheet L-101", "Site Plan – Sheet L-102", "Site Landscaping Improvements – Sheet L-103", dated 4/27/05.
- A Management Plan for the proposed townhouse units at 151 Amity Street

By the Planning Department
- A Memorandum dated June 2, 2005, addressing issues of zoning, dimensional requirements, parking, driveways, landscape planting, lighting, historical significance, management, Planning Board review and phased growth.
- Historical information on the existing Funeral Home building, recorded by the Amherst Historical Commission and the Pioneer Valley Planning Commission

By the Planning Board
- A Memorandum dated June 2, 2005, reporting on its meeting of June 1, 2005, and containing recommendations to the Zoning Board of Appeals for consideration when reviewing the application.

By the Town Engineer, Jason Skeels
- A letter dated June 20, 2005, outlining information about grading and drainage that needs to be submitted to Mr. Skeels in order for him to complete his review of the application.

By Susan Rupp, an abutter, 157 Lincoln Avenue

- An email, dated June 2, 2005, expressing concerns about the size of the proposed development and the plans to alter the existing historic structure.

Prior to and during the continuation of the public hearing on June 20, 2005, the following documents were submitted:

By the applicant

- A revised "Site Plan – L-102", prepared by William A. Canon, dated 5/17/05
- Sketch Floor Plans of the individual units, entitled "Basement Plan", "First Floor Plan", "Second Floor Plan", and "Third Floor Plan", prepared by Kuhn Riddle Architects, undated
- Elevations of the existing building and proposed addition, prepared by Kuhn Riddle Architects, undated
- A "Lighting Plan – Sheet L-104", prepared by William A. Canon, dated 6/20/05
- Catalog information about proposed site lighting
- A letter from Attorney Peter MacConnell, dated June 20, 2005, requesting a waiver from the driveway width requirement, as allowed under Section 7.90 of the Zoning Bylaw
- A list provided by Attorney Peter MacConnell, addressing the criteria contained in Section 10.38, Specific Findings, of the Zoning Bylaw

By the Historical Commission

- A note from the Historical Commission to the Zoning Board of Appeals, summarizing its recommendations developed during the Commission's meeting on June 20, 2005, concerning the proposed application

By Sandy Muspratt, an abutter, 38 North Prospect Street

- A letter dated June 11, 2005
- A 15 page document and accompanying CD expressing opposition to the application, outlining information about the existing neighborhood, the expected impacts of the proposed project, zoning requirements and parking.

Site Visit: June 7, 2005

Board members were met by the applicant, Barry Roberts, and his attorney, Peter MacConnell. They viewed the following site features:

- The existing historic funeral home building
- The location of the property on a heavily-traveled road
- The proximity of the site to downtown Amherst
- The adjacent properties and houses, particularly the small, historic white house located immediately to the west of the funeral home driveway
- The existing driveway, parking area and walkway
- The mature vegetation along the property boundaries and in the middle of the site, consisting primarily of pines and hemlocks, maples and oaks, one large birch and a clump of cedars.
- The topography of the site which slopes from east to west and from south to north.

Public Hearing: June 9, 2005.
Due to the lack of a quorum, the public hearing was opened, no testimony was taken and the hearing was continued to June 20, 2005, at 7:30 p.m.

Continued Public Hearing June 20, 2005
At the continued public hearing the applicant, Mr. Roberts, the architect, Mr. Kuhn, and the attorney, Mr. MacConnell presented the petition.

Mr. Roberts made the following comments:

- The proposal is for the construction of 5 condominium units in the downtown area
- There is a desire for people to live downtown
- The applicant, his attorney and design consultants had met with the Planning Board and had heard the concerns of many of the abutters at that meeting. The Planning Board had made several recommendations for improving the project. The revised plans address many of the concerns expressed by the Planning Board and abutters.
- The building elevations have been revised to be more in keeping with the historical character of the existing building.
- The applicant and the architect had met with the Historical Commission and had heard their comments as well.

