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**AMHERST PLANNING BOARD**  
**Wednesday May 15, 2019**

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In attendance: M. Dell Orfano- Chair, J. D'Angelo-Selectman Ex-Officio, A. Rosenblatt, R.Clemens (voting for R. Hart), E. Hahn, and C. Harris.  
M. Dell Orfano called the meeting to order at 7:32 pm.

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**NEW BUSINESS:**

1. **CASE #: PZ11237-042219 – Adrian Menig, 27 Middle Street, PIN #: 017-105-000 – Request for approval for a Conditional Use Permit for a detached Accessory Dwelling Unit. Residence is in the Historic District.**

The property (PIN #017-105-000) is located at 27 Middle Street and is in the Historic District. The applicant had requested and received approval from the Historic District Commission on March 21<sup>st</sup> to construct a “barn;” a garage with finished/living space on the 2<sup>nd</sup> floor. The applicant further requested and received variances from the ZBA on April 16<sup>th</sup> to decrease the setback requirements and allowable height of the aforementioned structure. The current application before the Board is for the required CUP to allow the proposed living space on the 2<sup>nd</sup> floor to be a full and complete detached Accessory Apartment (Accessory Dwelling Unit).

A. Menig stated that he intends to build a barn with a two-car garage below and a 1 bed/1 bath apartment on top. The apartment could be for personal use or could be rented out for the applicant’s AirBnb business.

M. Dell Orfano explained that an AirBnb rental is considered a home occupancy business, but an accessory dwelling apartment allows for a long-term rental. Thus a conditional use permit is not the type of permit needed for a home occupancy business.

R. Clemens questioned if a home occupancy permit would be allowed due to the square footage already being used for the current AirBnb in the applicant’s home. Town Planner, S. Corson, stated that the applicant would need another variance from the ZBA for this type of permit.

E. Hahn questioned why the plot plans describe the proposed structure as a “garage.” A. Menig stated that it was never before mentioned that the plot plans needed to describe it as an “apartment,” but that he is happy to change it to read as such.

A. Menig stated that if the proposed structure is built as part of his business, he will need to use licensed contractors to do electrical and plumbing work. However, if the structure is approved as a personal apartment, he will be able to do the work himself.

A. Rosenblatt stated that this is application is not for an accessory apartment. This is dealing with an AirBnb, which requires a home occupancy permit from the ZBA.

M. Dell Orfano stated that the application is confusing because the applicant is trying to get approval for both an accessory unit and a home occupancy business. A. Menig apologized for

47 believing that those items could both be approved through this application. He requested that the  
48 Board approve the structure as a long-term apartment and that he will later apply to the ZBA for  
49 the other proper variances for AirBnb.

50  
51 M. Dell Orfano stated that if the CUP is granted, he will push to permanently restrict it from  
52 AirBnb usage due to the square footage requirements under the ordinance.

53  
54 C. Harris explained that unless the dwelling is for the applicant's living space, and only the  
55 applicant, that he will need licensed contractors to do the work. He stated that he would love to  
56 know what the make-up of the town was in the 1700's, in regards to apartments, home  
57 occupancy businesses, etc. He believes it is the applicant's land and thus the applicant's choice  
58 how to use it.

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60 Marie Panciocco, 151 Amherst Street, is an abutter and voiced her concerns over the proposed  
61 structure. She has concerns regarding the structure being a traffic obstruction due to the variance  
62 already granted by the ZBA, allowing the structure to be only 16 feet from the road. She is also  
63 concerned regarding the usage of the property, as she believes the HDC and ZBA have tried in  
64 the past to limit the amount of commercial use of homes in the Historic District. Finally she is  
65 concerned that approval for this structure would set a precedent for other large  
66 structures/businesses to be built in the Village.

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68 M. Dell Orfano acknowledged the abutter's concerns, but explained that the reduced setback  
69 variance approved by the ZBA is not an item that this Board can reverse.

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71 Town Administrator, Dean Shankle, requested that the Board table this application until the  
72 applicant can decide exactly what he wants to do with the property. He stated that, if the CUP is  
73 granted to the applicant with restrictions, the Town will be checking weekly to make sure it is  
74 not being used as an AirBnb.

75  
76 **A. Rosenblatt moved to reject the application as it does not meet the requirements for an**  
77 **accessory apartment. C. Harris seconded.**

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79 J. D'Angelo asked the applicant if he will still build the garage if the CUP is rejected. A. Menig  
80 stated that the rejection would impede his decision to build.

81  
82 **J. D'Angelo moved to accept the application for a conditional use permit. C. Harris**  
83 **seconded. All in favor.**

84  
85 **Voting on previous A. Rosenblatt motion: 1-3. Motion failed.**

86  
87 M. Dello Orfano stated that the applicant can try to convince the ZBA for a variance from the  
88 home occupancy ordinance, due to the fact that the square footage being utilized on the property  
89 is greater than allowed by the ordinance. S. Corson explained that he believes the applicant  
90 would still need to come back before this Board with an application for an accessory dwelling  
91 unit. S. Corson stated that the ordinance reads that detached apartments are not allowed without a  
92 CUP.

93 M. Dell Orfano again stated that if the CUP is approved there will be restrictions placed on it to  
94 limit the ability of the applicant to use the space as a business. That information will be passed  
95 along to the ZBA if the applicant decides to go in front of them.

96  
97 S. Corson read the ordinance, § 3.18 (C)(1) “a” – “f,” and suggested that the applicant review  
98 these items and craft an argument around them.

99

100 **E. Hahn voting in place of S. Wilkins.**

101

102 **J. D’Angelo moved to table the application to July 17<sup>th</sup>. C. Harris seconded.**  
103 **4 in favor, 1 opposed. Motion carries.**

104

105 **OTHER BUSINESS:**

106 **2. Minutes: April 17, 2019**

107 **The Board agreed to table the minutes of April 17, 2019 to the next meeting.**

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109 **A. Rosenblatt moved to adjourn at 8:41 p.m. C. Harris seconded.**

110 **All in favor.**

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118 Respectfully submitted,

119 Kristan Patenaude