

AMHERST PLANNING BOARD
Wednesday, March 29, 2017, 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: Stephen Schreiber, Chair, Robert Crowner, Christine Gray-Mullen,
Michael Birtwistle, Greg Stutsman, Pari Riahi, Richard Roznoy, Jack Jemsek, Maria Chao

ABSENT: None

STAFF: Christine Brestrup, Planning Director
Steven McCarthy, Administrative Assistant

Mr. Schreiber opened the meeting at 7:02 PM.

I. MINUTES

Mr. Schreiber signed the minutes from 2/28/17, which had already been approved at a previous meeting.

II. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT

SPR2017-00011 & SPP2017-00004 – Atkins Farms & W.D. Cows on behalf of tenant Atkins Farms – 113 Cows Road/134 Montague Road

Joint public hearing to request Site Plan Review approval for creation of a walk-up window for ice cream sales, expansion of existing concrete pad to facilitate accessibility to walk-up window, relocation of movable bike rack, adding two signs on North Elevation re ice cream sales & menu & request Special Permit to increase lot coverage on a pre-existing non-conforming lot by 60 square feet (Map 5A, Parcel 139, COM & R-N zoning district)

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

Mollye Lockwood, Vice President of Real Estate and Community Development for W.D. Cows, John Thibbitts, Project Manager for Atkins Farms, and Attorney Michael Pill presented the application. They requested a minor modification to the existing Special Permits active on the site, to increase lot coverage on a pre-existing non-conforming lot, and wished to change the north elevation to facilitate a walk up ice cream sales window. An existing movable bike rack will be moved to another location so as to not interfere with operations. The window will be custom built, but will look like all other windows on the building. A concrete pad in front of the window will be extended for accessibility, and the bike rack will be relocated to the east on a newly made concrete pad. Mr. Thibbitts said that from his experience as an avid cyclist, it is a very good spot for the bike rack.

Ms. Brestrup explained that if the request for Special Permit were granted, a new Special Permit to increase the lot coverage on a nonconforming lot would be issued – the lot is already nonconforming, but the proposed increase is very slight. She said that the Board had determined a site visit was not necessary.

Mr. Birtwistle asked if the hours of operation would be changing.

Mr. Thibbitts said they would not; the ice cream window will be opening later than the main store and closing at the same time.

Mr. Schreiber said that the bike rack should not be on the sidewalk, but did not have strong opinions about placing it on grass versus pavement.

Mr. Thibbitts said he would prefer the bike rack to be on grass.

Ms. Brestrup reported that the Building Commissioner believed that concrete pads for bike racks are a good idea to avoid mud, particularly in the springtime.

Mr. Crowner said that ideally the rack would be on grass, but a concrete pad signals permanence and helps to avoid mud problems.

Mr. Schreiber asked if a pad would be installed for both sides, or if it would be just a half pad.

Ms. Lockwood said that it is not a very wet area.

Mr. Stutsman MOVED to close the public hearing, to issue a finding that the proposal meets all of the relevant requirements of Section 11.24 of the Zoning Bylaw, and that the Board grant a Special Permit with the finding that the proposal meets all of relevant the requirements of Sections 10.38 and 9.22 of the Zoning Bylaw, conditional on the applicant installing a bike pad that the Building Commissioner approves of. Mr. Crowner seconded. The vote was 9-0-0.

Waivers

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

Conditions

1. The concrete pad for the bicycle rack shall be satisfactory to the Building Commissioner.

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

V. OLD BUSINESS

- A.** North Prospect – Lincoln – Sunset Local Historic District Study Committee – Presentation of Final Report and request for confirmation of support

Maurianne Adams presented the request, speaking in the role of vice chair of the Local Historic District Study Committee. She presented a new revised map showing the proposed boundaries of the District. She reminded the Board of the two votes that were taken at the 2/1/17 Planning Board meeting, in which a motion to remove all of the North Pleasant Street properties as well as the two properties in the B-L zoning district on McLellan Street passed.

Ms. Adams stated that Steve Bloom and Ms. Adams had been authorized by the Study Committee to negotiate with the Planning Board about the extent of the proposed District, and that this negotiation had resulted in the removal of the properties as described above.

She wanted to confirm with Planning Board members that they had agreed to support the proposed district as shown on the revised map. Ms. Adams presented the mailing that Mr. Toponce had prepared to be sent to Town Meeting members, with the revised map.

Ms. Adams stated that she was not here to ask for a new vote but to assure Planning Board that the Study Committee is entirely in agreement with the revised map, and that the Planning Board could be assured of this in making its report to Town Meeting.

The Board discussed whether it should take a fresh vote based on the new revised map.