John Kuhn made the following comments:

- The proposed project contains 5 units, not 6 as stated in the application. The project has evolved and the units are now larger and there are fewer parking spaces required than there would have been for 6 units.
- Mr. Roberts and his consultants have met with a number of town boards and committees about the project.
- The property is deep. It faces onto Amity Street and reaches far back into the block.
- The applicant wishes to renovate the Funeral Home into 2 dwelling units and add 3 townhouse units to the north.
- There will be garages under the new units.
- There will be a carriage house/garage building that will contain parking for three cars and three new outdoor parking spaces will be located to the south of the garage.
- Pedestrian access from Amity Street will be via the driveway.
- There will be “brick” paver walkways on the site in front of the townhouses.
- The units will be connected to the town water and sewer systems.
- Drainage is a major concern of some of the abutters. The applicant wants to improve the drainage situation for the neighbors. The design and engineering consultants are in the process of addressing the drainage issue and will be presenting their storm water management design and calculations to the Town Engineer for his review and approval.
- As a result of the meeting with the Planning Board the development has been moved about 10 feet to the east to allow more room for snow storage and drainage.
- Storm drainage will be held, briefly, in a detention area at the northwest corner of the site.

- Planting was also a concern of the Planning Board and the abutters who spoke at the Planning Board meeting.
- The design will retain much of the existing vegetation on the site. Most of the perimeter vegetation will stay. The applicant will work with the abutters to determine which plants should be retained.
- Two new hemlocks will be planted to replace those that will be removed.
- Plantings will be added around the building.
- A six-foot high fence will be added along the west property line for the screening of headlights.
- The Fire Department has reviewed the plans. The large ladder truck will be able to pull to the front of the buildings on a reinforced grass area. The pumper truck will be able to travel around to the rear of the buildings.
- The tall "cobra head" lights will be removed and "coach style" lights will be installed on low posts.
- There will be lighting on the buildings, at all garage doors, at all entries and over the front doors. Lights will be low-level residential lights.
- The snow removal/snow storage buffer along the west side of the property will be broader than that shown on the plan presented to the Planning Board.
- There will be a small enclosed room in the carriage house at the front of the site for storage of trash and recyclables.
- The applicant believes that this is an appropriate type of project for this site and an appropriate type of housing for this neighborhood.
- The proposed architecture will respect the existing building, which is a multi-story, wood-frame building with steep hip roofs.
- The abutters had expressed concerns about the scale of the addition, but the peak of the new addition will be 8 feet below the existing building's peak.
- The siding, windows, dormer and roof slopes of the addition will be compatible with those of the existing building.
- The existing building will have two units, one on the first floor and one which will occupy the second and third floors.
- The new addition will consist of three units, two identical units on either end, and one unit of a different type in the middle.
- The two exit stairs originally proposed on the outside of the existing building have been eliminated, in response to comments from neighbors.
- There will be a second-story, walk-out deck on the south façade, above the existing porch on that side.
- The views into the property from Amity Street are partially obscured by trees.
- A small carriage house (garage) will be built on the west side of the driveway, immediately south of the existing house to serve the new units in the existing house.
- The new townhouse units to the north will have garages underneath, on the west side.
- The three new units will consist of two-story structures.

Mr. MacConnell noted that the application had been submitted under Section 9 of the Zoning Bylaw which allows changes to structures and uses on non-conforming lots with a Special Permit from the Zoning Board of Appeals. (The lot is non-conforming because the lot frontage is 61 feet, which is less than the 100 feet of frontage required in the R-G zone. The project conforms to all other dimensional requirements of Table 3 of the Zoning Bylaws.) The application had also been submitted under Section 3.322 of the Zoning Bylaw which allows townhouses in the R-G zone with a Special Permit He reviewed the suggested findings that he had drafted and submitted, prior to the hearing, addressing the criteria contained in Section 10.38, Specific Findings, of the Zoning Bylaw.

The Board commented on the presentation and noted the following issues.

