

PLANNING BOARD – Public Hearing

Minutes of January 7, 2013

ATTENDEES: Arnold Rosenblatt – Chairman, Sally Wilkins – Vice Chairman, Gordon Leedy, Cliff Harris, Michael Dell Orfano, John D’Angelo – Ex Officio, Richard Hart – Conservation Commission, Allen Merrimen – Alternate, Sarah Marchant – Planning Director

ABSENT: Marilyn Peterman – Alternate, Eric Hahn – Alternate

Rich made the motion to open the public hearing for the petitioned zoning changes.

Cliff seconded the motion; all were in favor with none opposed.

Arnie noted the board would be voting to either support or not support the proposed petition warrant articles and they would not be modifying any language.

(Please see attached full zoning ordinances)

Petition A – To amend Article IV, Section 4.3.A by deleting the term “non-commercial sports and recreation uses” and replace with term “sports and recreation uses”; to repeal Sections 4.3.A.8.F (i) through (vii) in their entirety, and to amend Section 4.3.A.8.g to reduce the minimum required horizontal distance between site lighting fixtures and abutting lot lines from 500 to 250 feet.

Arnie asked the board if they had any questions at this point; there were no comments. He then asked if any concern citizens had any comment or questions.

Brad Knight, author of this petition warrant article, stated this is to reverse a change to the zoning ordinance which effectively eliminated the chance for playing fields in ninety (90) percent of the town. Neither the ZBA nor the planning board were able to approve his proposal for Acorn Fields, which he felt was a reasonable use of the property and would solve the potential shortage of playing fields in town.

Peter de Bruyn Kops stated he wasn’t sure if this would help out with the shortage of playing fields or not. If this passes with the non-commercial restriction removed then this will open up the residential district to any service or business where people would recreate like bowling alleys, facilities like Hampshire Hills which has an accessory use of a restaurant and bar, dance halls, outdoor music. This would change the nature of half of the town.

Wendy Hunt stated her main concern was how broad this change is when you take into consideration the intent of the 1995 ordinance; it was proposed to protect the rural nature of Amherst. She also noted part two of this petition would repeal section 4.3.A.8.F in its entirety. The proposed change to the lighting requirements is not the intent of the ordinance when it was passed in 1995. The use proposed on the property was too intense and might have been allowed if there were fewer fields in use and was not a commercial use. This ordinance petition would change the whole character of Amherst and not just the character of Stearns Road.

Sally reminded the audience the hearing tonight was on the petitioned zoning amendments and whether the planning board supported them or not.

Gordon made the motion to support the petition zoning amendment A.

Sally seconded the motion.

Mike noted the implications of this amendment are quite broad and there has been a lack of public input.

Without that input, approval of this will be a disservice to the town of Amherst.

Sally replied the effect of Petition A is to return the zoning ordinance to the way the planning board approved it.

Arnie noted there was a motion on the floor.

Sally, Cliff, Rich and John approved the motion; Mike, Gordon and Arnie were opposed. There were no abstentions. The board voted to support Petition A by a 4-3 vote.

Petition B – To create a new zoning district entitled the Commercial Sports/Recreation/Function Zone (CSRF) including Map 2, Lot 98-33; Map 3, Lot 25; Map 4, Lot 29; Map 4, Lot 30; and Map 4, Lot 65-1.

Arnie asked if there were any comments or questions from the board.

Cliff stated he supported this petition article and felt it was a good idea.

Rich agreed but stated the wording was not quite right; it doesn’t cover all of the legal bases that Attorney Drescher had brought up in his email of December 4, 2013. (Please see attached email)

