

TOWN OF AMHERST
Planning Board

May 12, 2020

DRAFT

In attendance: Arnie Rosenblatt - Chair, Michael Dell Orfano, Dwight Brew - Selectman Ex-Officio, Bill Stoughton, Cynthia Dokmo, Tracie Adams (Alternate), Chris Yates (Alternate), and Christy Houpis (Alternate).

Staff present: Nic Strong, Community Development Director.

Arnie Rosenblatt called the meeting to order at 7:02 p.m., with the following statement. As Chair of the Amherst Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing Zoom for this electronic meeting.

All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #312-626-6799 and password 893 8377 9319, or by clicking on the following website address: <https://us02web.zoom.us/j/89383779319> that was included in the public notice of this meeting.

Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Planning Board at: www.amherstnh.gov.

Providing a mechanism for the public to alert the public body during the meeting if there are problems with access: If anybody has a problem, please call 603-440-8248.

Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to- Know law.

May 12, 2020

DRAFT

Roll call attendance: Chris Yates, alone; Dwight Brew, alone; Bill Stoughton, alone; Christy Houpis, alone; Cynthia Dokmo, alone; Tracie Adams, alone; Mike Dell Orfano, alone; Arnie Rosenblatt, alone.

Arnie Rosenblatt explained the reason for the meeting that he had called out of an abundance of caution. He stated that Dwight Brew had contacted him over the last couple of days about the two applications that were scheduled for hearings at next week's meeting and for which the notices had already been sent. Arnie Rosenblatt stated that Dwight Brew had learned two pieces of information that he did not have at the time he made the motion to schedule those two applications.

The first piece of information was that Nic Strong had attended a webinar on remote meetings and a lawyer made a comment, which was not an opinion of counsel, that initially he thought Boards could decide to entertain certain applications and not others but then came to think that it was probably safer for Boards to do all or not do all but not to distinguish between applications.

The second piece of information was that the applicant for the Jacobson project had written to Mike Dell Orfano when he was Chair of the Board to state that he wanted his application to move forward at some point. Arnie Rosenblatt stated that he was paraphrasing all of this information. He said that he was aware of the comment Nic Strong had heard at the webinar because she had mentioned it to him in a conversation. He stated that he was not sure if he knew about the letter from the Jacobson applicant, but noted that he would have assumed that an applicant would want their application to move forward. Arnie Rosenblatt stated that he also would have assumed that treating people differently could have raised an issue.

Arnie Rosenblatt stated that he had a conversation with Bill Drescher, Esq., who had stated that in these times the Board could make decisions as to when they go forward or not and that, given the Covid-19 situation it was reasonable for the Board to make reasonable decisions. Arnie Rosenblatt stated that Bill Drescher, Esq., was not troubled by the Board's decision to hold hearings on the two applications.

Arnie Rosenblatt stated that his understanding was not that the Board had said they were hearing two application and that was it, but that the Board had decided to hear two applications and would decide on scheduling others after that. He stated that Dwight Brew was concerned and Arnie Rosenblatt himself was concerned, and Cynthia Dokmo whom he had spoken with briefly also had concerns, that they wanted to make sure, out of an abundance of caution, that everyone had all the information and there was no misunderstanding. He wanted to be conservative and was sensitive to the need for transparency for the Planning Board's activities.

Cynthia Dokmo stated that she was comfortable to go forward as planned given what Bill Drescher, Esq., had said to hear the two applications next week and depending on how that goes, decide on the other, more complex, applications.

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DRAFT

Tracie Adams still thought that it was a good idea to try the two applications and that there was a reason the Board had picked two smaller applications to see how it went and check out how the technology would work. She stated that the Governor may extend or change the order before the next meeting.

Mike Dell Orfano stated that he remembered the focus of the Board's conversation being on concerns with managing documents and presenting applications adequately on the Zoom platform. He stated that the Board wanted to try the process to see how it would work out. He said that the thought the Board would not see all the applications had not been in his mind. Arnie Rosenblatt agreed with that statement.

Dwight Brew stated that the attorney referred to by Arnie Rosenblatt who had been presenting at the webinar was a staff attorney, Steve Buckley, from the New Hampshire Municipal Association from whom the Town had received opinions before. He noted that he was comfortable going ahead with the two applications and thought that, based on the information, if the Board planned on going ahead with those two they should really plan on going ahead with all the pending applications a couple at a time perhaps. He made the distinction that he thought if the Board decided to go ahead with the two applications next week, they should then plan on going ahead with the others, which was different than saying they would hear the two applications and then figure out the others after.

Bill Stoughton stated that he had no concerns with the two applications that were scheduled and would reserve judgement on how to handle the other applications until he saw how the first two worked.

Christy Houpis thought that the Board should move forward as scheduled. He thought that the Board could be challenged whether they scheduled the other applications or did not schedule them.

Chris Yates stated that he had no concerns. His understanding was that the Board would see how the two hearings went to get a better feeling as to whether moving forward with other applications was a good idea. He stated that he had heard positive feedback from the community about moving forward with applications.

Arnie Rosenblatt stated that the Board seemed comfortable with moving forward with the two applications, as was he. He stated that there was no definitive decision on any other applications and the Board would decide after the first two. He noted that this was an evolving process for the Board.

Dwight Brew did not think there was any need for a motion to reconsider the Board's previous decision on the two scheduled applications. He stated that the information discussed tonight was information he wished he had had when the discussion took place last week but he was not sure it would have changed his vote at that time.

TOWN OF AMHERST
Planning Board

May 12, 2020

DRAFT

Mike Dell Orfano clarified that the letter from being discussed from Carter Scott regarding the Jacobson application was the one withdrawing his request for reconsideration. Nic Strong stated that was not the letter in question, it was one from March regarding scheduling.

Arnie Rosenblatt asked if there were any questions from the public, noting that the topic under discussion was only that of the Board's scheduling of the two applications not anything to do with other pending applications.

Tom Quinn, 30 Christian Hill Road, stated that he had tried calling in to the webinar and was unable to comment via the phone. It was noted that this would be looked into prior to the next meeting.

Christy Houpis commented that he had heard from a few people that however the Planning Board decided to move forward they should take into consideration that people in the future will want to be able to comment even if they are not at the meeting in person, versus going back to the old way of doing things and only being able to watch remotely.

Tom Quinn went on to say that the release of Town Counsel's letters regarding two applications was a good thing for the Planning Board to have done and was good transparency for the Board. He stated that they would be responding to the letter because they don't agree with Town Counsel's opinion, especially with regard to the Jacobson application.

Arnie Rosenblatt stated that the Board was waiting for two more opinions and would discuss them when they were received which might be prior to the next meeting if they are received in time. Tom Quinn stated that he appreciated the Board putting them out there. He stated that he was interested in opening up the discussion and working with the Board and just wanted to let the Board know that they did have an issue with the letter and that something would be forthcoming on that.

Cynthia Dokmo moved to adjourn the meeting at 7:30 p.m. +/- Bill Stoughton seconded the motion.

Roll call vote: Cynthia Dokmo – aye; Mike Dell Orfano – aye; Dwight Brew – aye; Arnie Rosenblatt – aye; Bill Stoughton – aye. Motion carried unanimously.

Respectfully submitted,

Nic Strong
Community Development Director

Minutes approved: (enter date of meeting at which approved and then go to header, change DRAFT to APPROVED and include approved date in the footer.)