Ms. Brestrup stated that it was important for the Board to see new map after it had seen the previous version and after the Board had discussed removing the properties on North Pleasant and in the B-L district. It was important to see the new map that would be presented to Town Meeting as the Board members could be asked to stand up and recommend support of the proposed Local Historic District.

After discussion Mr. Crowner MOVED to affirm the Board's previous support of the proposed Local Historic District as reflected in the new map. Mr. Birtwistle seconded. The vote was 6-0-3 (Gray-Mullen, Jemsek and Roznoy opposed).

- B. Topics not reasonably anticipated 48 hours prior to the meeting -none

III. PUBLIC HEARING – ZONING AMENDMENT

A-14-17 Zoning – Cowls Rd & Sunderland Rd Rezoning (Petition – O'Connor et al) (Town Meeting Warrant Article 36 – Amend Official Zoning Map)

To see if the Town will vote to amend the Official Zoning Map of the town's Zoning Bylaw by changing the zoning designation of the following parcels: a) 2C-16 at 28 Cowls Road, 5A-130 at 24 Cowls Road, 5A-44 at 30 Cowls Road, 5A-45 at 32 Cowls Road, and 5A-46 at 56 Cowls Road from COM (Commercial) to RO (Outlying Residential); and b) 5A-1 on Sunderland Road from COM to R-LD (Low-Density Residential) or to take any action related thereto

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

Ms. Brestrup reported that she had received a call from Mr. O'Connor who is the first signatory on the petition article; he said he had some personal business to attend to and may not be able to attend the public hearing.

Mr. Crowner reported that this zoning amendment is a petition article. It is not coming from the Zoning Subcommittee or the Planning Board. The article was represented at the Zoning Subcommittee meeting as being in response to the Beacon project. It was represented that the proposed density in that development was at the maximum, or exceeding the maximum of what should be allowed in that area, and therefore it was appropriate to downzone adjoining parcels to balance out the overall density.

The proposal is to rezone certain parcels that happen to be owned by the same property owner who owns the North Square property from commercial zoning (COM) to very low density residential zones. Other information that was provided was that the downzoned properties could be used for overflow parking of traffic for North Square and that downzoning, particularly of properties on Cowls Rd, would protect Eastman Brook, which lies north of but close to those properties.

One of the petitioners stated that further commercial development or mixed use development in that area would bring more traffic and strain an already precarious situation. This rezoning would be appropriate to minimize the amount of development that could happen in the North Amherst Village Center. It was represented to the ZSC that downzoning is proposed not as retaliation but rebalancing.

The ZSC does not support the article. It creates some weird situations. On west side of Sunderland Road, it would create a jagged line of alternating COM & R-LD zones; the north end of Sunderland Road would remain commercial.

North of Cowls Road, a similar thing happens, where there would be an R-N district, then a COM district, then an R-O district and then COM again. It would be very haphazard zoning around the corner of Cowls Road and Sunderland Road.

The zoning proposal was not developed in a process that involved the Planning Board or the property owner. It was not an ideal process. Planning Board itself did extensive planning around this area a number of years ago. The Planning Board did not arrive at the same zoning proposal as the petitioner but the Board did follow a process and attempt to convince Town Meeting to pass a zoning amendment.

If the Planning Board were to re-engage in a rezoning process for North Amherst Village Center, it seems unlikely that the Board would arrive at this result, not just because of haphazard lines of zones but also because the zones themselves are probably not appropriate for that area.

The ZSC is confused by the wording of the petition. It appears to include the proposed rezoning of the FPC and R-N portions of the property on Sunderland Road. The FPC portion is not developable. The intention of the article is not clear from the wording.

Mr. Jemsek asked about the concept of “balancing”.

The proponents had stated during a ZSC meeting that the area should only hold a certain number of cars and a certain number of dwelling units and that this rezoning would maintain that balance. It was not clear what that certain number was and if that certain number had been attained by the Beacon project.

Mr. Schreiber stated that it was an odd tool to use to rezone. The rezoning of land should not be taken lightly. It is one of the strongest and longest-lasting and impactful actions that a town can take. He would not support the article.

Jim Bernotas, owner of the Amherst Machine Company, observed that his parcel was not included in the rezoning. He noted that there are many different kinds of commercial development that can happen on these parcels. Amherst sorely needs room for commercial development – there is not much space in town for further development, especially in his business, light manufacturing.

He recommended that the Planning Board ask what kinds of commercial development could go in this area as they look to balance what’s going on in the neighborhood. This looks like localized spot zoning. It doesn’t look like there was a tremendous amount of forethought in this proposal. It could be a slippery slope. There are better ways to achieve the intent.

Mr. Schreiber stated that the Planning Board has received a number of documents regarding this proposal including Attorney Michael Pill’s filing on behalf of the landowner.