53 Sally concurred with Rich's statement.
54 Gordon also agreed; the wording is extraordinarily broad. Technically this is not "spot zoning" but it is only on
55 three (3) properties. The goal is to provide for additional recreational facilities but not only in those areas.
56 Mike wondered how this could not be considered "spot zoning".
57 Allen noted the three (3) mentioned properties are already commercial.
58 Sarah stated this doesn't rise to the level that "spot zoning" is.
59 Allen and John had no additional comments.
60 Arnie asked if any concerned citizens had any comments or questions.
61 Brad stated this proposal addresses the ongoing shortage of fields and the rest of the zoning in town is not
62 affected. He has exhausted all avenues with both the zoning and planning boards and this will bring additional
63 revenue to the town. The current zoning ordinance doesn't allow for this type of use and the recreation
64 department has stated there will be a loss of 65 sports teams without the addition of more playing fields. The
65 three (3) properties must be zoned together. Attorney Drescher's concern regarding residential homes could be
66 considered vague. The main concern is that those three (3) tracts are severely limited with only one (1) or two
67 (2) areas on each parcel suitable for residential use. This deserves unanimous support. He understands the
68 concerns regarding "spot zoning" but these areas are where the sports are happening; adding Acorn Fields into
69 the mix is not a big deal. The golf courses have been in place for many years and this would be a benefit to the
70 town.
71 Gordon asked if the owners of Buckmeadow and Amherst Country Club were a party to this.
72 Sarah replied not to her knowledge.
73 Peter stated this petition will cause damage to the town. Because of grandfathering, the golf courses have
74 remained golf courses. If this passes, they could expand their uses to include race tracks, etc. Before 1995
75 permission was needed for a non-profit use on the property and the proposed changes don't bring that back.
76 Paul Martin state several residents have visited the golf course owners and they are not in support of this
77 petition.
78 Brad stated he had spoken with Sue Currier, owner of Amherst Country Club and she supported the change.
79 Wendy stated she had also spoken with her and her response was the total opposite. Both golf courses are
80 zoned commercial and are not a party to this change. This is "spot zoning". Her property is similar to this and
81 this proposal is very prejudicial to other property owners who would like to offer something like this to the
82 town. This is an attempt to circumvent two (2) years of board meetings; it is vague and broad. What is the
83 definition of function? There are no limits to it. The planning board can't limit it because of the way it is written.
84 The purpose of the residential rural zone is to keep the rural character of the town. Also, the elimination of
85 Section 4.3.A.8.F is for the entire town.
86 Mike stated the attorney's interpretation was because of the physical properties of the land, there is limited
87 residential use and the opportunity for additional residential use is moot.
88 Brad stated that was one of the discussions he had had with the attorney. The housing restrictions in the rural
89 residential zone would be sufficient because this mirrors what is in that zone.
90 **Gordon made the motion to support Petition B.**
91 **Sally seconded the motion.**
92 **None were in favor; Cliff, Rich, Gordon, Mike , Arnie and Sally were opposed with John abstaining. The vote**
93 **was 6-0 against with 1 abstention.**
94
95 **Petition C** – To amend Article IV, Section 4.3.A by deleting subsection 4.3.A.8 and replacing it with a new
96 section to allow Sports and Recreation Uses within the Residential/Rural District that meet the conditions,
97 provisions, and definitions cited in the petition.
98 Mike asked whose petition this was.
99 Wendy Hunt replied her husband drafted it but she has been noted as the petitioner.
100 Arnie suggest the board hold their comments until they hear a brief explanation on the petition.
101 Peter de Bruyn Kops stated they were limited by time to come up with a petition warrant article. They took
102 what was stated by the ZBA and the planning board and looked to improve the current sports and recreation
103 uses in the residential district. They wanted an explicit purpose and intent paragraph, which would have helped
104 the ZBA in their decisions. They also added explicit definitions for non-commercial recreation and sports. The

105 lack of definition was a challenge that both boards faced. They are limiting the intent and adding additional
106 parameters such as footprint, number of car trips and amplification, activities that will be approvable on a sixty
107 (60) acre lot. The definition of passive recreation is all other recreational uses other than passive.
108 Cliff had a question on the statement "quiet enjoyment"; It is different for each person. They are also
109 controlling excessive noise – how can that be classified? How can they limit the amount of money a person
110 makes?

