

**AMHERST PLANNING BOARD**  
**Wednesday, March 15, 2017, 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Stephen Schreiber, Chair, Robert Crouner, Christine Gray-Mullen, Michael Birtwistle, Jack Jemsek, Maria Chao, Richard Roznoy

**ABSENT:** Greg Stutsman, Pari Riahi

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

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Mr. Schreiber opened the meeting at 7:05 PM.

**I. MINUTES – February 28, 2017**

Mr. Birtwistle MOVED to approve the minutes of February 28, 2017. Ms. Gray-Mullen seconded. The vote was 6-0-0 (Roznoy had yet to arrive). The motion passed.

**II. PUBLIC HEARINGS – ZONING AMENDMENTS**

**A. A-10-17 Zoning – Table 3 Footnotes – Setbacks (Planning Board)**

To see if the Town will amend Article 6 of the Zoning Bylaw by removing language from the Table 3 Footnotes and placing it in the appropriate text in Article 6, as follows:

Remove language regarding side yard setbacks from Footnotes “d” and “f” and add similar language to Section 6.13, Minimum Side Yard, and

Remove language regarding rear yard setbacks from Footnote “e” and add similar language to Section 6.14, Minimum Rear Yard, and

Amend Table 3 of Article 6 by replacing the letter (footnote) “e.” for “Basic Minimum Side and Rear Yards (ft.) under the LI District, and the letter (footnote) “f.” for “Basic Minimum Side and Rear Yards (ft.)” under the OP and PRP Districts with the number “10.”

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

Mr. Crouner said that this zoning article is an attempt to pare down the number of footnotes to Table 3. Most information in footnotes is more appropriately placed in the previous text of Section 6.1 of the Zoning Bylaw. Footnotes are somewhat controversial and can make some people uneasy, so it is better to make the list smaller to focus on the footnotes that have impact, namely Footnotes “a” and “b”.

This article deals with three footnotes that regard side and rear setbacks. Footnote “d” deals with side and rear yard setbacks in the R-N, R-VC, and R-G zones, and modifies the defaults to allow for no side yard setback when two single family homes are built at the same time on adjoining lots with a party wall. There is no change in how the bylaw is interpreted, it is just a rearranging of the text.

Footnote “e” deals with side and rear yard setbacks in the LI, B-N, and the B-G zone, and modifies the default when adjoining residential districts. The text does not mention the B-N zone, which is a relatively recent development.

Footnote “f” deals with side and rear yard setbacks in the OP and PRP zones; it modifies the default when these adjoin a residential district. Duplicative language for this footnote does not exist in section 6.1. New sections to be created will be 6.133 and 6.142; the items below need to be renumbered.

Part C of this article is the only part that might be a little tricky. It would delete the letters from the table itself, and needs to add a default dimension for OP, LI, and PRP district. They have no

dimension specified in the table, only a footnote letter. We are proposing to put in 10 feet as the default for these zones. This was chosen because that is the default for B-N and B-G zones; 10 is consistent and is the default. All of these articles were recommended by consensus on the ZSC.

Mr. Birtwistle asked about the clause “except as may be provided for specific uses” to be found in sections 6.133 and 6.141.

Mr. Crowner said it is there because that is what is in the footnote, and he did not want to make any substantive changes.

Mr. Birtwistle suggested that if the Board is pruning the Bylaw, they should strive to do it completely.

Mr. Crowner said he was not completely sure why that clause was there; it could have to do with a footnote modified in the next article, which pertains to educational and religious uses.

Ms. Brestrup said that Mr. Crowner was correct; that clause has to do with educational and religious uses, for which the setback is doubled.

Mr. Schreiber said that because this effort is just a shuffle, he would prefer the language stays the same as it is written.

Ms. Brestrup noted that at the suggestion of the Chair of the Select Board, Mr. McCarthy has prepared a chart to illuminate where the language is being relocated. It was revised tonight after the ZSC meeting.

Mr. Schreiber asked if there were any questions or comments from the public. There were no responses.

Mr. Crowner MOVED to close the public hearing, and that the Planning Board recommends Town Meeting adopts this article. Mr. Birtwistle seconded and the vote was 6-0-0

**B. A-11-17 Zoning – Table 3 Footnotes – Miscellaneous (Planning Bd)**

To see if the Town will amend Article 6 of the Zoning Bylaw by removing language from the Table 3 Footnotes and placing it in the appropriate text in Article 6, as follows:

Remove the language regarding “buildable lot” from Footnote “h”, adding similar language to Section 6.10 Lot Area Requirements, and renumbering subsequent sections accordingly, and

Remove the language from Footnote “l”, adding similar language to Section 6.6 Educational and Religious Uses, and renumbering subsequent sections accordingly, and

Amend Table 3 by removing the Footnotes “h” and “l” as amended under Part B of the article.

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

Mr. Crowner said that this article consists of two footnotes being moved out of the list of footnotes to Table 3 and into the text of Article 6. Footnote “h” applies to the basic minimum lot area, which describes what a buildable lot is. This is most appropriately put in Section 6 where other lot area requirements are found.

Footnote “l” applies to the entire dimensional table and says dimensional regulations apply to religious and educational uses except as provided in Section 6.6. Rather than having it in Table 3, the footnote will be moved and will become the text for Section 6.6 itself.

There were no comments from the public.