Mollye Lockwood, Vice-President for Real Estate and Community Development for W.D. Cowls, stated that she understands the context in which this petition came up, and she understands what the petitioners are trying to control. However there are several critical issues with what is being put forward, not least of which is the legality and the process that the town is going through to review this proposal. She referred to the document submitted by Attorney Pill, which is a comprehensive memo to the Planning Board and the Select Board. Ms. Lockwood noted the costs to the community if this proposal were to pass Town Meeting.

Ms. Lockwood characterized the rezoning proposal as a waste of time and money as it is proposed. It is not an example of smart growth or planning. It does not reflect how the town has developed zoning districts and planning over time.

Ms. Lockwood stated that there is a very limited amount of commercial zoning in town. Sixty percent of the town is protected or preserved. There is not much space for commercial mixed-use development. Looking at economic viability going forward, rezoning these lots could cost the town in the future by reducing the amount of taxes that these properties could produce.

Geoff Kravitz, Director of Economic Development for the Town, stated that there is about 87.5 acres town-wide that is zoned commercial (COM); that amounts to 0.5% of the total land area. The area of the proposed land to be rezoned is 18.5 acres, amounting to a 21% reduction in COM zoned property in town.

Attorney Michael Pill of Green Miles Lipton, referred to the map showing the proposed rezoning. It does an excellent job of showing how proposed downzoning will take bites out of the existing commercial district. These changes don’t make sense, he said.

Why are the Cowls parcels proposed for rezoning but not those of Mr. Bernotas? Mr. Pill asserted that the reason for the proposed rezoning is that Cowls’ land is being developed for the Beacon project. He noted that Cowls would be bringing a preliminary subdivision plan to the Planning Board to protect its rights. This would provide a “grandfathering” of the current zoning for a period of 8 years. The submission of a subdivision plan is a waste of time and money, he added.

If the rezoning passes, Cows will have to accelerate the development of these parcels in the next 8 years. He made other assertions about the intent of the petitioners. The current proposal is in direct contradiction to the Amherst Master Plan, he said.

Mr. Pill asserted that the Beacon project is consistent with Master Plan, that commercial development in this area is consistent with the Master Plan, and that this rezoning is not consistent. The proposal represents “reverse spot zoning”. One cannot rezone a property owner’s land to keep them from developing it, he said.

Spot zoning is a legal claim that can go to court, and motives are not a factor there. The concept is rooted in equal protection under the law. One can’t single out some parcels and treat them differently.

Mr. Roznoy thanked the Planning Department for the historical background on the area that the Board received. It was very educational. And Mr. Pill’s memo was also very informative.

Mr. Roznoy MOVED to close the public hearing and that the Planning Board recommend to Town Meeting that the article be dismissed. Mr. Stutsman seconded.

Mr. Crowner suggested that the motion be to defeat instead of dismiss.

The Board did not accept the change in the motion and the vote was 9-0-0.

IV. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT

SPR2017-00010 & SPP2017-00003 – Archipelago Investments LLC – 26 Spring Street (*continued from March 15, 2017*)

Joint public hearing to request Site Plan Review approval for construction of a mixed-use building containing dwelling units in combination with ground floor retail/commercial and parking; including approximately 1,000 square feet of retail/commercial space, 17 parking spaces and 38 apartments, and site improvements under Section 3.325 of the Zoning Bylaw and to request a Special Permit to modify dimensional requirements: maximum building coverage 77% vs. 70% and rear setback 1’ vs. 0’ or 10’ under Footnotes “a” and “e” of Table 3 of the Zoning Bylaw, (Map 14A/265, B-G zoning district)

Mr. Schreiber read the description of the Site Plan Review and Special Permit applications and the proposed project and announced that this was a continuation of a public hearing from March 15, 2017.

Ms. Riahi and Mr. Stutsman stated that they were not present at the first session of the public hearing but they had read the material and reviewed the record of the proceedings. Ms. Brestrup requested that Ms. Riahi and Mr. Stutsman indicate in writing that they had reviewed the record of the case, which they did.

Kyle Wilson and Dave Williams of Archipelago Investments presented the application. Mr. Wilson stated that since the last session of the public hearing the applicants had worked with staff to refine certain aspects of the plans.

The applicants met with the Disability Access Advisory Committee (DAAC) on March 28th to discuss the accessibility of project. The stairs from the rear exit of the building connecting to the sidewalk on Spring Street had been discussed with Building Commissioner, Rob Morra. There were questions about the Architectural Access Board regulations regarding those stairs. The applicants realized that a ramp would be a better choice. The proposed ramp will be in three sections.

