

AMHERST PLANNING BOARD

Wednesday, April 19, 2017, 7:00 PM

Town Room, Town Hall

MINUTES

PRESENT: Stephen Schreiber, Chair, Richard Roznoy Robert Crowner, Michael Birtwistle, Jack Jemsek, Pari Riahi, Greg Stutsman

ABSENT: Christine Gray-Mullen and Maria Chao

STAFF: Christine Brestrup, Planning Director
Steven McCarthy, Administrative Assistant
Alan Snow, Tree Warden

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

I. MINUTES – There were no Minutes ready for review and approval.

Mr. Schreiber noted that he would not be attending the Planning Board meeting scheduled for May 3, 2017.

Since it was not yet time for the first public hearing the Planning Board turned to other business.

VII. TOWN MEETING

B. Preparation for Town Meeting – Ms. Riahi volunteered to present the Planning Board’s report and recommendation on Article 25, Local Historic District Bylaw Amendment. Mr. Roznoy will present the minority report on Article 25.

II. JOINT PUBLIC HEARING WITH TREE WARDEN – SCENIC ROADS

Scenic Road tree removal – 415 Shays Street – Southeast corner of property near road – for construction of new home

Public Shade Trees impacted by this project include the following trees (Sizes indicate “diameter at breast height” – DBH):

26” Maple

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

Mr. Tomlinson, the applicant, said that the installation of a new garage to accompany the construction of a new house will severely damage the root system of the maple tree in question, and they would like to pre-emptively take down the tree before it becomes a threat to public safety.

Mr. Snow asked the applicant about the grade changes to take place on the property.

Mr. Tomlinson said they are adding eight inches to the existing foundation to raise the new house to help control drainage and runoff from the street. The property sits below the grade of the road, and they are trying to keep the basement as dry as possible.

Mr. Snow asked how far the eight inches of additional foundation would be from the tree. Mr. Tomlinson said that it would be constructed on top of the existing foundation; he did not foresee that affecting the tree, but the planned two car garage would impact the roots of the tree.

Mr. Snow said that the tree is a relatively healthy red maple with no center leader; a multi stemmed tree that has been trimmed to provide some safety if branches fall. It doesn’t appear to be in decline and is generally healthy with no obvious defects or decay.

Board members and staff made comments, asked questions and made suggestions as follows:

- The tree is a magnificent presence and has a positive influence on the streetscape;
- What will the front planting be when the house is completed, if the tree is removed?

- Shays Street is a scenic road and the tree is a significant part of the scenery; it is visible from the South Common;
- The tree trunk is in the public right of way, although the roots and branches may be on private property;
- If the Tree Warden and the Planning Board cannot reach agreement, or if a citizen submits a written statement in opposition to the removal, the matter can go to the Select Board for resolution;
- Can the grading for the garage be altered to minimize damage to the tree?
- The Board does not have the proposed plans of the house and site improvements, making it difficult to evaluate the request;
- It appears that 65 to 70% of the root area will be affected by the proposed work and the root zone will be significantly compromised;
- Will the town be compensated for the tree if it is destroyed by construction rather than pre-emptive removal?

Henry Lappen, Chair of the Public Shade Tree Committee, said that the PSTC didn't have quorum at their last meeting to make a decision, but to him it seems that the tree in question is a significant tree on a scenic road, and although he doesn't know where the project is in the planning process, hopefully there should be some way to preserve the tree. If not, the tree fund should be fully compensated. He asked that the Planning Board ask the applicant to preserve the root zone.

Ms. Brestrup said that as this project is a single family residence, the Planning Board has limited jurisdiction. They can make recommendations to move the house, move the driveway, do less grading around the tree, and things such as that, but that is likely the extent of their authority and it would be a voluntary agreement between the developer and the Planning Board. If the Board allows it to come down, the tree fund would be compensated approximately \$2,340 for this tree. That is the tradeoff - to either try to reach an agreement to save the tree, or to infuse money into the tree fund.

Ms. Nancy Higgins of the PSTC said it is quite reasonable that the Planning Board should have the description of what will be on the lot before they make the decision about the tree. She said that the PSTC wants to save the tree.