Mr. Crowner MOVED to close the public hearing and recommend that Town Meeting adopt this article. Ms. Gray-Mullen seconded. The vote was 6-0-0.

**C. A-12-17 Zoning – Non-substantive Corrections (Planning Board)**

To see if the Town will amend Article 11, Section 11.0, Amendment, of the Zoning Bylaw to allow the Town Clerk (at the request of the Planning Board, after a public hearing) to make clerical, non-substantive corrections in the Zoning Bylaw to correct typographical errors and errors in the order of sections, in numbering, and in cross referencing of sections.

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

Mr. Crowner said that this article originated in work the ZSC did years ago when proposing a new zoning overlay district. They did not end up going forward with the overlay, but in order to do so they would have had to create a new section in the part of the Zoning Bylaw where zoning overlay districts are listed. There isn't room right now in the numbering regime. In order to make room, the article would have to reorder and renumber the whole section. This would have amounted to 19 pages consisting mostly of changing numbers. This scenario could potentially be very complicated and confusing to citizens. It is unnecessary to put the Planning Board and Town Meeting through that lengthy process for simply renumbering and fixing errors. This article is not intended to change anything substantive in the Bylaw, it is just a way to perform non-substantive numbering changes. It would allow the Town Clerk to make the changes on the request of the Planning Board after a public hearing.

There are several levels of oversight. The Planning Board holds a public hearing, and then asks the Town Clerk to make the change. The Town Clerk can choose to make the change or decline to make the change, in which case the change would need to be submitted to Town Meeting for approval. There are no plans at this point to make use of the provision, but it may be useful in the future.

Ms. Brestrup said that during discussion in the ZSC, Mr. Stutsman offered to do research and he found several towns in Massachusetts that do this. Joel Bard, Town Counsel, checked with the Massachusetts Attorney General and both he and the AG feel that this is kind of change is legitimate.

Mr. Schreiber asked for clarification. He wondered if the two previous articles that were discussed (Table 3 footnotes) are more substantive than what would be within the scope of this provision.

Mr. Crowner said that the Table 3 footnote changes would be beyond the scope of this provision, but conceivably those articles might have just called for the deletion of the footnotes without enumerating the renumbering.

Mr. Crowner MOVED to close the public hearing and recommend that Town Meeting adopt this article. Mr. Birtwistle seconded. The vote was 6-0-0.

**D. A-13-17 Zoning – Apartment Bedroom Mix (Planning Board)**

To see if the Town will amend the Standards and Conditions of Article 3, Section 3.323, Apartments, to allow the Permit Granting Board or Special Permit Granting Authority to waive or modify the percentage of dwelling units of any one size (i.e. number of bedrooms) when an apartment use includes a minimum percentage of Affordable units.

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

Mr. Crowner said that this article is moving forward at the request of a local nonprofit developer who wants to create Single Room Occupancy apartments for very low income people, such as those transitioning from homelessness. That kind of project is best done with small studio type apartments, and it would be expensive to force that kind of project to conform to the existing apartment bedroom mix bylaw. That kind of SRO facility would be a benefit to the town, and this adjustment is necessary to make it possible. It is written in such a way that if all dwelling

units in a project are affordable according to the statutory definition, the permitting authority can waive the requirement that no more than 50% of apartments be of any one size, with any resident manager's apartment being exempt from the affordability requirement. The ZSC considered a lower standard of affordability, such as 25 or 50% of apartments being affordable, but this project being contemplated would have all or almost all affordable units so therefore in order to ensure the best chance that this article passes and can enable the project, they are being most conservative. This bylaw would apply to all apartment buildings, so they don't want to make the standard too low.

Ms. Brestrup said that the person from Valley CDC who initially proposed this change to the ZSC is here if the Planning Board would like to hear from them.

Mr. Schreiber said the Planning Board should voice their questions and concerns first.

Ms. Gray-Mullen said that it sounds like this proposal came about due to one project, and asked if any "devil's advocate" spoke out during the drafting process. Are there other ways that this could be interpreted or used in a way that is not advantageous to the Town?

Mr. Crouner said it is hard to imagine a way it could be. It only applies to apartments where all units are affordable. If someone wants to make, say, ten four-bedroom apartments that are affordable, it would be a good thing. There was thought of using a different standard, like 25 or 50% affordable, but in order to promote affordable apartment buildings, it would be better if the standard were 100% affordable.

Ms. Gray-Mullen asked why there was a requirement that no more than 50% of the units should be of one size. [The answer is that the town wanted a range of apartment sizes to be available.]

Mr. Crouner said that apartment buildings are allowed in the R-G zone with a special permit. People are very concerned about apartment buildings, because it is unpredictable who will live there. People are nervous when an apartment use is allowed in their neighborhood or any neighborhood. The lower the standard of affordability incorporated in this change, the more likely someone will take advantage of it, so there will be more opposition in Town Meeting. If this article doesn't pass, the Valley CDC project doesn't go forward. In order to promote that project, the ZSC proposed 100% affordability. In future, this limitation can be revisited. The affordability standard probably should be lower, but it is not necessary to strike that balance right now. The ZSC wants the article to go forward, and setting it at 100% is the easiest way to ensure its success.

A member of the public asked if there is a clear cut definition of 'affordable'.

Mr. Crouner said that 'affordable' means a unit is able to be rented by someone who makes no more than 80% of the Area Median Income, a number which varies based on family size, on the apartment size and on the area's median income. It is a federal standard that is administered by the state.

