

AMHERST PLANNING BOARD
Wednesday January 20, 2016

In attendance: S. Wilkins, Vice-Chair, J. D'Angelo- Selectman Ex-Officio, R. Hart – ACC Representative, G. Leedy, C. Harris, M. Dell Orfano, C. Harris, C. Mailloux- Community Development Director.

S. Wilkins called the meeting to order at 7:30pm. She stated that this is the second public hearing on proposed zoning amendments for the March 201 Town Warrant.

Sally opened the public hearing.

Amendment #1, relative to mobile homes and trailers, *Section 3.6. The proposed amendment clarifies that unoccupied recreational vehicles may be stored in all zones, allows temporary occupancy of a recreational vehicle for a person for whom a residence is being built on the property, and allows limited temporary occupancy of a recreational vehicle on a property for guests of the property owner.* S. Wilkins asked if there were any questions or discussion. The Board has reviewed this three times previously. M. Dell Orfano asked for clarification on procedure. C. Mailloux stated that no substantive changes can be made at this point, this is the final hearing and the Board should decide this evening if they would like to move the amendments to the ballot.

S. Wilkins asked if the board would like to handle each item individually or move them as a group. The consensus was to go through all of the proposed amendments and then handle them together at the end.

Amendment #2, *Sections 4.3.A.7, 4.5.B.7 and Section 4.16 – The proposed amendment changes references to “Affordable” housing to instead refer to “Workforce” for consistency within the rest of the ordinance and with State statute.* S. Wilkins stated that this was a mea culpa, these were three spots she missed last year. S. Wilkins stated that when we adopted workforce housing, she went through and changed the references and these were items she missed. There was no public comment on the proposed amendment.

Amendment #3- *Section 3.16 Personal Wireless Service Facilities – In 2013, RSA 12K:10 expressly exempted municipalities from requiring site plan review for co-location of antennas on an existing telecommunications tower. The proposed amendment would make the Zoning Ordinance consistent with State statute.* S. Wilkins asked if this exempted the Planning Board from reviewing, or prohibited the Planning Board from reviewing. C. Mailloux clarified that it exempted co-location projects from review. G. Leedy stated that the current language is awkward. C. Mailloux stated that the wording had been revised for the draft voter's guide to make it clear that the amendment would exempt co-location projects from site plan review by the Board. S. Wilkins pointed out that the full-text of the amendment is worded correctly, and the voter's guide language will be revised for clarity. S. Wilkins asked if there was public comment on the amendment. Seeing none, the Board moved to the next amendment.

Amendment #4 - *Section 4.20A Elderly Housing– The proposed amendment would delete the density provision for elderly housing developments, as density bonuses for elderly housing are already contained within the Integrated Innovative Housing Ordinance.* G. Leedy asked if this is to correct

something from last year's IIHO amendment? S. Wilkins, when IIHO was adopted, all other density bonuses were deleted because the bonuses were incorporated into the IIHO. The increased density in the elderly housing ordinance should have been deleted but was overlooked. This will also remove the potential to "double dip" in an elderly density bonus and will route bonus calculations through the IIHO. S. Wilkins asked if there was additional comment or comment from the public? Seeing none, the Board moved to the next amendment.

Amendment #5 - Section 6.3 Board of Adjustment - The proposed amendment would formalize the authority of the Zoning Board to appoint up to five alternates, as provided in RSA 673:6 II-a. The amendment also makes the conditions for granting a variance consistent with State statute. C. Mailloux, one of the items that we previously spent some time discussing was regarding incompatible offices under State statute and the ability of ZBA members to hold other elected offices. The proposed language right now says that alternates should not hold any other elected office, as consistent with the language for full members. C. Mailloux stated that members of the ZBA expressed concern with the language, as it is already difficult to recruit ZBA members. The language would make a short volunteer pool even shorter. C. Mailloux stated, three options, hold off on amendments for another year, eliminate the language for alternates, or eliminate the language for alternates and regular members. M. Dell Orfano asked for clarification between "elective" and "elected". G. Leedy would support the change. ZBA believes that this should be changed, we should broaden the pool of volunteers. S. Wilkins, G. Leedy is recommending that we strike the last sentence. C. Mailloux stated the intended language: Board of Adjustment shall consist of five members. May appoint 5 alternates. S. Wilkins, asked for a motion to strike sentence.