The Board discussed the matter further as follows:

- Whether to vote "no" or continue the public hearing pending receipt of plans;
- There is another lot to the south, owned by the same owner, that has a significant number of trees;
- The tree is in jeopardy from the excavation for the garage footings as much as from the fill for the driveway;
- Can the driveway be placed on the adjacent lot to the south?
- Can the driveway be moved to face the south?
- The dripline of the tree has a 50-60 foot spread and feeder roots that go beyond that distance;
- New trees could be planted with the money from the tree removal fee;
- It will take a new Red Maple tree 30 to 40 years to grow to the size of this tree;
- The tree, if damaged by construction, will only last 5 to 10 years;
- The tree as it stands has a long life ahead of it;
- The Board would like to see plans before it makes a recommendation.

There was further discussion about moving the driveway, building the garage on the north side of the house and other possible alterations.

After further discussion, Mr. Snow said his recommendation is to remove the tree, allow the applicant to get the grading done that they need to fix the drainage issues, and take the money to put trees elsewhere.

Mr. Lappen said that the process is that money gets collected before the tree gets removed, and he wanted to confirm that will happen.

Mr. Stutsman MOVED that the Planning Board recommends removal. Mr. Roznoy seconded. The vote was 3-4-0 (Jemsek, Stutsman, and Roznoy in favor.) The motion failed.

Mr. Stutsman MOVED that the Planning Board continues the Public Hearing to May 3rd at 5:00 so that the members of the Board can see plans. Mr. Jemsek seconded.

Mr. Roznoy said that he thinks the Board ought to keep in mind their limits on jurisdiction for this. As Ms. Brestrup mentioned, the Board doesn't have SPR approval here; it is just a single family home being built. They cannot require a lot of detail. Some questions as yet have bumped up against the right that the private property owner has to his property. The questions can only refer to tree. Seeking more info from the applicant gets into realm of approving a site plan, and the size and location of the house, which is treading on dangerous ground.

Mr. Birtwistle agreed. He said the Board is much better served by voting against the current motion to continue the public hearing, and disapproving of the plan to remove the tree.

Mr. Stutsman asked for elaboration – was that because it would then go to the Select Board? He withdrew his motion.

Mr. Jemsek withdrew his second.

Mr. Birtwistle MOVED to disapprove the removal of the tree. Mr. Stutsman seconded. The vote was 3-2-2 (Schreiber, Roznoy opposed; Stutsman, Jemsek abstaining). The motion failed.

Mr. Stutsman MOVED that the Planning Board makes no recommendation. Ms. Riahi seconded. The vote was 6-1-0 (Crownor opposed.) The motion passed.

Mr. Roznoy MOVED to close the hearing. Mr. Stutsman seconded and the vote was 7-0. The motion passed.

Ms. Brestrup noted that the issue now needs to go to the Select Board for resolution, and confirmed Mr. Snow could take care of the process.

III. PUBLIC HEARING – SITE PLAN REVIEW

SPR2017-00012 – Amherst Works – 11 Amity Street

Public hearing to request Site Plan Review approval for creation of a patio with railing and plantings and site furnishings on south side of building (Map 14A, Parcel 337, B-G zoning district)

Mr. Schreiber read the preamble and opened the public hearing. There were no disclosures.

Jerry Guidera, the General Manager of AmherstWorks, presented the application. The applicant is proposing to expand the footprint of membership space at AmherstWorks. Opened up in November 2016, it is a co-working space. It operates like a gym membership where people pay different amounts to use different facilities.

AmherstWorks has re-purposed the First National Bank building, built around 1930. AmherstWorks has around 80 members. There is lots of demand for the space. The space is used for entrepreneurship space, “hackathons” and special events. The applicants envision using the front section, the former entrance to the bank, to create a patio for the members to use. Members use the mid-20th century ATM vestibule to enter.

The proposal is all within the confines of the property line, and within the confines of lot coverage in B-G zoning district. It will be an enhancement to downtown. Having people outside in restaurant and retail spaces creates a vibrant downtown.

Mr. Guidera has shown plans to the members, met with Planning Department, and the Design Review Board. The DRB recommended changing the heights of tables at the front of the patio. On the inside

of the building there are mostly high tables and chairs, but it was recommended that the tables closer to the street on the patio be lower and the tables closer to the building be higher.

The revised drawings show added flowering shrubs along the front to camouflage the fencing.

Mr. Schreiber reviewed the site visit report. He reviewed the questions that were asked at the site visit, regarding lighting, drainage, painting of the railing, signage, the fate of the foundation plantings and whether the patio would be open in winter or whether the site furnishings would be stored in winter.