Vincent O'Connor said that he thinks, especially in affordable housing projects, that the Board needs to put in place a requirement that the applicant submit some kind of information that shows what apartment sizes are in demand. Only then can the Planning Board rationally shape what the apartment bedroom mix should be. These projects should not be profitable, but should rather respond to the demand of the public applying for affordable housing.

Ms. Brestrup said that there is an understanding that potential tenants for this project are very low income people who are coming out of homelessness or other serious dysfunction in their lives who just need a very small place to live temporarily while they gather themselves together, get a job, and find a different place to live. They need one room, a place to cook, to shower, and store their toiletries. It is really aimed at individuals, not families. She suggested that the Board hear from Joanne Campbell from Valley CDC who was present at the meeting. The proponents are not aiming for people who have families, but single people in the range of 50-30% or less of the AMI, people on the margins who need a place to live.

Joanne Campbell said that Valley CDC does own a small family development that the Amherst Housing Authority manages. They are working with a number of organizations to find a location for the SRO project, a property they could build on or convert for enhanced SROs, where each room or apartment would have a kitchenette and bathroom. To respond to Mr. O'Connor's suggestion for a market study, the state requires any project seeking affordable housing status to conduct a market study. The state is not interested in a project if there isn't a market in the area.

Amherst has a problem with housing very low income individuals, the people living in shelters or in the woods. Valley CDC is making a commitment to find housing for this population. The current apartment bedroom mix bylaw mandating no more than 50% of one apartment size is challenging.

Valley CDC is seeking to build or convert 20-30 units each with less than 300 sq. ft. ("micro-apartments"). This Bylaw change would make it easier to find a location in the downtown area. The only other option is a Comprehensive Permit if the Valley CDC wants to override the limitation of the apartment bylaw. She said she hopes the Town sees this project as beneficial; the Town wants to find an appropriate location for enhanced SRO housing.

Mr. Roznoy had arrived during the public hearing.

Mr. Crowner MOVED to close the public hearing and recommend that Town Meeting adopt this article. Mr. Birtwistle seconded. The vote was 6-0-1 (Roznoy abstained).

### **III. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT**

#### **SPR2017-00010 & SPP2017-00003 – Archipelago Investments LLC – 26 Spring Street**

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 preamble and opened the public hearing.

The Board had no disclosures.

Mr. Schreiber stated that this will be the initial presentation of the project; he would like to hear the presentation and some comment, but there will be some questions to be addressed so the Board will most likely continue the hearing.

Kyle Wilson of Archipelago Investments presented the application. He noted that he had brought some additional renderings and plans which have been forwarded to Ms. Brestrup. This property is on a unique block in Amherst, surrounded by churches, the police station, Town Hall, and the Lord Jeffrey Inn. It is a unique parcel that had housed a single family residence which was torn down to provide a parking lot.

The proposed building is a mixed use building that has a ground floor that reflects the grade change over the site. The northwest corner of the site is highest point. It is 10 feet higher than the southeast corner. Spring Street in 2006-2007 was renovated for a planned Lord Jeffrey Inn expansion, and sidewalks were lowered and underground conduits for utilities were installed. The rectangular site gives the developers an opportunity to construct a unique mixed-use building, featuring parking below, retail in the front, and residential areas going from the ground on the west side to elevated terraces on the east side. The basic scheme features two "bars", or building sections, each with a gabled roof that works well within the context of Town Hall, the Episcopal Church, the police station, and the Lord Jeffrey Inn. The two "bars" shift, and there is a common corridor that serves all the apartments on each floor. Dormers project into the gables, forming lofts on the upper floor. The ground floor area is the mixed-use portion – there is 1000 sq. ft. of retail space. Because of the grade change, this a unique

space – it is very tall. He said that the optimal use on the ground floor, given that it is a space that doesn't have much foot traffic, is a cultural use. Above, on the residential floors, are 38 apartments - four studios, seven two-bedroom apartments, and 27 one-bedroom apartments. There is a row of bike parking on the back side of the handicapped parking below.

The terrace units face the Episcopal Church and others face the Jones property to the east. All the mechanicals are served in a well on the roof between the gables for sound attenuation. The building will feature a similar mechanical system to those in Kendrick Place, Olympia Place, and the One East Pleasant Street building- all electric, air-source heat pumps, a generator, and an air-handling unit.

The bricks used have “dynamic proportions”, he said, and are hand formed Danish brick. The brick wraps the upper floors, and there is a metal standing seam roof, featuring the same metal that surrounds the fiberglass windows on the upper floors. The lower floors have precast concrete applied to the framing, and a wooden storefront that wraps the mixed use area and the lobby. A number of units have doors that swing in with glass handrails; they are in a random pattern. There are terraces on the west and east side of the building, as well as planters. The drive aisle to the garage drops down 5 feet, and under the pavers there will be an electrical heat system to keep it clear from snow. Units on the corners of the upper floors are two bedrooms. The height, grade, and elevation have been clarified on recent plan revisions. The average grade on the street side of the building is 290'-7". The proposed height, measured from the average grade, is 55' to the top of the dormers, which is the same height as half-way up the sloped roof.

The dimensional Special Permit for building coverage is related to the space taken by the terraces above the parking area. The actual building itself that rises up from the ground is less than the maximum 70% building coverage requirement.

