

TOWN OF AMHERST  
Planning Board

December 15, 2021

**APPROVED**

In attendance: Arnie Rosenblatt, Dwight Brew, Bill Stoughton, Christy Houpis (remote) [7:08pm], Tom Quinn, Tom Silvia (alternate), Mike Akillian (alternate), Tracie Adams, Chris Yates, Cynthia Dokmo (alternate, remote).

Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; and Kristan Patenaude, Recording Secretary (remote).

Arnie Rosenblatt, Chair, called the meeting to order at 7:02 pm at the Town Hall and via Zoom concurrently. He explained the Board is requesting all present in-person to wear masks over nose and mouth, as a courtesy. The Board is masked and there are extras available.

*Cynthia Dokmo sat for Christy Houpis until he later entered the meeting.*

**PUBLIC HEARINGS:**

- 1. CASE # PZ14590-080321 – EAM Amherst Holdings, LLC (Owners & Applicants) – 317 Route 101, PIN #: 008-072-000 – Non-Residential Site Plan Application. To depict proposed site improvements to utilize the subject property for a proposed Agricultural Farming and Supply Operation. Zoned Residential Rural. Continued from November 17, 2021.**

Nic Strong explained that the applicant is requesting a continuance, as the necessary legal documents have not yet been received. The applicant is requesting a continuance to January 5, 2022. The Board is already scheduled to hear the continued Clearview application that evening, along with a revised CUP for the Bon Terrain property. The next scheduled Board meeting is January 19, 2022.

Bill Stoughton stated that he would rather the Board hold a second public hearing on the proposed zoning ordinance amendments on January 5, 2022, if changes are made to them this evening.

**Bill Stoughton moved to continue this hearing to January 19, 2022, at 7pm, at Town Hall. Seconded by Chris Yates.**

**Discussion:**

**Dwight Brew noted that in the letter from the applicant requesting a continuance, the applicant only agreed to extend the Town's deadline for acting on this application to one week beyond the date of the next meeting. He stated unease regarding the applicant not attending tonight's Board meeting yet making a very specific request for the date of extension.**

**Arnie Rosenblatt stated that, if an applicant chooses not to attend a Board meeting, the Board can choose to move forward with the application. This application is not complete, and the Board could vote on it thusly. He does not like the Board being leveraged in this way. It is not the Board's fault that the hearing needs to be**

December 15, 2021

APPROVED

continued. He asked if the applicant could be phoned to discuss the possibility of the application being heard this evening if he is unwilling to extend the deadline further.

Nic Strong suggested that she let the applicant know that the Board is proposing to continue the hearing to January 19, 2022, and ask if he is willing to extend the deadline further. If the applicant is not willing to extend the deadline further, the Board could discuss this item at its January 5, 2022, meeting.

Bill Stoughton noted that the Board cannot reopen this public hearing unless it continues it to a date certain this evening.

Arnie Rosenblatt stated that he would rather address this issue now. He noted that the applicant chose not to show up to tonight's meeting and also chose to establish a condition for the Board, without being here to speak to it. He explained that the Board does not have to grant a continuance but does so as a courtesy to applicants. He does not mind doing that in this case but would also like a level of cooperation from the applicant.

Tom Quinn asked if the Board could address this at its next meeting after speaking with the applicant.

Arnie Rosenblatt explained that the hearing will be noticed for January 19, 2022, and thus cannot be addressed at the January 5, 2022, meeting. He stated that the applicant is essentially requesting that the Board hear this item on January 5, 2022, and stating that he will not accept an extension beyond one week of that date.

Nic Strong stated that she believes the applicant worded the request in this manner, regarding the one-week extension, due to Bill Stoughton's motion wording for a prior continuance, which included extending the deadline to a week after the meeting date. She believes the applicant was simply parroting this wording.

Bill Stoughton stated that he did use that wording just in case there was an issue and the meeting needed to be postponed. He stated that this does not explain the applicant's request to continue to the next set date and essentially set the Board's schedule, while also only agreeing to extend the deadline for a week.

Dwight Brew stated that the applicant's process for recourse, if he does not agree with the Planning Board's decision, would be to go to the Board of Selectmen and request that they ask the Planning Board to change its judgement. Nic Strong agreed with this.

Bill Stoughton suggested that the Board could make its displeasure regarding the way this application has been handled by the applicant known at its January 19, 2022, meeting.

December 15, 2021

APPROVED

Cynthia Dokmo asked if this item could simply be tabled to January 5, 2022, to give Nic Strong time to speak to the applicant. Arnie Rosenblatt explained that the Town would then need to notify abutters and the public about this hearing for January 5, 2022, when the Planning Board is not planning to discuss it on that date.

Bill Stoughton stated that he believes the cleanest process is to continue this hearing to a date that works for the Board and make it clear at that meeting that it is unhappy with the conditions being imposed by the applicant.

Arnie Rosenblatt asked that similar wording be included in the motion.

Bill Stoughton amended his motion to include that the applicant be required to respond within one week's time to extend all deadlines running against the Board to one week beyond the date of the continued hearing (previously established as January 19, 2022). Seconded by Chris Yates.

Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Cynthia Dokmo - aye, and Chris Yates - aye; 6-0-0, motion carried.

**2. Public Hearing on Proposed Zoning Ordinance Amendments. *See separate notice.***

Arnie Rosenblatt explained that the purpose of this public hearing is to discuss zoning ordinance amendments already suggested by the Board. This hearing is not to discuss additional amendments. The Board has already come to a consensus that the proposed amendments are the most focused ones to be presented this year. The Board has unanimously agreed that these amendments make sense and will help the Town. He asked Bill Stoughton to run through modifications made to these amendments based on comments from Town Counsel and Dwight Brew.

Bill Stoughton reviewed the proposed amendment modifications page-by-page from the November 22, 2021, draft document. This document is available on the Town website.

Modifications proposed are underlined below:

- 1) Page 1, under the description for Planning Board Proposed Amendment #1, Line 3: to read "*to include language that describes factors to be incorporated to maintain rural aesthetic and character*"
- 2) Page 1, under A. Purpose, 4<sup>th</sup> line from the bottom: to read "...town-wide population density or strain on natural resources or public facilities."
- 3) Page 2, under B. 1., Line 1: to read "*Solely as an aid to the Board, the applicant shall present a proposed baseline density*"...
- 4) Page 2, under B. 1., Line 3: to read: "...subject property when statute, ordinance, and regulation..."
- 5) Page 2, under B. 1., 6-7 lines from the bottom: to read "...(*e.g., does not require unreasonably expensive or elaborate infrastructure*)."

December 15, 2021

APPROVED

- 6) Page 2, under 2. a., 1<sup>st</sup> sentence: to read *"The plan shall maintain the rural aesthetic and character of the town as a whole as consistently valued by its residents..."*
- 7) Page 3, 8.: to read *"maintenance of views of natural landscapes..."*
- 8) Page 3, 10.: to read *"lot placement in clusters set back from public roads, rather than along frontage of such roads, so as to maintain the presence and views of natural landscape; and"*
- 9) Page 3, item b.: to read: *"space is permanently protected and, except as set forth below, accessible to the public."*
- 10) Page 3, item c.: to read *"The application shall describe and provide satisfactory documentation..."*
- 11) Page 3, item d.: to read *"The plan shall depict dwelling units constructed in clusters that are harmonious with natural surroundings..."*
- 12) Page 3, C.1.: end of sentence to continue *"...and which may be different from applicant's proposed baseline density."*
- 13) Page 5, D.1.: items should be listed as a, b, and c, instead of d, e, and f.
- 14) Page 5, D.1.a.: to read *"any dwelling designed for and occupied..."*
- 15) Page 5, D.1.c.: to read *"...each occupied by a single family."*
- 16) Page 6, G.: to read *"A subdivision approved under this ordinance shall not be further subdivided and a note to this effect shall be placed on the Final Plan."*
- 17) Page 8, #7: to read *"...maintenance of views of natural landscapes and of distant locations."*
- 18) Page 9, Section 4.3: to read *"the setback distance shall be at least fifty (50) feet on each side bordering a street, lane, or public way."* This language will also be changed in Sections 4.4 and 4.5 on that page.
- 19) Page 10, Section 4.3: to read *"Corner lots shall have the minimum required frontage on each side of the lot that abuts a street or road."* This language will also be changed in Sections 4.4, 4.5, 4.6, 4.7, and 4.8 (page 11).
- 20) Page 11, Section 4.9: to read *"Corner lots shall also have the minimum required frontage on each side of the lot that abuts a street or road."*
- 21) Page 17, M.1.: to read *"...Zoning Board of Adjustment..."*
- 22) Page 18, first item C.: to read *"...excepting that he or she may renew at his or her discretion such permission at the expiration of the three-month period."*
- 23) Page 21, H. 1.: to change the wording from "Zoning Department" to *"Office of Community Development"*
- 24) Page 21, I.2.: to read *"In Zone A the applicant shall submit..."*
- 25) Page 28, Best Management Practices: to add *"E. Best Management Wetlands Practices (BMWPs) for Agriculture prepared by the NH Department of Agriculture, Markets and Food."*

Arnie Rosenblatt stated that this review of the ordinances was the most comprehensive, well-done, effective, and thoughtful one he's ever seen. He thanked Bill Stoughton and Nic Strong for their work on the project.

TOWN OF AMHERST  
Planning Board

December 15, 2021

**APPROVED**

Tom Quinn asked about modification #5. He noted that infrastructure could be expensive, while also being economically feasible. He asked if using how expensive the infrastructure is, is a good basis for determining if it is economically feasible.

Bill Stoughton noted that this item only deals with infrastructure that would be unreasonably expensive; for example, having to install a 500' bridge to cross a wetland on a 10-acre parcel, would likely not be reasonably expensive.

The Board agreed that this language is sufficient to allow the Board latitude.

Tom Quinn asked if part of item 4, on Page 4 could be made into two sentences, to read: "*There shall be no presumption that 25% or any lesser density increase is required to be granted. The 25% maximum increase is an absolute cap that shall not be exceeded.*" The Board agreed with this suggestion.