Mr. Birtwistle reported on comments that he had shared at the Design Review Board's meeting. The notion of an enclosed outdoor space, fenced off from one of the main streets in town, exudes a kind of exclusivity that is unlike a restaurant patio where anyone can walk in and be served. It suggests an "us and them" quality, he said. This aspect of the space struck Mr. Birtwistle as a degree of "flaunting" of the success and lifestyle of the members in opposition to the general public. He found this antithetical to an egalitarian view of what the town should be. He expressed hope that members of AmherstWorks would be cognizant of the fact they will be seen by some of the general public as more privileged than those walking by. He acknowledged that he was not sure what the Planning Board can do about this, but he wanted to share his thoughts on the matter.

Ms. Riahi agreed that this was a good interesting point. A lot of people work on the Amherst Coffee side, with no fence. But there is something of a sense of exclusivity to the AmherstWorks patio. She asked if a vegetation buffer could be used rather than metal fencing.

Mr. Guidera spoke in support of the metal fencing. AmherstWorks needs to protect its equipment on the patio; the metal fencing is also a safety issue. He went over the plan with the police chief, to get a sense of how we should handle our equipment there. Part of the point of keeping the fence there is to keep control over access to building. Many people leave laptops etc. there, and access is controlled by keycard access, and cameras, and there is 24 hour access

Kyle Wilson of Archipelago Investments, a partner in the joint venture of AmherstWorks, explained that part of what makes the co-working space function is that the entry is controlled by a keycard. People buy memberships to come in 5, 6, or all days a week. They offer free coffee; no key fob is required on patio or to re-enter the space through the former front door. When a person buys a day's membership, the person can get in and work in and around the facility, but can come and go from patio with ease. If a member sat on the patio without coming through the front door, AmherstWorks wouldn't be able to track whether they were using the space. Entry through the main entrance is essential to the business.

There was further discussion about the issue of exclusivity. Across the street, some of the Amherst Coffee seats are on public sidewalk and some are on private property. The seats in front are on public property; and the seats on the side are on Amherst Cinema building property.

Mr. Schreiber acknowledged that this is a philosophical question. But the fact is that a developer could build an addition off the front of the building, to the lot line, and install chairs, tables, in the space. He acknowledged that this seems like a business decision to provide this amenity as an indoor or outdoor space.

Mr. Wilson stated that different businesses have different needs for control. Alcohol is served at the High Horse and they have a railing around their outdoor space. Coffee is served elsewhere. At AmherstWorks, the issue is membership management. Controls are needed for management of the business. It affects the security of the space.

Mr. Guidera noted that the High Horse is in the same building as AmherstWorks and has fenced off a section. The Boys and Girls Club and the Lions Club are private clubs. He noted that opposition to private clubs was not germane to the question of Site Plan Review approval for AmherstWorks.

Ms. Riahi was not opposed to concept of public or private space in general, but she was uncomfortable with the type of activities that AmherstWorks is fostering. She stated that even with the fence, people will not be able to leave laptops, phones, and other personal items on the patio, as it will not be safe.

She asked if there were a way to soften the barrier with vegetation. From an urban point of view it sends a different message to have vegetation instead of fence on the edges of the space.

Mr. Wilson asked how, if they looked at not having fence, but retaining a perimeter to enclose this space and signal it is part of a business and not part of the sidewalk, how would one determine whether to have an open patio, shrubbery, or a fence? It would depend on the management of the business. AmherstWorks is selling space and amenities associated with that space. If the space isn't available outside, it would involve a different system. If the patio door is locked, then people would have to make sure to have their keycard with them before they go outside. A fence is the cleanest way to make the member experience as clear as possible. We have proposed rhododendron planting against the fence to partially mask it. The fence isn't six feet tall, so someone could jump over it, but the intent of planting is to screen fence a bit. AmherstWorks is trying to strike a balance.

Mr. Birtwistle clarified his point. He was concerned about the enclosure from the point of view of the community.

Mr. Schreiber mentioned the example of the Lord Jeff, which has outdoor seating, but it is clear that this outdoor seating is associated with the hotel and the restaurant and is not really open to the public. He doubted that there was a good solution to the problem that was being discussed.

Mr. Birtwistle acknowledged that there was no good solution and he wasn't willing to deny the proposal on the basis of his concerns about exclusivity. But he thinks it is an issue that needs public awareness.

Mr. Guidera appreciated the discussion and thought that it would help Planning Board members to understand the usage patterns at AmherstWorks.