- The Board was interested in pedestrian access to the site, particularly since the site is located near the downtown area and residents would not always need or want to use their cars to visit the downtown businesses.
- The Board noted that the existing 15.5-foot-wide driveway should be supplemented with a separate walkway for pedestrians to encourage people to walk, rather than to use their cars. The Board further noted that ice and snow in the winter may make it more dangerous to use the driveway for walking. The use of the driveway may work fairly well during 9 months of the year, but in the winter, a separate walkway for pedestrians will be essential.
- The plan for the project had been changed in that the number of units had been reduced from 6 to 5 units, but the individual units were larger in size.
- There are five units proposed, with a total of 11 bedrooms, and 9 garage parking spaces.
- The drainage system will need to accommodate a more rapid run-off of storm water, given the additional impervious surfaces.

Mr. Kuhn responded that the design may not be able to accommodate the addition of more impervious surfaces in the form of walkways, since the site plan was already at the maximum amount of lot coverage (40%) allowed by the Zoning Bylaw. He also noted that four of the dwelling units would have two garage spaces and one unit would have one garage space.

William Canon, the landscape architect, noted that the storm drainage system was being designed to accommodate the 100-year storm. It would not be connected to the town storm drainage system, but would direct the storm water run-off into a shallow, depressed area in the northwest corner of the site. A leaching catch basin at the bottom of the detention area would allow storm water to leach into the ground.

There was further discussion of the number of garages proposed per dwelling unit.

Bonnie Weeks, Building Commissioner, inquired about building coverage and lot coverage.

Mr. Kuhn made the following statements:

- The proposed building coverage is 20.3%, less than the 25% allowed by the Zoning Bylaw. The proposed lot coverage is 39.9%, less than the 40% allowed by the Zoning Bylaw.
- All setback requirements would be met by the proposed project.

- The existing lot area is 45,944 square feet, which is adequate for the five proposed dwelling units. Twelve thousand (12,000) square feet is required for the first unit and 6,000 square feet is required for each additional unit, for a total requirement of 36,000 square feet.

Ms. Tillona noted that the document submitted by Sandy Muspratt, one of the abutters, had suggested that the number of parking spaces per unit should be reduced. Ms. Tillona further noted that the revised site plan had reduced the number of proposed parking spaces. She suggested that the reduction in the number of parking spaces might reduce the proposed amount of lot coverage and therefore yield some land which could be made available for a walkway.

Mr. MacConnell noted that one of the items mentioned in Mr. Muspratt's document had been a suggestion that a public walkway be created in back of the private lands located north of the Funeral Home property, to connect Hallock Street with Amity Street. Mr. MacConnell stated that Mr. Roberts might be willing to participate in such a proposal for a public walkway if the neighborhood were able to coordinate such a plan with the other private property owners.

The Board proceeded to review the documents that had been submitted by abutters, the Town Engineer and the Historical Commission.

The email from Susan Rupp of 157 Lincoln Avenue, was read. It questioned the scale of the project and its impact on the existing historical building.

Mr. MacConnell noted that the building plans had been revised to respond to Ms. Rupp's concerns. Specifically, the stair tower had been eliminated.

The letter from the Town Engineer was read and the Board reviewed his comments.

Mr. MacConnell noted that the applicant's consultants had redesigned the site and the storm drainage systems in response to comments from the abutters and from the Town Engineer. The storm run-off calculations had not been completed yet, but they would be completed and the drainage plan would be revised to the satisfaction of the Town Engineer, Mr. Skeels.

The Historical Commission comments were read. These comments were focused on the scale of the new building and the design and location of the carriage house.

Mr. Kuhn noted that the façade of the carriage house could be improved. He also noted that in designing the new units he had tried to maintain the sense of scale of the existing building. He also said that there was no better location for the carriage house on the site.

The Board noted that the narrow end of the project would be visible from Amity Street and that therefore the visual impact of the project would not be substantial when viewed from the street.

