

TOWN OF AMHERST
Planning Board

October 18, 2023

APPROVED

In attendance at Town Hall: Tracie Adams, Cynthia Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Silvia, Rob Clemens (alternate), and Brian Cullen (alternate).

Staff present: Nic Strong (Community Development Director), and Kristan Patenaude (Recording Secretary) (remote)

Tracie Adams called the meeting to order at 7:00pm.

1. Update on Village Streets Study Committee progress

Tracie Adams, Chair of the Village Streets Study Committee (VSSC), gave an update to the Board. An update will also be presented to the Historic District Commission at its November 16, 2023, meeting. The VSSC's primary task is to assess streetscape improvement recommendations provided by the consultants for the five Village roads up for resurfacing in FY2025. They include Carriage Road, Davis Lane, Main Street, Church Street, and Jones Road. The goal is to address citizen concerns, improve safety through design of the roads, and present recommendations that align with the historic character of the Village. Citizen concerns include speeding, safety for both pedestrians and vehicles, filling in the pedestrian network, noise, and cut-through traffic. The hope is that the recommendations made for the five streets will form a vision for the Village moving forward.

Three steps were outlined for processing the information provided by the consultants. August 22, 2023, the VSSC evaluated Step 1: Road Network Design. The VSSC agreed that the network of streets in the Village evolved organically over time and should be maintained as part of the history of the Village.

At the September 5, 2023, meeting, the VSSC moved on to Step 2: Streetscape Design. The meeting reinforced the importance of designing the streets for the speeds and uses that are desired. The streetscape design should inform the speed and uses meant for the road. The design of the road has been found to be more effective than signage, education, or enforcement. On September 26, 2023, the group continued looking at Step 2: Streetscape Design. Two working groups presented drafts on potential surface materials and streetscape designs. The committee began the work of discussing the details and this conversation continued into the October 3, 2023, meeting. The group discussed each of the five roads scheduled for resurfacing in detail and created a first draft streetscape design for each road. The group agreed that a more specific palette of surface materials recommendations would be determined later in the process. The VSSC discussed having different but cohesive options for the vehicular surface, pedestrian spaces, and parking areas. One interesting option discussed was the use of grass pavers for parking. The group is also in support of narrowing roads and removing asphalt that is not needed.

The VSSC is thankful for support from local experts. Eric Slosek, Director of DPW, is attending the meetings and providing valuable insights on materials and design in relation to factors like cost (upfront and long-term), maintenance, plowability, and walkability/bikeability. Sam Fortier,

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an Amherst resident and professional engineer with CMA Engineers, Inc., has attended the last two meetings and his knowledge of the engineering process is invaluable.

The group agreed that a site walk was appropriate, and the site walk occurred this past Sunday, October 15, 2023. The site walk included visiting each of the five streets. Six VSSC members attended along with 35 citizens for a total of 41 people participating. Citizens were encouraged to share their insights and ask questions about the streetscape design ideas presented. The group began in the Village Common across from the Congregational Church to look at Church Street. It then walked across the Common to discuss that end of Main Street. The group arrived at Carriage Road across from the Library to discuss Carriage Road and the end of Main Street from Amherst Street toward Boston Post Road. The site walk then moved to the tennis court parking area on Davis Lane. Discussion about the concerns, materials and streetscape options were positive and productive. Citizens reported speeding, noise, and drainage as their greatest concerns for these four streets. The last stop was Jones Road. The group met at the parking area for the Wilkins ball fields. This was the smallest group, with 15 attendees. Concerns included speed, drainage, and parking along the road marked 'No Parking' during larger events at the school fields.

The VSSC will take the perspectives gained from the site walk and valuable citizen input into account at its next meeting. She asked all interested to join the VSSC at its next meeting on October 24, 2023, at 7:00PM at Town Hall or by Zoom to discuss the findings and ideas to update the first draft based on what was heard on the site walk. The VSSC feels energized and positive about its progress. The original plan was to present recommendations for the five streets to the Board of Selectmen at its November 20, 2023, meeting. The VSSC will have a better idea of this timeline after the next meeting.

Rob Clemens asked if the Police Department participated in the site walk. Tracie Adams stated that they did not.

Cynthia Dokmo thanked Tracie Adams and the VSSC for its efforts.