There are often more people there on Saturdays and Sundays rather than during regular management hours, 9-5 weekdays. There are no other places in town where up to 85 people can have space to work unsupervised. Mr. Guidera feels comfortable leaving his laptop at AmherstWorks despite the fact that there are lots of people there. People need to feel comfortable and safe in their space, and that is an essential aspect of AmherstWorks.

Mr. Schreiber asked about the part of the Bylaw that relates to outdoor furniture and when it needs to be taken in for the winter.

Ms. Brestrup explained that the limitations on the location of outdoor furniture relate to seasonal outdoor dining, but noted that the Board could place a condition on leaving tables and chairs outside all year or bringing them in, and storing them.

Mr. Guidera stated that the fence will be about 40 inches high. Similar in height to the railing that goes along the ramp and up to the High Horse. AmherstWorks wants to be consistent with High Horse in terms of the look of the railing.

Mr. Stutsman moved to close the public hearing and to find that the application meets all of the relevant criteria of Section 11.24 of the Zoning Bylaw and to approve the Site Plan. Mr. Roznoy seconded.

The Board discussed potential conditions, regarding landscaping, maintenance, that the project shall be built according to plan and managed according to the Management Plan.

The Board discussed waivers and noted that there is a small sign that will be added to the gate at the patio to direct people to the entrance to AmherstWorks. Therefore a waiver of the sign plan is not appropriate, but the sign shown on the drawings and photographs can be considered as a Sign Plan.

After further discussion the vote was 6-0-1 (Riahi abstained). The motion passed.

IV. PLANNING & ZONING

- A.** Zoning Subcommittee Report none
- B.** Planning for Amherst Town Center

1. Planning for Forums

The outline has been updated.

Mr. Stutsman recalled that at the last Planning Board meeting, the formation of a steering committee had been encouraged; he asked what the latest news on this was.

Ms. Brestrup said she had spoken to the Town Manager; he felt the steering committee is a great idea and should be around 4-6 members, including people from the Planning Board, the Select Board, and possibly the business community. He is planning to speak to the Select Board about this, and the Planning Board will be updated.

Mr. Schreiber said he was worried about the clock running out. He thought the draft seems very thorough, and could be very helpful.

Mr. Birtwistle noted that this plan assumes that 5-6 personal roundtables with a leader will occur- the structure is a little unclear. He was not entirely sure what happens in the meetings, how topics are introduced, how people are broken up into roundtables, etc. He thought there should be another aspect of this proposal or different draft that needs to deal with logistics.

Mr. Schreiber agreed, and noted someone had been talking about the parking forums and had noted that the group reports tended to be by the majority instead of the minority.

Mr. Birtwistle said it was he who had said that; the devil is in the details he said.

2. Review of Outline

C. Public Comment Period

D. Other

V. OLD BUSINESS

A. Tofino Associates LLC – Amherst Hills Subdivision – Three Party Agreement – no discussion

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: none.

VIII. TOWN MEETING

A. Warrant Article 31 – Barry Roberts – Request Planning Board support for Article 31 – Authorization for Select Board to Release Restrictions on Access to University Drive from Property at Map 13B, Parcel 33

Barry Roberts appeared to ask the Planning Board for their support of a Town Meeting article to authorize the Select Board to grant a new entrance off of University Drive into the southerly portion of a property on University Drive in between the Newmarket Center and 100 University Drive. The parcel is unique in that it has a tremendous amount of wetlands on it. It was rezoned last year from OP to B-L, and within the property, there are two upland sites; one to the north near the Newmarket Center, and one to south that does not have street access without crossing through wetlands. He is requesting this new entrance so that he can access the southern part of the property without crossing a wide section of the wetlands. The previous developer who brought this to Town Meeting has a determination from the Conservation Commission to define the wetlands that are on the site. There is access on the northerly side because this parcel ~~owns~~ includes half of the driveway into the Newmarket Center; there are reverse easements between the two properties.

This problem has to go to Town Meeting because when the Town accepted University Drive as a public way, there was an agreement made that there would only be six entrances. At the time, University Drive was conceived as a four lane boulevard with a center grass strip, designed to continue past Route 9 and reconnect with Route 116 in South Amherst to make a bypass. That plan never came to be, and Mr. Roberts said he thinks this is probably the only request there would be as all the other property with developable land has road access – this parcel technically does, but the wetlands compromise that.