The erosion control plan shows the erosion control systems on the site.

The stone walls at the base are landscape stone, and veneer stone will wrap the parking area as well. They want to use a granite similar to that used on the Grace Episcopal Church building and base of the two dorms recently built by Amherst College on their quad.

Mr. Schreiber asked about the site visit. Ms. Brestrup stated that she, Mr. McCarthy, Mr. Birtwistle, Mr. Jemsek, Ms. Gray-Mullen, and Ms. Chao attended the site visit. A written site visit report had not been prepared.

Ms. Gray-Mullen reported that the lot was covered with snow, but the Board members could see some trees in the back right corner that may have to be addressed. She said she liked the renderings, although they show trees planted in front of the building. Today, there are poles and utility lines in front of the lot. A town streetlight is on the property and will have to be moved.

Ms. Brestrup noted that there are some street parking spaces in front of building in the Town right of way, and if this plan goes ahead as proposed (including installing landscaping in front of the building) these parking spaces would be lost. On Spring Street, there are some utility poles on islands that jut into the shoulder of the road, disrupting parking spaces. If the Town can find the money to bury the utilities on that street, some of the parking spaces that are lost for this development may be recovered. She noted that the trees Ms. Gray-Mullen referred to are between the abutting Jones property and the subject property. These trees will need to be felled for construction to commence. Some did not look like they were in great condition. The property itself rises up from the street. The front entrance will be flattened out so that the main entry to the first floor is on a level with the sidewalk and parking is a level down from the sidewalk.

Mr. Wilson presented drawings of the proposed building and pictures of the site showing the existing telephone poles. A previous town proposal had included burying the utilities from Seelye Street to the southwest corner of the Spring Street parking lot. He described the work that had been done to date to bury the wires.

He proposed to plant five trees in front of the building in the area where there will be pavers. These tree plantings would take away parking. Another approach would be to use all the space for parking, or some mix of parking and tree plantings.

Mr. Schreiber said that the Planning Board had received a number of letters from other town committees and town staff. One of these was from the Design Review Board. Mr. Schreiber asked Mr. Birtwistle, a member of the DRB, to summarize their perspective.

Mr. Birtwistle said that the DRB reviewed the proposal on February 23. It was very similar to the proposal seen today. The DRB recommended approval of the proposal on a 3-0 vote. Mr. Birtwistle abstained since he would be reviewing the proposal with the Planning Board. Four recommendations were given: for a rendering from the north to be provided; for a review of the amount of glazing on all sides of building, particularly on the commercial space, perhaps involving a solar study; that the door on the west side of the commercial space be enlarged so large pieces of artwork could be brought in; and for an electric car charger being installed in the parking area.

Mr. Schreiber reported that the Board had received a letter from the Town Engineer. He read some of these concerns, including those about subsurface stormwater management, curbing and trees and agreement with the Traffic Impact Statement.

Ms. Brestrup said that there were still questions about the stormwater management plan, and recommended that a condition be imposed (if the proposal was approved) requiring that the stormwater management system design satisfy whatever concerns or comments the Town Engineer has before a Building Permit is issued. This is a common condition when there are concerns about stormwater management. The Town Engineer has concerns about the soils on the site and water infiltration. SVE, the applicant's engineering consultant, states that the plan is sufficient, but the Town Engineer would like to see further data.

Mr. Schreiber described a letter he had received from the Fire Department regarding the proposal.

Mr. Birtwistle noted that there was a typo in Management Plan 4; it referred to the project as 1 East Pleasant Street. He asked how the proposed tenancy was set at 50 when there are 38 units proposed.

Mr. Wilson said that that was due to the two bedroom units.

Mr. Birtwistle asked if that meant that 50 people would sign leases.

Mr. Wilson noted that there were 38 units proposed, with 7 two bedrooms; that comes out to 45 bedrooms, and some one bedroom units may have couples. He clarified that he is not proposing 50 leases, but 38 leases.

Mr. Birtwistle asked if he was not imagining that there could be couples with children in the two bedroom units. Mr. Wilson said it was possible; 50 was an approximate number.

Mr. Jemsek noted that the applicant had dug test pits on the site that were not observed by the Town Engineer. He asked what the results were and he asked about details of the stormwater system.

Mr. Wilson showed boring logs from tests performed in 2016. He described how the west terraces sit above the stormwater facilities, and how they are attempting to use the grade of the site to their advantage, so the water can be held there instead of draining offsite. There used to be a single family residence on the site, and the stormwater proposal meets the 100 year storm requirements for both the proposed site and the site with the formerly existing house.

Mr. Jemsek asked what the boring logs showed the depth to groundwater to be. Mr. Wilson said it was determined to be 15 feet.

Mr. Jemsek noted that that was the depth to groundwater on that particular date in the middle of the summer. He expressed minor concerns about the landscaping plan: the fountain grass is not a native grass, and perhaps could be replaced with a native choice; also, the oak trees along the sidewalk could produce a slipping hazard with acorns.

Mr. Wilson said he was open to choosing from a list of approved street trees provided by the Town.

On the topic of bicycle storage, seventeen bikes will be able to be stored on the wall-hung units in the garage. That number could be increased or decreased depending on what people are comfortable with, and space constraints. He said there could also be bike storage in the apartments, and if there is additional demand, bikes could be stored in the storage area to the back of the rear stairwell.