Ms. Weeks inquired about the accessibility of the units and stated that the architect would need to look at making the buildings universally accessible.

Mr. Kuhn stated that there would be a small residential elevator in the existing building and that the first floors of two of the new units would be accessible.

Mr. Roberts noted that the two new end units will have a master bedroom and bath and a den on the first floor, all of which will be accessible.

The Board invited comments from the public.

Susan Rupp, of 157 Lincoln Avenue, stated that her property abuts the Amherst Funeral Home property. She expressed concern about storm drainage and asked about how long the detention area would be full of water after a storm and whether it would be a danger to children. She also inquired about the potential failure of the catch basin and who would be responsible for maintenance and repair of the drainage system.

Mr. Canon, the landscape architect, stated that the detention area would store water for a period of a few hours, not days, and that the storm water would leach into the ground over that period of time. A few hours after the storm event there would be no standing water in the detention area.

Mr. MacConnell noted that the condominium association would have bylaws regarding repair and maintenance of the storm drainage system.

Phyllis Hastings, of 32 North Prospect Street, expressed concern about the buildings being too close to the east property line.

Mr. Kuhn responded that the new addition would be 35 feet from the east property line and that the new porches would be 30 feet away from the property line. He noted that the side yard setback from that property line was only required to be 10 feet.

Attorney Mark Tanner, of the law firm Bacon, Wilson, Morse and Sacks, stated that he represented Mr. Horton, owner of 155 Amity Street, an abutting property. Mr. Tanner noted that his client had expressed the following concerns about the proposed development:

- The new garage will be very close to the house owned by Mr. Horton.
- The project is designed to accomplish a maximum build-out of the site and it substantially covers the lot.
- The carriage house should be moved away from Mr. Horton's house.
- The carriage house/garage should be screened from abutting properties.
- A six-foot high fence is proposed along the west property line. The Horton property will be faced with the back of a garage and a fence.
- The proposed fence should not have a gap in it. It should be continuous along the west property line.
- The planting plan should be designed to mitigate the view of the new development from the Horton property.
- There should be a limit placed on the hours of construction.
- Heavy construction equipment should not be left near the road during off hours because it will become an "attractive nuisance".

Mr. Kuhn responded that there is a large existing parking lot which can accommodate construction equipment during off hours. The gap in the fence can be easily closed and landscaping can be added. The carriage house/garage will be well-designed so that it will be a visually appealing building. Mr. Horton's other concerns can be met.

Ms. Weeks noted that the hours of construction allowed by law were from 7 a.m. to 11 p.m.

Hillary Barber, of 52 North Prospect Street, said that he is not a direct abutter, but he wished to express his concerns about the proposal. They are as follows:

- He is concerned about the scale of the project. The building will appear especially large on the west side since the land drops off and three floors of the building will be exposed on that side.
- The project is not historically in keeping with what already exists in the community.
- The project may cause a "domino effect" in that other property owners may follow suit and develop their properties in a manner similar to the current proposal.

Mr. Kuhn noted that the existing building is four stories in height. The new addition will be relatively lower than the existing one. The rear of the building will be designed to be visually appealing.

Tom Lardner, of 175 Amity Street, whose home is just west of the Horton house on Amity Street, spoke in support of the application and made the following comments:

- The Lardner property is ¾ of an acre and a part of his property abuts the Funeral Home property.
- The proposal will make a positive contribution to the neighborhood.
- The developer, Mr. Roberts, and his attorney, Mr. MacConnell, have been responsive to neighbors concerns.
- The revised plans show lighting which will be down-cast and a fence which will screen the properties to the west.
- The drainage issues have been addressed.
- This project will be a positive contribution to the quality of life downtown.
- Change happens and this change is of a positive nature.
- The above comments notwithstanding, the Board should give serious consideration to the concerns of the abutters.