In response to a question from Tom Silvia, Tracie Adams stated that she would like the VSSC to discuss what it heard during the site walk before providing additional details to the Planning Board.

2. Discussion of potential Zoning Ordinance and regulation amendments' language

Bill Stoughton explained that he resurrected the chart of potential Zoning Ordinance and regulation amendments from last year. Other potential changes are included in the audit matrix which Nic Strong received from NRPC today. There are also some recommended changes from the State regarding the Town's floodplain ordinance. He noted that Rob Clemens may also have some suggestions on changes from the Amherst Conservation Commission (ACC).

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Nic Strong explained that Amherst is a member of the National Flood Insurance Program and so has to comply with the language of the regulations the way that FEMA wants it. There is no choice in the wording, and it has been provided exactly from the State. The intention is to include this wording on the ballot.

Bill Stoughton asked if the Town can be stricter than what is required. For example, the base flood level to be the 500-year flood instead of the 100-year flood. He asked if the Town could alternatively have an additional layer of requirements. Nic Strong stated that she would review if the Town is preempted from making any changes to the language.

Bill Stoughton also asked about enforcement. He noted that he saw several existing items, such as those dealing with septic systems, but did not know if they were being enforced. He noted that he does not recall reviewing one of the items, septic system requirements in a floodplain, previously on the Planning Board. He asked if the Town needs a different mechanism for enforcement. Nic Strong stated that there are suggested changes to language for the subdivision regulations and the site plan regulations. When those plans come into the office, staff does make sure that they meet the regulations. Regarding septic systems she would need to check with the Building Inspector regarding the procedures. There is always the opportunity to add to the regulation requirements for outside reviews.

Bill Stoughton stated that the Board works very hard to have good regulations, good ordinances, and that submitted plans adhere to those. It is then unclear to him if the enforcement piece is built in accordance. There is some reason to suggest that in some areas enforcement is not as strong as it should be, due to lack of resources or knowledge. It is time for the Board to start addressing that issue.

Nic Strong stated that, as far as site plans are concerned, the requirement is an as-built plan and compliance hearing. The Board sees everything required for these items. On recent applications, a design engineer has been required to provide a certificate that the drainage was installed according to the plan. Regarding subdivisions, there are major milestone inspections by the Town's consulting engineer, and, with a few exceptions, they stay on top of making sure that the roads are built according to the plans. Again, there is a requirement that as-built plans are submitted and compliance is complete at the end. There are some odd lots in Town that may not require coming to the Planning Board for more careful scrutiny.

Bill Stoughton asked if Nic Strong believes the Town is okay on enforcement. Nic Strong suggested adding to the site plan regulations a requirement for inspections of commercial site construction. Currently, the only requirement is that there be certification at the end of the project from the design engineer that it was built according to plan. It would be nice to have the Town's engineer there for major milestones. The Board reviews plans with gravel wetlands and huge underground drainage structures and if they are not installed correctly, the potential to affect Town drainage is there. This extra piece would be at an applicant's expense.

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Rob Clemens noted that last year's ballot was horribly confusing and horribly long, particularly as related to ordinance changes. He asked if there is some way to limit or simplify what is included, so that people can digest it effectively. As a voter, he found it challenging last year. Tracie Adams agreed that this makes good sense. Rob Clemens suggested that this could be done through what the Board chooses to put on the ballot or how items are framed. Nic Strong stated that the ballot includes legally required wording and then the voter's guide contains more layman's terms while not advocating for anything in particular.

Chris Yates noted that the Board does not have a choice with the suggested FEMA language. Nic Strong agreed. This language will still need to go before the voters for approval.

Tom Silvia asked what happens if the Town does not adopt the FEMA language. Nic Strong stated that this would probably jeopardize the Town being part of the NFIP program, which could affect people's floodplain insurance. The Town's membership in that program could be questioned. She is unsure what that entails but would not want the Town to no longer be part of this. Tom Silvia asked about all the areas in the floodplains that were built before this language. Nic Strong stated that zoning changes only affect new construction moving forward.

Bill Stoughton stated that he did not see many substantial changes in this language, but mostly updated references and definitions.

Tom Silvia asked if the Town has anything else similar to this in Town. Nic Strong stated that some of the MS-4 stormwater permitting requires certain things to be done. Tom Silvia asked Nic Strong how she became aware of this language requirement. Nic Strong stated that she received an e-mail from the floodplain people at the State's Office of Planning and Development. The Town's ordinance has been in place since 1970 and has been updated over the years. The floodplain maps were updated and now the ordinance language needs to be brought into compliance too.