The entrance driveway to the garage will be secured by a door. There will also be a trench drain to catch stormwater runoff.

There was discussion about the need for bicycle parking for visitors to the retail space. Mr. Wilson said the applicant and the town could look at the space between the sidewalk and the street for public bicycle storage.

There was discussion about why one of the “bars”, or sections, of the north elevation had no windows and it was determined that it was because that part of the building is on the property line of the Masonic Lodge. There was discussion about the distance between the new building and the Masonic Lodge and whether the north elevation could have windows. Mr. Wilson stated that all the rooms on the end of that bar are bedrooms, with windows facing west, so they don’t need windows on the north side.

Mr. Wilson stated that some of the tenants would purchase on-street parking permits from the town, given that there were only 17 parking spaces for 38 units.

There was discussion about whether the applicant would be leasing those spaces on a first-come, first-served basis and whether the lessees of the parking spaces would all be tenants of the building. Mr. Wilson said that the spaces would be leased to apartment tenants and that tenants would have a choice about whether to lease an apartment with a parking space or not.

Ms. Chao said that she thought it was, overall, an elegant project, and she liked the forms. She suggested snow guards be installed on the east and west roofs. They are not over a public entry or exit, but she was concerned about snow suddenly falling 40 feet. She was also concerned that there was a bit of a slope on the roof above the north egress – even with guards, on a standing seam roof the snow will eventually shoot off. She asked about the retail/art space, and whether it was closed off, and asked about the LEED certification.

Mr. Wilson said that the building was to be LEED Gold certified, and that there was to be a door between the lobby and the retail space.

There will be two-story glass windows that extend up to the loft spaces from the living spaces to provide sunlight to the lofts.

There was a question about the trees that lie along the eastern property line, and whether there had been any conversation with the abutter to the east regarding these trees.

Mr. Wilson has spoken with property owners on all sides, and he confirmed that the trees are almost directly on the property line and would need to be removed.

There were questions about the accuracy of the renderings since they showed the trees that would be removed.

Ms. Brestrup noted that the Building Commissioner had a comment about the stairs on the east side of the building, which lead from the egress door on the north side of the building to the public way. To reach a public way from that egress, one would have to navigate these stairs. The Building Commissioner did not believe the stairs would be allowed since there needs to be an accessible egress path to the public way, and changes must be made to the plans.

Mr. Wilson said he had looked into that issue extensively, and accessibility from an egress standpoint is different from accessibility from an entrance standpoint. If the applicants were wrong, they would put in a ramp instead, but from the developers’ initial Building Code review, they believe that the stairs are suitable.

Ms. Brestrup noted that if the stairs were replaced with a ramp, it would change the designs of the east terraces, and could result in extensive changes to the entire design. She recommended that this issue be resolved.

Mr. Wilson noted that if a ramp has to be constructed, the building must be shifted. He re-asserted that the requirement for being 'accessible' from an egress standpoint would be satisfied by stairs.

There was discussion about the height differential between the top of the stairs and the sidewalk level.

Ms. Gray-Mullen asked if the walkway would be gated. Mr. Wilson said there would be a gate, but that someone could climb over it.

Ms. Gray-Mullen noted that a gate may not be practical for someone who needs to use a ramp.

Mr. Birtwistle asked the applicants to explain how the construction process would work, and where contractor parking, materials staging, and cranes would be placed given that Spring Street is very narrow and has a lot of traffic and the site is very tight.

Mr. Wilson explained that the east side of the building would require pilings to set the foundations, although there is more room on the other sides. The north side would require pilings in spots. The developers would have to work with the contractor to establish and develop a parking and staging plan, which could vary by the season and the stage of construction. He had received a communication about conditions to better address the construction sequencing plan, and he will work with the Town and the contractor to set that up.

Mr. Birtwistle asked if the applicant thought the street would be closed for a significant amount of time. Mr. Wilson said he did not believe there would be extended street closures. Large trucks would need to park and unload; he would need to work with the contractor about timing and requirements.

Mr. Schreiber said that normal practice is to evaluate a project by comparing it to the site plan review and special permit criteria, which have to do with the project's relationship with master plan, and its long term effect on its location. The construction logistics plan can be a requirement of the conditions before a Building Permit is issued.

Ed Westhead of Cortland Drive commented on the change in the character of the town he is seeing, particularly on East Pleasant Street and Triangle Street. He asked if the town has a formula for the fraction of retail space that must be in a dense mixed-use building such as this, and what the type of retail has to be, geared more towards residents or tourists. He said that there is not enough parking for everyone in the building and the construction of this project would result in a higher density of cars parked downtown. He would hate to see large shade trees being cut down for this project and being replaced with small decorative trees.

Cheryl Wilson, of Macintosh Drive, and Chair of the Greensward Committee Garden Club of Amherst, spoke about her perception of a lack of concern by Town officials in giving approval for projects without enough consideration for green space. Many mixed use projects, let alone not having parking, don't have trees or landscaping. She was concerned about this project as it is in the transition area between downtown retail areas and residential areas. While it is true that the Lord Jeffrey Inn is across the street, and the Grace Church and the police station abut the property, there used to be a house on the site that was taken down and there are other houses on the street. She said she is excited by the idea of planting trees and building terraces, although she was concerned that the building itself takes up basically the entire lot. Trees will have to go into the public way and the Town will lose more parking space. The developers have designed the building in such a way that will give them maximum profit while forcing landscaping to go in the public way. If they reduced the numbers of apartments, and moved the building back, trees could go on private property. She was pleased that there is green space and landscaping involved.