Balancing the underground parking and access to street, they added a ramp from the first floor level to the grade at Spring Street. This change resulted in the terraces becoming more private, no longer accessible from the sidewalk. The building will shift one foot towards the west, to accommodate this change. This change reduces the building coverage by 50 square feet because one section of the ramp will not be above the parking garage and therefore will no longer be considered part of the building. Mr. Wilson characterized this change as “de minimis”. He presented a new set of civil engineering plans and an updated rendering, showing the new ramp and the tree removed. Mr. Wilson had met with Wendy and Andy Jones, owners of the property to the east. They are in support of the project and

they have submitted a letter in support of the project and agreeing to the removal of the trees on their property. Mr. Wilson has also discussed the trees along the road with Tree Warden Alan Snow. There will need to be a discussion with the Select Board and the DPW about the utilities and how to put them underground. Mr. Wilson would like to have a discussion about how to use the space in front of the building and create a continuous tree well that will support new trees. He mentioned Sycamore as a possible choice. Mr. Wilson stated that the civil engineer had issued a letter clarifying the answers to questions raised by Jason Skeels, Town Engineer. He noted that the east elevation of the building shows the impact of the ramp from the east side.

Mr. Williams stated that he had scheduled a meeting the following week to go over the concerns expressed by the Garden Club of Amherst at the last session of the public hearing.

Ms. Chao asked if there will be a retaining wall on the east side of the new ramp that is granite clad.

Mr. Wilson stated that previously the entire grade was retained with a wall. Now any retaining wall that is necessary will be impossible to see and there will be a low landscape wall.

Mr. Schreiber noted that there had been a change in the Zoning Bylaw regarding setbacks that may need to be looked at. In his opinion, it appears to make a 0 foot setback almost impossible for side or rear yards.

There were no further public comments.

Ms. Brestrup noted that she and the Building Commissioner had prepared a list of suggested conditions and recommended that the Planning Board review them and consider using them as a basis for conditions for this project.

The Board found under Section 11.24 of the Zoning Bylaw, Site Plan Review, as follows:

- 11.2400 – The project is in conformance with all appropriate provisions of the Zoning Bylaw; Special Permits are being requested for modifications to building coverage and setback requirements;
- 11.2401 – Town amenities and abutting properties will be protected through minimizing detrimental or offensive actions;
- 11.2402 – Abutting properties will be protected from detrimental site characteristics resulting from the proposed use;
- 11.2403 – Provision of adequate recreational facilities, open space and amenities has been addressed because the proposed development is in the downtown area, near important public spaces [such as the Town Common and Sweetser Park] that are accessible to all;
- 11.2410 – N/A;
- 11.2411 – The project provides adequate methods of refuse disposal as described in the Management Plan; refuse totes will be brought out to the street; each unit's tenants will bring its recycling to the parking level of the building where it will be dealt with by Management;
- 11.2412 – The project will be connected to town sewer and water; the Town Engineer has not expressed concerns about the town services or their ability to serve the proposed use;
- 11.2413 – The proposed drainage system within and adjacent to the site will be adequate to handle the stormwater; there will be a condition that will require that the final design of the stormwater management system be satisfactory to the Town Engineer;
- 11.2414 – Provision of adequate landscaping has been addressed; the project includes new plantings and the developer has stated that he will work with the town to develop a planting plan for the streetscape when overhead utilities have been placed underground; the abutting land owner to the east is in agreement with the removal of trees on his/her property;
- 11.2415 – The soil erosion control methods are considered adequate to control soil erosion both during and after construction;
- 11.2416 – Adjacent properties will be protected by minimizing the intrusion of various nuisances;

- 11.2417 – Adjacent properties will be protected from the intrusion of lighting, because a condition of the permits will require that a complete Lighting Plan be submitted for review and approval by the Planning Board prior to the issuance of a Building Permit;
- 11.2418 – N/A;
- 11.2419 – N/A;
- 11.2420 – The Design Review Board reviewed this project and offered comments on the proposed building and landscaping;
- 11.2421 – The development is unique and is not necessarily consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development; however, all of the buildings in this area are unique, including the Lord Jeffery Inn across the street, which is tall and close to the street, and the Grace Episcopal Church and the properties behind, including the Masonic Lodge and the Police Department Building; the inconsistencies are not considered to be unreasonable; a Special Permit is being requested for modification of setback requirements;
- 11.2422 – N/A;
- 11.2423 – N/A;
- 11.2424 – Screening has been provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features;
- 11.2430 – The site has been designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties;
- 11.2431 – The location and number of curb cuts is such as to minimize turning movements, and hazardous exits and entrances; the property is located in an urban area and there is one curb cut entering the property from Spring Street;
- 11.2432 – The location and design of parking spaces, bicycle racks, drive aisles, loading areas and sidewalks will be provided in a safe and convenient manner; the location of a public bicycle rack will be considered as part of the project, probably within the public way; bicycle parking areas for tenants will be provided within the garage;
- 11.2433 – N/A;
- 11.2434 – N/A;
- 11.2435 – N/A;
- 11.2436 – A Traffic Impact Statement has been submitted;
- 11.2437 – The Level of Service on surrounding roads and intersections will not deteriorate as a result of this project.