Richard Brown, of 143 Lincoln Avenue, an abutter on the west side of the property, spoke about his concerns as follows:

- There is not enough parking shown for the number of units. There is no overflow parking for visitors.
- The grassy buffer on the west side of the site may be used for overflow parking which will disturb the neighbors to the west.
- The proposed units will diminish the privacy of the abutters to the west because the new decks will be one story above the ground and will overlook the private space of neighbors to the west. This will be distressing to the neighbors.
- The issue of privacy can be addressed by eliminating the proposed decks or installing "four-season" screening along the property line.

Mr. Kuhn noted:

- There is a need to balance the proposed number of parking spaces on the site against the desire not to have too much paving. There is ample public parking available on Amity Street.
- The proposed decks on the west side are on the first floor level and are only nine or ten feet above ground level so the issue of privacy for neighbors may be less than it first appears.

Blair Perot, of 135 Lincoln Avenue, requested the opportunity to make a Power Point presentation to the Board based on material that had been prepared by Sandy Muspratt, of 38 North Prospect Street. This material had been previously submitted to the Board as a printed document. The Board gave Mr. Perot permission to make his presentation and he proceeded to do so, essentially restating the points made in Mr. Muspratt's printed document. Some of the points were as follows:

- There is a large area of trees that exists between the houses.
- The project could be characterized as "infilling of an arboretum."
- This is a historic neighborhood.
- The project will be three times the size of the existing Funeral Home.
- The project will change the character of the town and of the neighborhood.
- The project may set a precedent for other projects in other neighborhoods.

Anne Jeanne Lardner, of 175 Amity Street, spoke in support of the project and stated that people in the neighborhood can get together and place deed restrictions on their properties if they wish to preserve the remaining open space in the neighborhood. Such a deed restriction would prevent the other properties from being developed.

Tom Lardner, of 175 Amity Street, spoke again in support of the project and made the following points:

- He served on the Zoning Board of Appeals for nine years.
- There are some non-single family developments in the neighborhood such as The Perry apartments, which have worked well.
- This proposal to build five, high-priced condominiums will not have a significant impact on the neighborhood.

Mr. Kuhn noted that this property is different from other surrounding properties in the neighborhood which contain single-family homes. This property has contained a commercial business in the form of a funeral home for years.

The Board inquired about the color of the proposed building and Mr. Kuhn stated that it would be a soft color with lighter trim.

Mr. MacConnell offered to have the applicant bring the completed drainage design and storm water management information back to the Board at a business meeting for approval.

Ms. Tillona read the memorandum from the Planning Board to the Zoning Board of Appeals dated June 2, 2005, outlining Planning Board concerns and making recommendations regarding the proposal. She concluded that most of the issues presented in the memorandum had been addressed by the applicant.

Ted Rising MOVED to close the evidentiary portion of the public hearing. Joan Golowich SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting

At the Public Meeting, the Board discussed the application and the conditions which should be imposed on the Special Permit, if it were to be granted.

Peter MacConnell requested that the Board recognize him. He presented the Board with a letter requesting a waiver of the driveway width requirement. The issue of the driveway width had been discussed during the public hearing but Mr. MacConnell had not submitted the formal letter of request at that time. He stated that the Board, if it agreed, would need to formally waive the requirement in the Bylaw regarding driveway width. Under Section 7.9 of the Zoning Bylaw the Board may waive or modify any of the requirements in Section 7 as part of a Special Permit, for reasons of safety, aesthetics or site design.

The Board discussed the issue of the driveway width and expressed reluctance to grant a waiver of the width requirement if the driveway was to be used for pedestrian as well as vehicular access. The existing driveway between Amity Street and the proposed carriage house is 15.5 feet wide and the proposal would leave it at that width. The proposed driveway would widen out to 25 feet in front of the carriage house and narrow to 12 feet as it traveled behind the building on the west side.

The Board stated that the 12 foot width behind the building did not appear to be a problem. However, the narrowness of the driveway as it came in from Amity Street would be a problem if there is no separate walkway.