Made by M. Dell Orfano seconded by G. Leedy. Voted all in favor of the amended language for Amendment 5, not moving to the ballot yet.

Asked for public comment, seeing none, the Board moved onto the next amendment.

Amendment #6 - Section 6.1 Administration – The proposed amendment would correct formatting errors that have occurred over time which may result in the misinterpretation for administration and application of the ordinance. The proposed changes are organizational only. S. Wilkins, primary change is moving the Administrative Official out of Earth Removal and into Administration. S. Wilkins, believes that there had been an outline, section heading that was forgotten. C. Mailloux stated that this is organizational. S. Wilkins asked for additional comment or comments from the public. Seeing none, moved on to the next amendment.

Amendment #7 - Sections 4.3.A.8, 4.4.B.7, 4.5.B.8, 4.6.B.4, 4.7.A.7, 4.8.A.10 and 4.9.A.17 Recreational Uses – The proposed amendment would permit non-commercial recreational uses as an allowed use in all zones in Town, subject to site plan review by the Planning Board. Commercial recreation will continue to be permitted only in the Industrial and Commercial Zone. M. Dell Orfano, allowing commercial recreation? C. Mailloux, no- creates definitions of non-commercial and non-commercial recreation will now be allowed as primary use of the lot where it currently is not. G. Leedy, there is still a hole in this. You can register as a non-profit. This doesn't say that you can't charge a fee. C. Harris, can't charge a fee for the purpose of obtaining a profit. S. Wilkins, are you going to allow people to charge a fee to cover their cost. G. Leedy, there is no good answer, but this does not solve the problem. J. D'Angelo, it is better than what we have. Not prepared to

93 leave this out because someone could try to find a loophole. S. Wilkins, it will provide for people
94 who are non-governmental agencies to operate a recreation use. S. Wilkins, my question is, why do
95 we need both 4.7.B.1 and 4.9.A.1. C. Mailloux – typo, 4.7.B.1 allowed in commercial zone by right
96 4.9.A.1 allowed by special exception. S. Wilkins, intent of entire amendment is to make it possible
97 for the entire use of a piece of property to be recreational use. Because we are making it possible if
98 not for profit, so we have the definitions to make it clear what is commercial and what is not. M.
99 Dell Orfano, this will allow recreational uses in the residential zones? Yes. S. Wilkins, under current
100 ordinance, Joshua’s Park would not be allowed without the community garden. M. Dell Orfano, are
101 we chasing a red herring? Is this amendment necessary? How does this impact Freestyle Farm? It
102 does not, she is an equestrian use. G. Leedy, this language would allow anyone to have a non-
103 commercial recreational use? Yes, not-for profit recreational use. S. Wilkins, we need to make a
104 zoning amendment based on the overarching question. A) Is it appropriate to have a recreational
105 use in a residential zone and if so B) do we want to limit that to non-commercial use? G. Leedy, a
106 town-wide policy decision about recreation. S. Wilkins asked if anyone else has any input.

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108 No comments or input from the public. C. Harris suggested that shooting range be added to the list.
109 C. Mailloux, this is not an exclusive list... we have the “and similar uses” language, and “including,
110 without limitation”, which allows the Zoning Administrator to use judgement.