The vote is for Town Meeting to authorize the Select Board to ~~see if the developer can come to~~ review and grant an acceptable means to get access to road. Mr. Roberts said he had spoken to the Superintendent of the Department of Public Works and the Town Engineer about the issue, as well as the Transportation Advisory Committee, the Finance Committee, the Conservation Commission, and the Select Board, and all have supported him. He would also like to request the Planning Board's support. An entrance will likely affect at least one shade tree The Public Shade Tree Committee doesn't like losing any tree, but Mr. Roberts thinks he can alter the bike path in such a way that only one tree is compromised. He said he would work with the Tree Warden if and when the time comes.

Mr. Birtwistle asked if, as it appeared on the wetland plan, a potential driveway would have to cross a narrow point of wetlands.

Mr. Roberts said that was correct. The Conservation Commission suggested moving the culvert to the south to create a crossing. The applicant will have to develop a complete plan when the time comes and present it to the Conservation Commission for approval.

Mr. Stutsman said that this restriction seems like an obsolete decision, and any proposal will need to go to the Conservation Committee; he recommended approval.

Mr. Stutsman MOVED for the Planning Board to support the warrant article. Mr. Birtwistle seconded. The vote was 7-0-0. The motion passed.

Ms. Brestrup asked if any of the Board members would like to state their support at Town Meeting, or, alternatively, if they thought the moderator stating their support would suffice.

Mr. Schreiber said he thought the moderator's statement would be appropriate.

B. Preparation for Town Meeting

Mr. Stutsman noted that the Precinct Meetings were being held; one was to be held tonight, but there were three upcoming meetings. He said he could attend the Saturday and Monday meetings.

Mr. Birtwistle said he could attend the meeting on Saturday.

Mr. Crowner said he could attend the meeting on Thursday.

Mr. Schreiber noted there hadn't been much comment on any of the Warrant Articles generated by the Planning Board.

C. Other

VIII. FORM A (ANR) SUBDIVISION APPLICATIONS – none

IX. UPCOMING ZBA APPLICATIONS

The Amherst Motel site is proposed to be developed as an apartment complex with 130 residential units. Ms. Brestrup asked the Board members if they had interest in reviewing the project. Several said they would.

X. UPCOMING SPP/SPR/SUB APPLICATIONS

There are two upcoming preliminary subdivision plans coming up, proposed by W.D. Cowls on Sunderland and Cowls Roads. If those go forward and a definitive subdivision plan is put forth within seven months, it freezes zoning for eight years.

Mr. Crowner asked if the Board needs to hear this case, or can ignore it, as it has been presented as a “farce”.

Ms. Brestrup said the Board needs to take action on it within 45 days, and if they do not, they will not have an opportunity to make recommendations.

Craig’s Doors – The applicant is proposing to change the use of the office trailer to include office space, a resource center, meeting space, and storage.

XI. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Jack Jemsek and Christine Gray-Mullen: There is a meeting tomorrow night; Board representatives plan on attending.

Community Preservation Act Committee – Pari Riahi: none

Agricultural Commission – Stephen Schreiber: Missed last meeting – it was not relevant to the Planning Board

Design Review Board – Michael Birtwistle: Two sign approvals and consideration of Amherst Works proposal.

Housing and Sheltering Committee – Greg Stutsman: None.

Zoning Subcommittee – Rob Crowner, Greg Stutsman and Maria Chao: Already updated.

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman and Christine Gray-Mullen: There is a restructuring happening, and an executive committee streamlining. There is a Housing Subcommittee meeting next month; they plan on reviewing the areas on the U3 report.

Downtown Parking Working Group – Christine Gray-Mullen and Richard Roznoy: There is continuing discussion about changing parking rates and where those changes will apply. Issues were not quite settled at the last meeting. The DPWG is also talking about raising rates for downtown parking permits.

Transportation Advisory Committee – Richard Roznoy: The TAC is meeting regularly, and a lot of time was spent at the last meeting discussing Barry Roberts’ University Drive proposal; they recommended approval of Article 31 with conditions. The North Amherst intersection is a big discussion coming up.

Ms. Brestrup noted that the TAC voted to support Concept D, as did the Planning Board earlier.

XII. REPORT OF THE CHAIR: none

XIII. REPORT OF STAFF

Ms. Brestrup noted that May 17th is also a Town Meeting night; if we have the Cowls Subdivisions and Craig’s Doors on that night, would the Board like to hold the meeting at 5:00?

Mr. Stutsman requested to hold the Cowls meeting later in the Town Meeting process.

XIV. ADJOURNMENT

Meeting was adjourned at 8:56 PM.

Respectfully submitted:

Approved:

Steven McCarthy
Administrative Assistant

Stephen Schreiber, Chair

DATE: _____