Mr. Kuhn stated that there may be a way to design a walkway to accommodate pedestrians coming from Amity Street. There may be areas of proposed pavement elsewhere on the site that could be deleted so that a walkway could be added without exceeding the lot coverage limits imposed by the Zoning Bylaw.

The Board asked about the lighting plan. Mr. Kuhn again presented the lighting plan, which had been presented during the public hearing, along with details of the proposed lights.

The Board made a suggestion about relocating the trash and recycling area, located in the carriage house, to the other end of that building, to be nearer to the condominiums, so that residents would not need to walk so far.

The Board noted that developing condominiums near the downtown area was a good thing for the town as a whole and that the plan overall represented an intelligent and sensitive use of the property. The Board also noted that the petitioners and the neighbors had cooperated well in working out solutions to many of the neighbors' concerns.

The Board noted that many people no longer wish to live in large houses with large properties and that there are few alternatives to these traditional types of housing, but that this proposal represented such an alternative.

Under Article 14 of the Zoning Bylaw, this project is subject to the Phased Growth Bylaw. Therefore the Zoning Board of Appeals completed the Phased Growth Tally Sheet and awarded a point total of 70 points.

Zina Tillona MOVED to waive the requirement for the 18 foot wide driveway. Ted Rising SECONDED the motion. The Board VOTED unanimously to approve the waiver of the 18-foot-wide driveway.

Findings:

Under Section 9 of the Zoning Bylaw, Non-Conforming Lots, Uses and Structures, the Board found that the lot is non-conforming as to frontage in that the existing frontage is 61 feet and the required frontage is 100 feet; however, the Board found that there is no functional relationship between the proposed new use and the existing non-conformity, that the lot is large enough, at 45,944 square feet, to accommodate the proposed development and that the existing frontage is wide enough to safely accommodate an access driveway without substantial detriment to the neighborhood.

Under Zoning Bylaw Section 10.38 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the site is located on a well-traveled street, is located in the General Residence District which allows townhouses and apartments by Special Permit, and is surrounded by a mixture of single-family, multi-family and apartment dwelling units and professional offices in close proximity to the center of downtown Amherst.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because a fence is proposed along the western property line to shield adjacent properties from headlights, the storm drainage system will be designed to handle the 100 year storm, a detention area will hold storm water on-site until it leaches into the ground, and the additions to the existing building have been designed to be visually compatible with the existing building. The existing building will remain substantially unchanged, except for the addition of a second story deck on the south side. The use proposed for the property is in keeping with uses of the surrounding properties, namely residential dwelling units.

10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because only five dwelling units will be created, appropriate facilities have been provided to accommodate cars both in parking garages and on-site and the number of parking spaces meets the requirements of the Zoning Bylaw. In addition, a condition of the Special Permit will require that a separate pedestrian walkway be installed from Amity Street to the existing building; from there walkways will connect to the front doors of all units and driveways will connect to the rear doors.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the proposed dwelling units are ample in size, designed with appropriate entries and exits, there will be adequate site lighting and adequate parking and open space on the site.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because no signs have been proposed at this time and the requirement for two parking spaces per dwelling unit has been met.

10.387 and 10.388 – The proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to streets, property or improvements and the proposal ensures adequate space for the off-street loading and unloading of vehicles because there will only be five dwelling units on the site, there is ample space for vehicles to enter the site, there are interior parking spaces for 9 cars with adequate turning spaces for all cars that enter the site. No cars will have to back out onto the street. A separate pedestrian walkway will be provided for access from Amity Street to the existing building and from there to the front doors of all of the dwelling units. The rear doors will be served by the driveway. There is ample off-street loading area as well. The Amherst Fire Department has reviewed the plans and finds that its vehicles can serve the proposed building via the proposed driveways.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes in that the property is connected to the town sewer and the property owner will have a contract with a local trucking company for weekly pick up of trash and recyclables and trash and recyclables will be stored in the carriage house/garage between pick ups.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, since there is already a substantial amount of landscaping and screening on the site which will remain and be enhanced with additional plantings and fences.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. The conditions of the permit require that all exterior lighting shall be downcast and shall not shine onto adjacent properties and a fence will be installed along the western property boundary to shield adjacent properties.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the building will be used for dwelling units, similar to other uses in the neighborhood, the addition has been designed to be architecturally compatible with the existing building on the site, the addition will be shorter in stature than the existing building and the entire building (old and new sections) will be painted with compatible colors so that the whole reads as one structure.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use since the lot is a large open one with ample space for passive and active recreation in the yard.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Zoning Board Decision

Ted Rising MOVED to approve the application, with conditions. Joan Golowich SECONDED the motion.