The Board began to review the list of potential conditions.

Mr. Crowner expressed concern that if the site plan as presented requires or depends on permission from Select Board to eliminate parking spaces, and if the Select Board rejects that proposal, their decision will change the site plan. Mr. Crowner asked how the Planning Board would deal with that.

Ms. Brestrup reported that she had discussed this question with the Building Commissioner and concluded that the Select Board is in charge of the public way and that the ultimate result will stem from a joint conversation with the Select Board. The plan for the streetscape will need to be resolved in the future. The Planning Board doesn't really have jurisdiction over public way. What has been presented is a goal, a concept, but the site plan that Archipelago presented and needs approval for ends at property line.

Mr. Williams stated that it is the applicant's intention to work with the town to preserve parking along Spring Street and to plant trees there as well.

The Board discussed a condition requiring a supplementary landscape plan related to the public way that would be submitted once issues related to the utilities have been resolved and that the plan be presented to the Planning Board and the Select Board for review and recommendations prior to the work being done.

Mr. Schreiber noted that the Zoning Bylaw allows a zero front setback in the General Business district. The Zoning Bylaw did not anticipate a planting strip in front of buildings in the downtown.

Mr. Crowner expressed concern that the unresolved issue of the streetscape affects the way the Planning Board looks at the overall site and building. The trees [shown in the renderings and on the plans] are a big part of how the Planning Board views the site. If the SB decides against the removal of the parking spaces, the building will look a lot different without the trees. It will look a lot barer.

Ms. Gray-Mullen noted that the Red Maple is there and will remain.

There was further discussion about the need to put the power lines underground.

Ms. Brestrup explained that it is very expensive to put power lines underground. The town would have to find money, either by appropriating it or by obtaining a grant, as they did with the East Pleasant Street/Triangle Street area. One estimate for putting utilities underground in the vicinity of Spring Street was around \$5 million. The town might have to apply for another grant. There has already been some work done to put conduits underground and some utility wiring has been taken off poles. It is a process and it is the intention of the town to do this in the future. It appears that it is the intention of the developers to aid in this process, but it may not happen for a while.

Mr. Schreiber asked about the Management Plan.

Ms. Brestrup reported that the applicant had submitted a Management Plan and a sample lease for both commercial and residential tenants. The Planning Board may wish to discuss the manner of rental of the units, although the Building Commissioner finds that rental by the room and rental by the unit is a difficult issue to deal with and enforce. The question has to do with the way property is rented in Amherst. Initially the Board had been prone to include a condition requiring that apartments be rented by the unit. But as a practical matter, sometimes the rooms in a unit are rented one by one as tenants appear, and then all tenants are added to a master lease. The Building Commissioner recommends that the condition requiring rental by the unit and not by the room not be included.

Mr. Crowner noted that most units in this building are one bedroom units, with only about a third of them being two-bedroom units. So the issue of rental by the room is “not a big deal” in this case.

Mr. Wilson stated that the property will not be managed by Archipelago Investments but by an entity called “Amherst Independent Living”.

Mr. Birtwistle asked about the leasing of parking spaces.

Mr. Wilson explained that the leasing of parking spaces is not included in the lease of an apartment or retail space. Parking spaces will be leased to residential tenants. There will be an addendum to the lease, for parking spaces, for additional rent, on a first-come, first-served basis. Parking spaces will be marked. Some will be for compact cars and some for full-sized cars. This information will be included on the lease.

Mr. Birtwistle asked what would happen if there were a shortage of one type of space. In that case tenants will need to rely on downtown spaces, the applicant responded.

The Board discussed whether to include a condition requiring the use of “low-flow” plumbing fixtures and decided not to include such a condition.

The Board discussed a condition related to the issuance of a temporary or final Certificate of Occupancy and what might be required. The intention is that as different parts of the building are requesting Certificates of Occupancy the applicant should submit as-built plans to show that that the portion of the building has been finished to the extent that it can be occupied.

Mr. Wilson stated his concern that standard as-built plans have many different engineers’ stamps and certify specific items; it takes a significant amount of time to prepare these plans. As long as there is an opportunity for the developer to provide plans in whole or in part he is in agreement with the requirement.