Bill Stoughton stated that this should be on the Board's list of things to place on the ballot. Tom Silvia noted that it seems the Board only has so many slots for warrant articles and asked if it makes sense to include this one. It is unclear what will happen if the Town does not incorporate the language. Bill Stoughton suggested that the Board consider this question again once it knows how many topics might be included on the ballot this year.

Nic Strong explained that, due to lack of capacity in the office, NRPC was requested to review the recently updated Master Plan and then audit the Town regulations and the Zoning Ordinance against it. This is done to double check that nothing in the Ordinance is in conflict with the Vision, Goals, and Objectives in the Master Plan. The planner assigned to this task at NRPC does not necessarily have much experience in doing this type of project. The first part of the matrix is housekeeping items suggested for the Zoning Ordinance. If these items do not get completed, the Ordinance will not likely be in trouble. The next part of the audit should compare the goals and visions of the Master Plan to the Ordinance. This seems a little slim to her, and there is nothing that could be taken and made into language to change the Ordinance. She

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suggested going back to NRPC to discuss the limitations of this project and where more work is needed. The Board should likely postpone discussion of any potential amendments until next year.

Bill Stoughton stated that this was a little disappointing to him. There was a lot more work that could have and should have been done by NRPC to give the Board a useful product. He agreed that there is not enough information included to tackle these areas. Chris Yates stated that he is also disappointed. He helped work on the Master Plan for almost three years and there was more information that should have been included. Tracie Adams agreed that this does not even come close to digging into the recommended changes based on the Master Plan. Nic Strong stated that she originally met with NRPC and told them not to worry about the regulations and to focus on the ordinance. Thus, the regulations have not yet been considered either.

Rob Clemens stated that the ACC has historically advised the Planning Board on items associated with Conditional Use Permits (CUP) particularly as they relate to wetlands and wetland buffers. The Planning Board seems to have relied on the ACC's evaluations when it provides comments on those topics. It has come to the ACC's attention that some of the language in the wetlands ordinance, passed in 2015, is either confusing or needs to be updated. This has led to recent discussions with the Community Development Office and the Zoning Board of Adjustment (ZBA) regarding how the wetlands regulations are understood and how they are applied. Some changes could be made to the wetlands ordinances in terms of language changes, reference updates, etc. The ACC has drafted some recommended language and will likely formally agree on this at its next meeting. There should be as little confusion as possible relating to the Planning Board, ZBA, and Community Development Office. This proposed language is being considered in conjunction with conversations with the Army Corps of Engineers and the State.

Bill Stoughton asked if the ACC would include the proposed changes and the justification or rationale. Rob Clemens agreed. These are important regarding how to regulate wetlands and wetland buffer protections in Town.

Tom Silvia agreed that wetlands discussion seems to be part of every development the Board sees. Rob Clemens noted that many building permit applications have considerations for these topics and the Building Inspector currently has to make interpretations. If there is any ambiguity, this task can be difficult.

Bill Stoughton noted that the Board can consider the matrix for other potential regulation amendments. He noted that the Board received an email suggesting that it consider the height restrictions at least in the Industrial Zone. The Board proposed this last year and it passed, but not by sufficient margin to overcome the protest petition. The Planning Board recommended a fairly narrow set of items, and the height adjustment was one of those. The Board could again consider a height restriction in the Industrial Zone or a general height restriction that applies Town-wide, which would not be subject to a protest petition. Cynthia Dokmo stated that she believes the Industrial Zone is only zone where the height is even discussed, as residential

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maximum heights are typically 40'. She suggested homing in on the Industrial Zone. Bill Stoughton stated that there may be similar language in the Commercial Zone. There was previously wording regarding 50' for inhabited structures and 80' for uninhabited structures, but there was an argument that inhabited meant it was lived in, so a warehouse did not count and could be 80'. He found this an unintended way to define inhabited versus uninhabited. Cynthia Dokmo suggested keeping the same height through the whole Industrial Zone.

Bill Stoughton asked about the water tower, which seems to exceed 50'. Cynthia Dokmo noted that this may have been done through a special exception through the ZBA. She suggested seeing how many amendment warrant articles are proposed. The problem with having many different zoning changes on the ballot is, after a while, people do not even bother reading them. The Board should choose its most important items to include.