For all the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit, with conditions, to Barry Roberts to convert the existing funeral home to two (2) dwelling units and to construct an additional three (3) townhouse units attached to the existing funeral home, for a total of five (5) dwelling units, at 151 Amity Street (Map 14A, Parcel 25, R-G Zone).

_____	_____	_____
ZINA TILLONA	TED RISING	JOAN GOLOWICH

FILED THIS _____day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____day of _____, 2005
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____day of _____ , 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals, based on the testimony heard at the public hearing, on the documents received prior to and during the public hearing and based on the following documents:

- A final revised landscape plan to be submitted for approval by the Board on July 19, 2005;
- Building plans prepared by Kuhn Riddle Architects, undated, approved on June 20, 2005;
- A final revised drawing of the elevations of the carriage house to be submitted for approval by the Board on July 19, 2005;
- The Management Plan approved by the Board on June 20, 2005

hereby grants a Special Permit to Barry Roberts to convert the existing funeral home to two (2) dwelling units and to construct an additional three (3) townhouse units attached to the existing funeral home, for a total of five (5) dwelling units, at 151 Amity Street (Map 14A, Parcel 25, R-G Zone), with the following conditions:

1. The applicant shall submit a final revised landscape plan for approval by the Board, at a public meeting on July 19, 2005, at 4:00 p.m. This plan shall include the following:
   - Species and size of existing trees
   - Trees and other vegetation to be removed
   - Proposed trees and other plants to be installed, including sizes and species
   - A walkway from Amity Street to the existing funeral home building.

2. The applicant shall submit condominium documents for approval by the Board at a public meeting, including drafts of the Master Deed and Condominium Trust and the Condominium Bylaws, prior to a Certificate of Occupancy being issued.

3. The applicant shall submit evidence to the Board that the Town Engineer has reviewed and approved the revised final grading and drainage plan including drainage calculations and a storm water management plan prior to issuance of a Building Permit.

4. Hours of construction work shall be limited to 7 a.m. to 5 p.m. Monday through Saturday. No construction work shall be performed on Sunday.

5. Heavy construction equipment shall be stored in the interior of the site, away from Amity Street, when not in use, so as to make it less visible to passersby.

6. The proposed fence along the western property line shall be installed prior to the start of other construction, in order to screen the construction site from neighbors to the west.

7. Prior to the establishment of the condominium association, the property shall be managed in accordance with the Management Plan approved by the Board on June 20, 2005. Such management shall include continuous maintenance of the landscape plantings.

8. After the establishment of the condominium association, the property shall be managed in accordance with the condominium documents referred to in Condition # 2 above.

9. The building shall be built in accordance with the plans approved by the Board on June 20, 2005.

10. The site improvements and plantings shall be installed in accordance with the revised final landscape plans to be reviewed and approved by the Board on July 19, 2005, and shall be continuously maintained.

11. The applicant shall submit revised final elevations of the carriage house or garage to the Board for approval at a public meeting on July 19, 2005.

12. Under Article 14 of the Zoning Bylaw, this project is subject to the Phased Growth Bylaw. Therefore the Zoning Board of Appeals completed the Phased Growth Tally Sheets and awarded a point total of 70 points, which modified the development schedule to allow the construction of 100% (5) of the units within the first year, with July 2005 as the eligible date for the building permit.

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ZINA TILLONA, Chair DATE
Amherst Zoning Board of Appeals