The Board found, under Section 10.38 of the Zoning Bylaw, Special Permit, focusing on issues related to the Special Permit for dimensional modifications:

- 10.380 – The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority;
- 10.381 – N/A;
- 10.382 – N/A;
- 10.383 – The proposal will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; mixed-use buildings are allowed in the B-G zoning district; the modifications for which the Special Permit has been requested are rear setback and building coverage; there is no building close to the property line at the rear of the property, so a 1 foot versus 0 foot setback will not affect the adjacent property or have an impact on vehicles or pedestrians; the increase in building coverage from 70 to 77% will not affect abutters, vehicles or pedestrians;
- 10.384 – N/A;
- 10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features; nothing about the reduction in rear setback or building coverage would affect the adjoining premises;
- 10.386 – N/A;
- 10.387 – N/A;
- 10.388 – N/A;
- 10.389 – N/A;
- 10.390 – N/A;
- 10.391 – N/A;
- 10.392 – The proposal provides adequate landscaping; the plan provides landscaping in the patio areas and around the front and sides of the retail space; the applicant has committed to working with the Planning Board and Select Board in the future to provide adequate streetscaping along Spring Street;
- 10.393 – N/A; this criteria does not relate to the Special Permit being requested; the modification of the rear setback and building coverage do not affect considerations of lighting in the vicinity of the site;
- 10.394 – N/A;
- 10.395 – The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto; the Design Review Board provided comments on this proposed development;
- 10.396 – N/A;
- 10.397 – N/A; the modification of the rear setback and building coverage do not affect access to recreational facilities;
- 10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw and the goals of the Master Plan.

Mr. Stutsman MOVED to close the public hearing and to find that the project meets all of the criteria of Section 11.24 of the Zoning Bylaw and to approve the Site Plan Review application with requested waivers and conditions as discussed. Ms. Riahi seconded and the vote was 9-0-0.

Mr. Stutsman MOVED to find that the project meets all of the relevant criteria of Section 10.38 of the Zoning Bylaw and to approve the Special Permit for modification to rear setback (1 foot versus 0 feet) and the modification to building coverage (77% versus 70%). Ms. Riahi seconded and the vote was 9-0-0.

Waivers

- None

Conditions

Plans

1. Development shall be built substantially in accordance with plans submitted to the Planning Board and approved on March 29, 2017.
2. Changes to the project and/or substantial changes to any approved site plans or to the exterior of the building shall be submitted to the Planning Board for its review and approval prior to the work taking place. The purpose of the submittal shall be for the Planning Board to approve the change and/or to determine whether the changes are de minimis or significant enough to require modification of the Site Plan Review approval.
3. Detailed plans of paved areas and detailed information about site improvements including information related to handicapped accessibility such as surface treatments, grading, spot elevations, railings, walls etc. shall be submitted to the Planning Board for review and approval prior to the issuance of a Building Permit.

Management

4. Development shall be managed substantially in accordance with the Management Plan approved on March 29, 2017.
5. The Project shall dispose of refuse and recyclables as described in the Management Plan and in accordance with the Town's General Bylaws as it relates to trash and recycling.
6. Upon a change of ownership, the new owner and/or manager shall submit a new Management Plan to the Planning Board at a public meeting for its review and approval. The purpose of the meeting shall be for the Board to determine whether conditions of the permit are being complied with and whether any modification to the Site Plan Review approval or Management Plan is required. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with the procedures for notice contained in Chapter 40A, Section 11. The owner may be required to obtain a Certified List of Abutters and provide a minimum of two week's public notice.
7. A sample lease for both residential and retail/cultural space has been submitted to the Planning Board for its review and approval prior to the issuance of any certificate of occupancy. The residential and retail/cultural spaces shall be rented substantially in accordance with the sample leases approved on March 29, 2017.
8. This property shall be registered and permitted in accordance with the Amherst Residential Rental Property Bylaw. Loss or suspension of a rental permit shall constitute a violation of this condition.

Landscaping

9. The applicant shall submit a Supplementary Landscape Plan, showing proposed work within the public way, once issues regarding overhead utilities and utility poles have been resolved. This Supplementary Plan shall be submitted for Planning Board review and recommendation regarding work within the public way prior to its consideration and approval by the Select Board.
10. Landscaping and site amenities shall be installed in accordance with the approved Landscape Plan, approved on March 29, 2017 (prior to the issuance of a Certificate of Occupancy, except for difficulties associated with the planting season), and, once installed, shall be continually maintained. Landscaping that does not survive shall be replaced as soon as weather conditions permit with the same or comparable species.