111 Rich stated he like the basic intent and always thought lots of small fields throughout the town would be a
112 great idea but it is not what the town wanted or needed. Everyone involved in recreation states a need for
113 multiple fields in one (1) location for tournaments but that is not easily compatible in the residential rural area.
114 There are a few remaining farmer's fields where it could work but not allowing big concentrated areas to host
115 tournaments would not be a solution to the current field problem. This proposal is to keep large recreational
116 uses out of the residential areas and he was not sure that was in the best interest of the town.

117 Sally stated despite the purpose and intent of the language, the conditions and design will make it impossible
118 to create any recreational sports space in the residential zone. There are not many large lots left in town and
119 most are hilly and steep. The restrictions are such that it is impossible to see fields on the properties. This
120 petition is inherently flawed.

121 Gordon stated he understood the thought in drafting this but it is overly restrictive. Reducing the allowed use to
122 twenty (20) percent is very restrictive. Vehicle arrivals is very difficult to quantify and impossible to enforce and
123 a typical three (3) bedroom home had an average of seven (7) trips a day for forty nine (49) trips per week.
124 You're talking about twenty (20) homes and it would be unreasonable. He applauded the effort that went into
125 this but he could not support this.

126 Mike stated he agreed with Gordon; this limits commercial use on private land, not only for Mr. Knight but for
127 other large property owners. He agreed there is a need for clarity of non-commercial uses and they also need a
128 definition for primary use. It is a good effort but it lacks public input on what a zoning ordinance should
129 contain. They need to consider the broad impact. He can't support this petition.

130 Allen echoed the previous comments and stated this is more restrictive than what is in place now. He was not in
131 favor of the petition.

132 John agreed; this language is worse than what they are attempting to fix.

133 Arnie asked if any concerned citizens had any comments or questions.

134 Wendy stated this is for privately owned properties.

135 Sally asked if she had looked at the list of large property owners; she knew there were not many owners of
136 parcels consisting of twenty (20) plus acres.

137 Wendy stated she did not; she and her husband own fifty (50) acres and didn't think twenty (20) percent was
138 an unreasonable number. She is not interested in making money. She has many flat field areas but under the
139 existing ordinance, she can't do anything with it. She is in the same boat as Mr. Knight with unusable land but
140 she knew it when she purchased the property, just as Mr. Knight did.

141 Peter stated they laid the ground work so someone can get a variance without negatively impacting the
142 neighborhood. The zoning limits commercial activities but they can also have a non-commercial zone. He was
143 amazed at the push to put major commercial uses in a residential area.

144 Anna Zimmerman stated the intent was to provide a footprint for a recreational activity; if the sports use as
145 proposed by Mr. Knight previously wasn't planned as a commercial use and the space was less, he would have
146 been able to have three (3) fields on his property. The board is telling the town they are supporting commercial
147 use in a residential zone, if Petition A passes and this doesn't.

148 Arnie noted Petition A was only supported by a 4-3 vote.

149 Mike stated it would be on the ballot, as will the other petition articles.

150 Sarah noted zoning changes do not go to the deliberative session.

151 Brad read from the petition: "...such uses shall not be the primary use on the lot..." That one condition
152 eliminates anyone doing anything with sports on the property.

153 Wendy noted with the board in favor of Petition A, which also deletes Section 4.3.A.8.F since Petition B and
154 Petition C are not recommended.

155 Arnie again noted Petition A was supported by four (4) board members and was not supported by three (3)
156 board members.

157 *Sally made the motion to support Petition C.*
158 *Gordon seconded the motion.*
159 *None were in favor; Cliff, Rich, Gordon, Mike, John and Sally were opposed. The vote was 6-0 against.*
160
161 *Susan Ruch asked if the board will be writing any new language.*
162 *Arnie replied they will not; they were only voting to support or not support the petition warrant articles.*
163 *Sarah stated the petitions are printed and it is how the ballot will read. The full text will be posted with the*
164 *entire ballot and there will be blurbs in the voter's guide.*
165
166 *Rich made the motion to close the public hearing.*
167 *Sally seconded the motion; all were in favor with none opposed.*
168
169 *Arnie asked if there was a motion to adjourn.*
170 *Sally made the motion; Cliff seconded it and all were in favor with none opposed.*
171 *Meeting was adjourned at 8:40pm.*