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112 *Amendment #8 - Section 3.4.D Sign Standards – The proposed amendment would revise the*
113 *temporary sign requirements for consistency between commercial and community organizations.*
114 *The current temporary sign language will be deleted and any community group, organization or*
115 *business will be permitted to have no more than four special event signs in any one calendar year, to*
116 *be displayed for a period of up to 21 days to be removed at the end of the event. A business or*
117 *organization in its first year of operation may have up to six special event signs.* This is the result of a
118 recent Supreme Court ruling on content-based signage. Regardless of the use, if a church or
119 business or any other group wants to put out a temporary sign, the Town cannot treat those uses
120 differently. C. Mailloux, we have heard support from business community, have a letter in your
121 packet from Chamber of Commerce thanking you for your efforts on this and asking you to consider
122 additional changes in the future on signage amendments. S. Wilkins, the issue is up to 10 off-
123 premises directional signs. S. Wilkins, not sure 10 is enough. C. Mailloux, went with 10 as it is what
124 is currently permitted. S. Wilkins, soccer tournaments put up more than 10 signs. C. Mailloux, this
125 sets a limit, not to say we would not enforce it, but it gives us a basis to work with people and make
126 sure signs are reasonable and are removed in a timely fashion after an event. S. Wilkins asked
127 about the 2 S.F. sign size, it seems small. Asked if people would be comfortable with making it 3?
128 M. Dell Orfano, asked about the wording of the language – are utility poles part of the natural
129 landscape. C. Mailloux will rearrange the sentence to make it clear that utility poles are not part of
130 the natural landscape. G. Leedy, on the sign size, 14 x 18 seems to be standard, 1.75 S.F.

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132 R. Hart, what if one individual owns two stores. C. Mailloux, this is per business or individual. What
133 this does open up, is each business in a plaza could each have a temporary event sign for 21 days.
134 Each business in the plaza might have a back to school sale in September and have that sign up for
135 21 days. It is not per property, it is per business unit. R. Hart, what if an individual owns two
136 properties several miles apart? S. Wilkins, someone may have to go to the ZBA for a variance. We
137 cannot create ordinances that cover every possibility. G. Leedy, yard signs, small are 12x18 (1.5
138 S.F.), large are 18x27 (3.5). Consensus was to stick with 2 S.F. C. Mailloux, directional signs are

different from special event signs. You can have your 16 S.F. special event sign, up to 4 times per year, but directional signs are something separate. E. Hahn, do people actually come to Town Hall to put up open house signs? C. Mailloux, no, those are permitted under other areas. Yard sale signs, etc have different standards. This is specific to special events, for example, Joshua's Park fundraiser comes down to Town Hall and fills out a permit.

Discussion ensued regarding size, type of allowed signs etc. C. Mailloux stated that this ordinance gives us something consistent that applies across the board and give us some teeth and something to point to. If we receive a complaint, we will follow up with property owners and businesses. Our protocol if we receive a complaint is to work with the property owner or business. If we have repeat offenders who consistently have larger or more signs than permitted, this gives us the teeth to pursue a zoning violation. There is some reasonable judgement that is used when it comes to enforcement.

There being no further questions or discussion, S. Wilkins read the next amendment.

Amendment #9 - Section 9.1 Definitions, Floor Area Ratio – The proposed amendment will clarify that the floor area ratio is defined as the ratio of gross living space to the total lot area. S. Wilkins, asked for clarification of how we got here. Seems that industry standard is gross floor area, not living space because they are massing ordinances. C. Mailloux, this started with a struggle on the measurement of floor area (interior vs exterior dimension), then went to are we controlling net coverage on a lot, or are we looking to regulate massing and size of structure. This related to work within the Village and near the lake where anything you do requires a variance because those lots are constrained in size. C. Mailloux, if there are concerns, would recommend hold off on this until next year. For the ZBA's purpose, the clarification on how to measure floor area (exterior walls) is sufficient. S. Wilkins, I do have concerns about the massing issue. What is on paper here would mean FAR would exclude garages, decks, indoor riding arena, all things that could be massing issues on a lot. M. Dell Orfano, want to change definition to gross square footage rather than living space. This had been about massing. C. Mailloux pointed out that Mike had the same concerns as Sally at the last meeting. S. Wilkins, we could keep this but exclude basements from the calculation because that is not a massing issue. G. Leedy, what constitutes an attic for the purposes of the ordinance? E. Hahn, the original discussion, despite massing, still need to meet setbacks. Point of ZBA was, for non-conforming lots now, they need a variance. ZBA has dealt with 2-3 over a 2-3 year period. Doing the math, on a current conforming 2 acre lot, even by the 15% FAR, you can have a 10,000 square foot house. S. Wilkins, it has always been about the smaller lots. G. Leedy, unless we adopt zoning that covers, or cures the existing non-conformities, we will not have a one-size fits all. On a 6,00 SF lot, 15% FAR may not be sufficient. C. Mailloux, this comes down to, what is the problem we are trying to solve. Do not know at this point what problem we are trying to solve. Originated because of measurement, then went to non-conforming. C. Mailloux, without knowing what problem we are trying to solve, do we want to put something on the ballot? C. Mailloux, gross floor area is the exterior measurement of every floor of the structure. S. Wilkins suggested that we recommend not to move this to the ballot. G. Leedy agreed. Board concurred that this should be taken off the warrant.