Lighting

11. A complete Lighting Plan, including a Photometric Plan, and details of lighting fixtures, shall be submitted for review and approval by the Planning Board prior to the issuance of a Building Permit.
12. All exterior lighting shall be dark sky compliant. Exterior lighting shall be downcast, shielded and shall not shine onto adjacent properties or streets.
13. The new location of the existing street light that is to be relocated shall be shown on the Lighting Plan.
14. Appropriate lighting shall be provided for all entries and exits, including emergency egress pathways.

Equipment, mechanical and plumbing

15. Any equipment located on any roof shall be screened and noise muffled. Noise from mechanical equipment shall not exceed the ambient noise level at the property line.

Signs

16. A Sign Plan shall be submitted to the Planning Board for its review and approval prior to the installation of signs. The Sign Plan shall include signs needed to identify the building and its address, signs for the parking garage, and signs for deliveries, signs for the cultural/retail space, etc.

Stormwater Management

17. The applicant shall submit a detailed Drainage and Grading Plan, including construction details, to the Town Engineer for review and approval prior to the issuance of a Building Permit. The applicant shall work with the Town Engineer to resolve issues related to stormwater management to the satisfaction of the Town Engineer.

Construction

18. A Construction Logistics Plan shall be submitted for review by the Building Commissioner, Town Engineer, Superintendent of Public Works and Police Chief prior to the issuance of a Building Permit. The Construction Logistics Plan shall include:
 - (a) Construction timeline and expected completion dates for each phase;
 - (b) Location of parking for contractors;
 - (c) Location of on-site and off-site staging, such as for construction vehicles, including cement trucks;
 - (d) Location of fencing around construction site;
 - (e) Location of “jersey barriers” or other similar structures;
 - (f) Details and locations of directional, marketing and job signs related to construction;
 - (g) Emergency contact information, such as name and cell phone number of developer and contractor;
 - (h) Information about construction signs, including advertising signs for contractor, developer and architect, and;
 - (i) Hours of operation of construction operations;
 - (j) Staging areas for construction equipment and materials;
 - (k) Notifications for blasting or hammering of rock or hard material;
 - (l) Plans for noise attenuation of construction motors and pneumatic equipment;
 - (m) Measures to control dust, dirt, debris and construction materials on site;
 - (n) Plans for maintenance of erosion control measures and protection of catch basins throughout construction;

(o) Any other relevant information that the Town Engineer, Building Commissioner, Superintendent of Public Works and Police Chief may request;

19. A pre-construction meeting shall be scheduled with the Building Commissioner who will coordinate with other departments prior to the start of any site or construction work.

Certificate of Occupancy

20. The Applicant shall provide As-Built Plans, whether in whole or in part, that show building locations, grades, access ways, parking areas, sidewalks and walkways, curbing, stormwater management facilities, lighting and utilities to the Building Commissioner and Town Engineer, prior to the issuance of any Certificate of Occupancy.
21. The Final Certificate of Occupancy shall not be issued for any building or any unit until:
- a. The final topcoat of paving for all driveways and access areas, sidewalks and berms has been completed;
 - b. Landscaping as shown on the Plan of Record has been installed, and
 - c. As-Built Plans have been submitted to the Building Commissioner and Town Engineer by all design professionals for the site and building construction and approved by the Building Commissioner and Town Engineer.

Final Site Plan Review Drawings

22. One (1) hard copy and one (1) digital copy of the final revised plans shall be submitted to the Planning Department.

VI. NEW BUSINESS

Topics not reasonably anticipated 48 hours prior to the meeting – none

VII. TOWN MEETING

A. Warrant Review

The Board members discussed whether they would like an opportunity to speak on any articles other than the four proposed by the Board and the one zoning petition article. The Board discussed speaking on the Local Historic District and asked if there would be a Planning Board Report to Town Meeting. Normally Planning Board reports are written about zoning amendments.

Board members decided that they would like to have a majority report since there would be a minority report prepared by Mr. Roznoy and others who did not support the proposed LHD. Ms. Brestrup offered to prepare the majority report. The Planning Board accepted her offer and will comment on the report once it has been written.

B. Movers and Speakers

The Planning Board decided on the following for Movers and Speakers:

<u>Article</u>	<u>Mover</u>	<u>Speaker</u>
32 Zoning – Table 3 Footnotes - Setbacks (Plan Bd)	<u>M. Birtwistle</u>	<u>R. Crowner</u>
33 Zoning – Table 3 Footnotes - Miscellaneous (Plan Bd)	<u>M. Birtwistle</u>	<u>R. Crowner</u>
34 Zoning – Non-Substantive Corrections (Plan Bd)	<u>M. Birtwistle</u>	<u>M. Chao</u>
35 Zoning – Apartment Bedroom Mix (Plan Bd)	<u>M. Birtwistle</u>	<u>G. Stutsman</u>
36 Zoning Petition – Amend Official Zoning Map (O’Connor et al)	<u>Petitioner</u>	<u>R. Crowner</u>

- C. TMCC and LWV Warrant Review – Tuesday, April 10th, 7:00 p.m.