Mary Wentworth, of 22 Lessey Street, asked that the Board postpone making any decision about this proposal until the problems with Archipelago's other properties have been addressed. The University and the Town of Amherst made a commitment to identify sub-standard housing in Amherst that represents threat to the health and safety of students. She asserted that Kendrick Place is being rented by the room. She asserted that there are problems that students are struggling with at the Olympia Place property and she presented a printout of reviews found on an apartment review website for

Olympia Place. Given the complaints and reports of conditions in Olympia Place, she asked why a permit for occupancy was given for that property.

Ms. Wentworth asserted that the Olympia Place property has had a lot of problems with plumbing and electrical systems.

Mr. Schreiber asked where Ms. Wentworth was going with her argument, as she was talking about a different property.

Ms. Wentworth said that if the Board read the apartment reviews she had provided, they would understand the magnitude of the issue. The big question is whether the problems are correctable in the long term, and when the property will be a real habitable place to live. Another aspect of Olympia Place is that the parking is inadequate. The University lots do not accommodate all of the residents, and they are parking on street, which means there is a real possibility fire trucks will not be able to get down Olympia Drive if there was fire. She believes that these problems have been going on from the start of the school year, and they need to be addressed very strictly.

Vincent O'Connor, Precinct 1 Town Meeting member, shared the concern about the quality of product that the applicant will provide to renters. Boards and committees, no matter what their personal feelings are about the project, need to look at the Bylaws for review. Mr. O'Connor asserted that this project fails to meet some of the Site Plan Review criteria. He drew attention to Section 11.25 of the Zoning Bylaw, which lays out three possible outcomes of the Planning Board's decision-making process; approval, denial, and approval with conditions. He asked the Board to deny the application, but said he would lay out some possible conditions if they were to approve it. He had made calculations based on the building plans, showing the retail space as 955 square feet; that retail space is about 8% of the property lot size, and slightly over 10% of the first floor, but taking into account all five floors, this project is a mixed use building where retail constitutes only 2-3% of the total floor area. In his opinion that is not really mixed-use, and on that ground alone, it should be rejected.

He recommended that the applicants be instructed to come back with a greater proportion of retail space, even if that meant retail or office space being put on the second floor. He questioned whether the project fit with the definition of 'mixed use building'.

Under the Site Plan Review criteria, Section 11.2403 says that projects should provide adequate recreational facilities, open space, and amenities. Mr. O'Connor asserted that 'provision' doesn't mean to locate the property near the town common or a public park. It means the developer provides it. Mr. O'Connor said that there were no recreational facilities provided. In this proposal, there is minimal open space and no amenities.

He had requested from the Town information regarding how many applicants for town center parking permits there were in the year Kendrick Place has been in operation; there were 55 applicants, even though the building was having lease issues, and it only provided two parking spots in the basement.

This proposal only provides 17 spaces for 38 units, which bodes poorly for this project as there will be far more parking demand than supply. This project fails under the recreational facilities, open space, and amenities sections. Section 11.2414 requires provision of adequate landscaping including screening of abutting residential uses, because this is presumed as mixed use even though only 2-3% of floor area is retail. Section 11.2421 says development should be reasonably consistent when it comes to setbacks, placement of parking, landscaping, and entrances and exits with regards to nearby developments. Therefore the proposal should be rejected.

If the Board were to approve the project, the size of the building should be limited, and it should be moved back so as to be consistent with Zoning Bylaw Section 11.2421. The applicant should present an agreement with the abutting property owner to the east, agreeing to plant trees to screen the building from the east.

He requested that the Board apply the literal language of Article 15 of the Zoning Bylaw which requires that if a residential developer needs a Special Permit to build a project, it must provide affordable housing. If that requirement had been applied to the development at 1 East Pleasant Street

and Kendrick Place, the Board would have required close to the same amount of affordable housing as that proposed for the North Amherst Beacon project which is getting a \$2.8 million tax break.

Denise Gagnon asked how much taller the proposed structure will be than the buildings on either side. This question was addressed later in the public hearing by the applicant.

Mr. Crowner was interested in the suggestions of the previous speakers. He was concerned about the loss of the large shade trees to the east, and even though they are proposed to be replaced with street trees, those would be in the public right of way and would result in the loss of parking spaces. He said he liked the idea of replacing the trees on the property to the east instead of in front of the building, although he does like street trees. He also said that with regards to the setback comments, he believes the Lord Jeffrey Inn across the street is at zero setback, and the Grace Church is close to zero.

There was discussion about the issue of parking versus trees.

In this area of the downtown the Town needs both trees and parking. Mr. Schreiber suggested that the applicant take a hard look at this issue and see if the scheme can work without losing parking spaces. He noted that the Grace Church and the commercial blocks across the common are both built right to the property line. He noted that the fact that this project requires a special permit for lot coverage shows a peculiarity of the way building coverage is measured in Amherst. Statutorily, the roof deck and terrace are counted as 'building' spaces, but Mr. Schreiber thinks of the 'building' as the heated and cooled area. If the patio was on grade, it wouldn't be considered a 'building'; Mr. Schreiber questioned why a Special Permit is required for building coverage for a patio over a garage but not a patio on grade. The third issue is that the rear setback must be zero or ten feet; if it is in between that it must have a Special Permit. It makes no sense to punish someone for a 1' setback vs. a 0' setback. The Planning Board also needs to question what 'adequate provision of recreational facilities' means.