Amendment #10 - Sections 4.3, 4.4, 4.5, 4.7 and 4.8 Permitted Uses, Accessory Apartment - The proposed amendment would add Accessory Apartments as permitted uses in the zones in which they

are currently permitted by special exception and would maintain the current criteria for size and configuration of accessory apartments. S. Wilkins asked if the ZBA has weighed in on this. J. D'Angelo, yes, ZBA said that a special exception is a rubber stamp, we should just make it an allowed use with approval by the Zoning Administrator. G. Leedy, asked if we have looked at the proposed language of the bill making its way through the legislature. There was a discussion of the current language of the proposed bill. C. Mailloux, this will meet most of those criteria. There may be changes needed if the statute change passes. S. Wilkins, lets either not change this at all, or go with this language. Cannot go from 1 bedroom to 2 bedroom now. If the State statute changes in the future, we will propose additional changes for compliance. What this does now is take a burden off applicants who want to create an accessory apartment, they will not need to go to the ZBA. M. Dell Orfano, why are we limiting it to 1 bedroom? That is the current requirement. C. Mailloux, there have been no complaints raised or issues with the current 1 bedroom requirement. There have been concerns with the process of needing a special exception from the ZBA. This will correct the issue that has been raised. If the number of bedrooms or square footage is an issue, or becomes an issue with statutory change, then we will revisit again in the future.

With no other questions or comments on the proposed amendments, S. Wilkins asked for a motion on Amendment #9. G. Leedy moved not to place Amendment #9 on the ballot. Seconded by J. D'Angelo. All in favor.

G. Leedy moved to place Amendments 1-8 and 10 on the ballot. Seconded by J. D'Angelo. Unanimous in favor. C. Mailloux asked for recommendations on the amendments. Vote to recommend or not recommend yes vote. Eric is voting in place of Arnie.

Amendment #1, recommend 6-0-0
Amendment #2, recommend 6-0-0
Amendment #3, recommend 6-0-0
Amendment #4, recommend 6-0-0
Amendment #5, recommend 6-0-0
Amendment #6, recommend 6-0-0
Amendment #7, recommend 6-0-0
Amendment #8, recommend 6-0-0
Amendment #10, recommend 6-0-0

C. Mailloux – only other update – you have in front of you a memo from Director Bruce Berry to the Town Administrator. Eaton Road culvert replacement project underway. There are five trees that would be regulated under the scenic road provision that need to be removed. Director Berry believes those trees to be an imminent threat to safety and the trees need to be removed in order to repair the culvert and address the imminent threat to safety. Trees were removed today, keeping the Board in the loop. Full mobilization Monday and project will be complete within a week. No after-the-fact hearing required, but want to keep the board informed. E. Hahn, a hearty thank you to the DPW and BOS for keeping us in the loop. J. D'Angelo will pass that along.

C. Mailloux, regular meeting would be February 3, which is the deliberative session. We will move our meeting to the 10th. C. Mailloux checking with Brick School on meeting availability. C. Mailloux encouraged board members to attend the deliberative session on February 3.

231 Motion made to adjourn by C. Harris at 9:47pm, seconded by J. D'Angelo.

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