The Board acknowledged that the meeting was actually scheduled for Tuesday, April 4th at 7:00 p.m.

Mr. Crowner volunteered to attend, and present the zoning articles. There was also a meeting scheduled with the Finance Committee for March 30th, which will address citizen petitions and Mr. Schreiber will attend that one. On March 23rd there was another meeting about zoning articles.

The Board discussed precinct meetings and who might be available to attend. The schedule of precinct meetings had not yet been published.

Mr. Schreiber volunteered to write the Planning Board Report on the zoning petition article.

VIII. PLANNING & ZONING

- A. Zoning Subcommittee Report

Mr. Crowner presented the ZSC report. The ZSC has started to think about town center planning. The ZSC has received further encouragement from the Town Manager to wait until after Town Meeting to hold a forum. The Town Manager is proposing to create a steering committee with Planning Board members, Select Board members, citizens, non-governmental organizations such as the BID and the Chamber. Also Ms. Chao has created a very nice summary of topics that the ZSC and Planning Board has talked about discussing at such a forum. The ZSC is planning that on April 5th the Planning Board will have a preliminary discussion about the forums; a lot of the planning work for the downtown forums has already been accomplished. The Town Manager has stated that he does want a role in the downtown planning process. The ZSC is happy with the way things are progressing. On April 5th the Planning Board can review the draft outline that was prepared by Ms. Chao.

Mr. Birtwistle, Mr. Stutsman, Mr. Crowner and Ms. Chao expressed interest in serving on the Steering Committee.

- B. Planning Issues

1. Forums – Topics and schedule – previously discussed.

2. Other – none

- C. Public Comment Period – none

IX. FORM A (ANR) SUBDIVISION APPLICATIONS

IX. UPCOMING ZBA APPLICATIONS

There are two upcoming ZBA hearings, one regarding Gilreath Manor on Hobart Lane, which is a request for a variance having to do with parking, and the other is a Special Permit application for Amity Street Dental, also having to do with parking.

XI. UPCOMING SPP/SPR/SUB APPLICATIONS

Big Y is requesting to install a sign along Route 9 on property owned by Ginger Garden.

XII. PLANNING BOARD COMMITTEE & LIAISON REPORTS

Pioneer Valley Planning Commission – Jack Jemsek and Christine Gray-Mullen – There will be a PVPC meeting on April 20th in Hadley.

Community Preservation Act Committee – Pari Riahi – There will be an upcoming meeting to finalize recommendations to Town Meeting

Agricultural Commission – Stephen Schreiber – the Ag Com has not met recently.

Design Review Board – Michael Birtwistle – no report

Housing and Sheltering Committee – Greg Stutsman – There will be a meeting next Thursday.

Zoning Subcommittee – Rob Crowner, Greg Stutsman and Maria Chao – Report previously given

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman and Christine Gray-Mullen – There will be a retreat tomorrow with the whole UTAC Steering Committee and subcommittees meeting with a consultant for 5 hours.

Downtown Parking Working Group – Christine Gray-Mullen and Richard Roznoy – The next meeting is April 4th at 9:30 a.m.

Transportation Advisory Committee – Richard Roznoy – This group is starting to function and get busy. The TAC had a meeting yesterday (March 28th). It's still apparently flying under the radar. Mr. Roznoy thinks that the TAC will get more attention and attendees in the next couple of months. At its meeting yesterday the TAC approved a concept plan for the rerouting of the Montague Road and Sunderland Road intersection. Concepts had been reviewed at a North Amherst community meeting sponsored by the Planning Board and the Select Board. Options A through D were presented at that time. Option D was the first choice at the community meeting. Option D has now been approved by the TAC. Part of the auto works property (behind the North Amherst Library) has been purchased by the town, and there will be a connector road across the auto works property from Sunderland Road to Montague Road where there will be an intersection in front of the shopping plaza. The project will now go to the engineering stage, and there will be another meeting after that. The intersection of Pine Street and North Pleasant Street will be incorporated into entire redesign of area; previously it had been separated into two different projects. The TAC is starting to figure out how to address particular issues and is becoming a funnel for all transportation issues in town.

XIII. REPORT OF THE CHAIR – no report

XIV. REPORT OF STAFF – no report

XV. ADJOURNMENT

The meeting was adjourned at 9:02 PM.

Respectfully submitted: Approved:

Christine Brestrup
Planning Director

Stephen Schreiber, Chair

DATE: _____