Ms. Gray-Mullen noted that there needs to be a balance between parking and green space. Focus is being given to the area in the right of way in front of the project, but there are poles and utilities there. Trees are being considered; if the poles stay, it's not possible to maximize parking there, but if the poles are removed and no trees are planted there could be three parking spots. This trade-off needs to be negotiated. Ms. Gray-Mullen noted that the Planning Board doesn't have jurisdiction over abutting neighbors to require them to plant border trees.

Mr. Birtwistle stated it would be even better if the developers offered to plant trees on the abutting property; Ms. Gray-Mullen noted the abutter could refuse the offer.

Mr. Birtwistle stated that the building is very appropriate in scale for the area in which it is proposed. Although it is very close to the front lot line, the overall massing is very much in line with the buildings around it; it is perfectly appropriate for a large building to be in this spot. He was concerned about the views from the north, but his concerns have been assuaged by renderings showing that this building is appropriate in size. He expressed concern about the percentage of commercial space in the project; but noted that this is more of a problem for the Board to work on and to define what 'mixed use' means. There is currently no definition in terms of percentages. If the Board wants to be more proscriptive about percentages, the ZBL should be changed. As it now stands, there is no reason to reject the project given that the technical details are worked out.

Mr. Wilson said that the Google Earth photograph shows the grade change well. The 'height' definition in the Zoning Bylaw is relative to the sidewalk, which was recently lowered here; the architects are trying to work with the grade, within the context of the scale of neighboring buildings. Regarding setbacks, the majority of buildings on this block are built close to the lot line. The building coverage number counts all of terraces. Their inclusion takes the building coverage from approximately 58% to approximately 77%.

Mr. Schreiber asked if that was Mr. Wilson's own interpretation of how building coverage is calculated. Mr. Wilson said it was, the terrace wall is a foundation wall, and the patio is the roof of the garage.

Mr. Roznoy asked the applicant to speak about the project's access to recreation. Mr. Wilson said the applicants consider the provision for access to adequate recreation to be satisfied. This site is in a downtown location in the B-G district, within steps to the Town Common and other open spaces.

Mr. Schreiber asked staff what remains to be reviewed before the Board goes through site plan criteria.

Ms. Brestrup said that a lot of drawings and information had come in in the last 24-48 hours, and Planning Department staff has not had the opportunity to evaluate or comment on it. In addition, there are some strong opinions about potential conditions. She recommended the Board continue the public hearing to the next meeting of the Planning Board, and by then staff will have had time to review the new information. Perhaps the Development Application Report will be revised based on some comments from this meeting.

Mr. Schreiber said that the management plan immediately comes to mind, and asked staff if sample leases are requested. Ms. Brestrup said they would be requested for both the residential units and the commercial space.

If the issue of only having one lease per unit was important, this could be addressed in the management plan in a clear fashion.

Mr. Wilson said there would be more clarity on the trees, and further conversations with the adjacent land owner.

Mr. Birtwistle asked for further clarification on the issues of parking spaces and who gets to park where.

Mr. Crowner asked for a recommendation from the Tree Warden about the street trees. Mr. Wilson asked if that would be a definitive recommendation, or guidance. Mr. Crowner said he was looking for guidance.

Mr. Roznoy asked if there could be clarification on the plan for the fountain grass; Mr. Wilson said they would look into that.

Ms. Brestrup asked for more clarity on the issue of the rear egress pathway to the public way, and the ventilation of the garage and where the vents would come up.

Mr. Wilson said that there were some construction issues to be resolved, and there would have to be a mechanical engineer review. The vents for the garage will not come up on the outside of the building, but they may have to create a chase inside the building. Mr. Schreiber noted that it was the only building like it in Amherst with a building above a garage.

Mr. Roznoy MOVED to continue the public hearing until 7:30 on March 29. Ms. Gray-Mullen seconded. The motion passed 7-0-0.

#### **IV. OLD BUSINESS**

##### **A. Tofino Associates LLC – Amherst Hills Subdivision – Lot Release Request and Three Party Agreement**

Ted Parker, representing Tofino Associates, presented the request. Tofino Associates is in the final stages of negotiating a three-party agreement with Greenfield Savings Bank and the Town to ensure the completion of the Amherst Hills subdivision. The subdivision application was approved with a restrictive covenant requiring that the developer needs to come before the Planning Board to request the lots to be released. The developer has reached a point where 50% of the lots have been released and sold. Pending the resolution and execution of the tripartite agreement, Tofino seeks to release two lots to be sold so that construction can begin on them. All that remains to be done for the tripartite agreement is for the Town Engineer to complete his updated estimate of work remaining, and for the agreement to be executed. At that point a number of lots will be released for development. Greenfield Savings Bank has indicated they are willing to enter this agreement.

Mr. Schreiber asked if the motion would be to release or not to release.

Mr. Parker said they just ask to release two lots tonight, lots 9 and 62. They are among the lots to be released by the tripartite agreement

Mr. Birtwistle asked why they seek to release those two lots. Mr. Parker said it was because someone has requested to buy them.