Tracie Adams, Christy Houpis, Cynthia Dokmo, Tom Silvia, and Dwight Brew thanked Bill Stoughton and Nic Strong for their work on this.

Chris Yates suggested that the numbering and lettering of items throughout the document be double-checked.

Mike Akillian suggested a change to modification #2, for it to read: "*...or strain on natural resources or public facilities and infrastructure.*" The Board agreed with this suggestion.

Will Ludt, 3 School Street and Chair of the Heritage Commission, stated that he agrees with the proposed amendments. He noted that the Heritage Commission, when asked for comment on applications, always references the Subdivision Regulations, Article 2, Section 209:

*"Preservation of Existing Features - Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, high value ecological habitats, other natural resources, historic landmarks, stone walls, and other significant features. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and existing features on the property."* He asked if similar language could be included in the zoning ordinance somewhere. He also expressed surprise at the lack of public turnout for this public hearing, which is regarding an important document for the Town.

Howard Muscott, 48 County Road, stated that he and his wife Amy have lived on County Road for almost 30 years. They fell in love with the Town and the house and property precisely because of the rural aesthetic and character of the Town and they support efforts designed to work towards that aesthetic. They thanked the Planning Board for its initiative in bringing these amendments forward and for the thoughtful approach the Board took as stewards for the rural aesthetic character of beloved Amherst. Amendments to any ordinance, but particularly zoning ordinances, are crucial to the protection of the interests of those who live in any community. After careful reading and review, he and Amy fully support all of the Planning Board's proposed

December 15, 2021

**APPROVED**

amendments to the Planned Residential Development Ordinance. He noted that, because the purpose of the Planned Residential Development Ordinance is to encourage the preservation of open space and the Town's rural aesthetic, they fully support all of the proposed amendments to Section 4.17. The amendment to Article IV, Section 4.17 that requires a feasible baseline density plan to be submitted is to be particularly applauded. They believe the Planning Board's description of features of the plan do justice to the intended purpose of the PRD Ordinance, to maintain the rural aesthetic and character of the Town as consistently valued by its residents. Clean water supply in Amherst is variable and as climate change continues to impact rainfall, it's perhaps more important than ever to take extra protections with the water table and supply. For these reasons and others, he and Amy fully support the amendments of Section 4.11 Wetland and Watershed Conservation District, etc. (1) to require proof of compliance with applicable stormwater regulations as part of a Conditional Use Permit and (2) Article 3, General Zoning Provisions, Section 3.18 Conditional Use Permits to add water usage, septic loading, and stormwater runoff to the list.

**Dwight Brew moved that the ordinance changes, as amended, be posted, and that the Board hold a second public hearing on January 5, 2022. Seconded by Tom Quinn.**

**Discussion:**

**In response to a question from Tracie Adams regarding Will Ludt's suggested amendment, Bill Stoughton stated that he believes this would be a substantive change which he does not want to make on the fly. He would prefer to move forward with the document, as it is consistent with the objectives mentioned. He noted that Will Ludt's suggestion also came from the regulations, which apply to applications and have their own force. Arnie Rosenblatt agreed that, while he respected Will Ludt's idea, he was uncomfortable with this amendment being made on the fly.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates - aye; 6-0-0, motion carried.**

**OTHER BUSINESS:**

**3. REGIONAL IMPACT:**

- a. CASE #: PZ15170-120321 – EIP One Bon Terrain Drive LLC (Owner & Applicant) – 1 Bon Terrain Terrace, PIN #: 002-026-004 – Conditional Use Permit. To amend the Conditional Use Permit approved on September 8, 2021, in light of stormwater management changes. Zoned Industrial.**

**Bill Stoughton moved no regional impact. Seconded by Chris Yates.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis - aye, and Chris Yates - aye; 6-0-0, motion carried.**

TOWN OF AMHERST  
Planning Board

December 15, 2021

**APPROVED**

**4. Minutes: December 1, 2021**

Bill Stoughton thanked Kristan Patenaude for the amazing job she did with the minutes, bearing in mind the confusion of the lengthy motion that he made, Arnie Rosenblatt corrected, and he readopted. Bill Stoughton stated that Kristan Patenaude had made this section of the minutes sound wonderful.

**Tracie Adams moved to approve the meeting minutes of December 1, 2021, as presented. Seconded by Chris Yates.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - abstain, Christy Houpis – aye, and Chris Yates – aye; 5-0-1, motion carried.**

**5. Listing of agenda items for 1/5/2022 meeting**

**6. Any other business to come before the Board**

Arnie Rosenblatt noted that Natasha Kypfer will be leaving the Town to accept a new position for the Town of Dover. The Board congratulated her and thanked her for her service to the Town and Board.

**Chris Yates moved to adjourn at 8:01pm. Seconded by Tracie Adams.**

**Voting: Dwight Brew - aye, Bill Stoughton - aye, Tracie Adams - aye, Tom Quinn - aye, Christy Houpis – aye, and Chris Yates – aye; 6-0-0, motion carried.**

Respectfully submitted,  
Kristan Patenaude

Minutes approved: January 5, 2022