Mr. Crowner said that the risk is that if the Planning Board releases the lots, and the agreement falls through, there is no bond to cover the cost of infrastructure construction.

Ms. Brestrup said that the Town is waiting to hear back from Town Counsel. They had reviewed the agreement in 2013, and made comments, which were incorporated. Town Counsel is taking one last look before the Town asks the Planning Board to approve this, and the Town Engineer's final estimate is still needed. Hopefully, the tripartite agreement will come back on the 29<sup>th</sup> of March. The Planning Board could tonight make a motion to release these two lots.

Mr. Roznoy asked if the motion should be conditional on receiving the engineering report and the tripartite agreement.

Ms. Brestrup said that it doesn't need to be. Traditionally, after 50% of lots in a subdivision are released, the Town holds some money in escrow; however she said she is comfortable in recommending the Board release these two lots. Most of the infrastructure has been put in, the only thing that hasn't been installed is the topcoat of the roadway. The lots can be served with what is there now.

Mr. Roznoy MOVED to release the covenants on Lots 9 and 62. Mr. Crowner seconded. The motion passed 7-0-0.

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

## **V. PLANNING & ZONING**

### **A.** Zoning Subcommittee Report

Mr. Crowner said there had been a lot of discussion about the upcoming Downtown Center forums. The Town Manager wants to take part in them, but won't be available to do so until after Town Meeting. The ZSC wants to at least get a start on the forums; perhaps there could be a discussion with the full Planning Board and public comment. This discussion could look at what questions to ask, the timeline of the forums, etc. The best time to have that discussion might be the April 5<sup>th</sup> meeting. April 19<sup>th</sup> will be school vacation week, and there might not be a lot of people in town. He said he wants a chance to be ready for fall Town Meeting, and if they wait too long that is out of the question.

Ms. Chao said she could draft a list of potential topics, send them to the Planning Department and the other ZSC members for editing, discuss the list at the next ZSC meeting, and bring it to the Planning Board to focus for the first forum.

Mr. Schreiber said that sounded perfect and thanked Ms. Chao for her great work preparing the outline for the forums.

### **B.** Planning Issues

1. Forums – Topics and schedule (see above)
2. Other – none.

### **C.** Public Comment Period – none.

**VI. NEW BUSINESS**

Topics not reasonably anticipated 48 hours prior to the meeting:

Mr. Birtwistle said he would like to get on the agenda a consideration of defining mixed use building percentages more strictly. He asked if the other Board members think the ZSC should start this effort, or perhaps the Planning Board. The lack of a definition seems to be anomaly as it stands.

Mr. Crowner said that the ZSC has discussed this issue, and brought a Zoning Amendment up a year ago; they could take it up again. He would like to see proposals come out of the Town Center planning effort or from the Planning Board as a whole. He said they could delve into it once a consensus starts to emerge.

Ms. Brestrup said she thinks one of the reasons the Town wants mixed use buildings downtown is that they provide a lively street-front – whether that goal is better served by the commercial space going farther back in the building is debatable. It could also be discussed whether the apartment building cap of 24 units is too low – many developers choose to build mixed use buildings as there is no cap on dwelling units in mixed-use buildings. Perhaps they would opt for apartment-only buildings if that limitation was changed. These are all issues to consider.

Mr. Schreiber said that that was an excellent suggestion, and noted the proposed commercial space of the Spring Street project is about the size of the Town Room. He wondered if parking could be considered a nonresidential use.

**VI. FORM A (ANR) SUBDIVISION APPLICATIONS**

**ANR FY2017-00009 85 South East Street** – This ANR concerns the Spirit Haus on College St, and an adjacent property owned by the relative of the owner of Spirit Haus. The proposal is to take a piece off of the rear lot of the adjacent property and add it to the Spirit Haus lot. The Planning Board endorsed ANR2017-00009.

**VIII. UPCOMING ZBA APPLICATIONS** – none

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS**

Upcoming applications include a proposal for an ice cream window at Atkins North, and a patio in front of AmherstWorks.

**X. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – Jack Jemsek and Christine Gray-Mullen – no report.

Community Preservation Act Committee – Pari Riahi – no report.

Agricultural Commission – Stephen Schreiber reported that the last couple meetings have been cancelled due to snow.

Design Review Board – Michael Birtwistle reported that the Spring Street project was discussed at the most recent meeting, as well as a sign on Pray Street.

Housing and Sheltering Committee – Greg Stutsman – no report

Zoning Subcommittee – Rob Crowner, Greg Stutsman and Maria Chao – report already given

UTAC (University and Town of Amherst Collaborative) – Greg Stutsman and Christine Gray-Mullen – no report

Downtown Parking Working Group – Christine Gray-Mullen and Richard Roznoy reported that there would be a meeting next Tuesday.

Transportation Advisory Committee – Richard Roznoy reported that the last meeting was cancelled due to snow.

**XI. REPORT OF THE CHAIR** – no report

**XII. REPORT OF STAFF** – The Route 9 MassDOT meeting is rescheduled for April 18<sup>th</sup> in the Town Room at 6:30 PM.

**XIII. ADJOURNMENT**

The meeting was adjourned at 10:13 PM.

Respectfully submitted:                      Approved:

\_\_\_\_\_  
Steven McCarthy  
Administrative Assistant

\_\_\_\_\_  
Stephen Schreiber, Chair

DATE: \_\_\_\_\_