Bill Stoughton stated that the proposed changes this year appear to be regarding floodplains, wetlands, and height.

Nic Strong noted that there is a setback issue in the Historic District which causes confusion every time it comes up. The size of the lots in the Historic District means that the 20' side setback quite often cannot be met. This can instead be measured 25' from the dwelling on the neighboring lot but it is never clear when this is allowed. If the 20' setback can work, a measurement from the house next door should not be considered. Clearing up this language would be good but is not essential. Bill Stoughton stated that he would prefer that the Historic District Commission (HDC) ask the Planning Board to place certain language for this on the ballot. Nic Strong stated that the HDC's philosophy is to review the things in their regulations and that they are not responsible for setbacks. The HDC can issue their approval for a building or a shed that needs some action from the ZBA, so this item does not usually bother them, but it bothers the Building Inspector, the Community Development Office, and the ZBA. This has only come up twice in the last four years, but it is hard to explain to the residents and to the boards.

Bill Stoughton asked if there are any other items Board members feel need to be addressed. Tom Silvia noted that there are a number of items on the matrix that had people assigned to them and he asked if the Board should be more proactive on this list. Bill Stoughton agreed that these items deserve to have some work done on them. There may need to be commitment of the Planning Board members to kick these into gear. Some of these are very hard questions, such as how to solve elderly housing and workforce housing in the context of this Town. Tom Silvia stated that it should possibly then be removed from the matrix or worked on.

Cynthia Dokmo suggested adding editorial changes on the ballot in order to keep cleaning them up. Bill Stoughton agreed that there is usually one article for housekeeping changes.

Chris Yates stated that the item on the ballot last year was that no structure should be constructed to a height greater than 50' in the Industrial Zone. He suggested using the same wording this year.

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Bill Stoughton addressed Tom Silvia's earlier point regarding the items on the matrix with names next to them. The Board has previously discussed an item regarding potential mixed-use or broader uses and elderly and workforce housing. He suggested that elderly and workforce be considered together because new State law says that anything done to encourage elderly housing also applies to workforce housing. There is basically no coverage for elderly housing currently. A section used to reference the IIHO and now is an empty section. Cynthia Dokmo noted that there used to be a large section for elderly housing. Regarding workforce housing, Bill Stoughton stated that there is a very extensive set of rules that requires a lot of financial information. These are designed to allow developers to make money building workforce housing when it is not necessarily profitable through certain breaks. Chris Yates stated that the State has a good guide for this as well.

Bill Stoughton noted that this could be a large amount of work and a thankless effort. Tom Silvia stated that he would like to better understand this item. Bill Stoughton stated that he, Cynthia Dokmo, and Tom Silvia were signed on to work on this item. Cynthia Dokmo noted that Amherst had the first affordable housing ordinance almost in the State. Amherst was a leader in that. The old Planned Residential Development (PRD) ordinance limited buildings by number of bedrooms to try to keep the size down. The working group agreed to meet to discuss this topic for possible inclusion in March 2025.

Tom Silvia asked how many of the items, such as completeness of an application, require a creation of language through a warrant article to be voted on versus other ways to achieve the outcome desired. Nic Strong explained that nothing in the Planning Board regulations has to go to the voters. Changes to these can be made at public hearings by the Planning Board. Currently the subdivision and site plan regulations have requirements in them and there are suggested changes that she has never had time to propose. The Board discussed placing this item on a future Planning Board agenda as a work item.

Nic Strong stated that the zoning amendments have a timeline by which the Board has to finish its public hearings in order for them to be on the warrant. If the potential exists for two public hearings to be needed on the zoning amendments, the first meeting in January should be the second public hearing. That means that the Board will need to discuss these items at both meetings in November and December. A good date for the first public hearing would be December 6, 2023, or December 20, 2023.

Bill Stoughton noted that this allows the Board two meetings in November to accomplish the five items. Nic Strong explained that the floodplain language is complete and the height language is complete. Bill Stoughton suggested having the first review of the drafts at the first meeting of November. The draft items needed include ones from the ACC regarding wetlands, which the ACC will draft; one from the HDC regarding setbacks that Nic Strong and Scott Tenney will work on; and one for housekeeping items that Nic Strong will work on. The first drafts of these items will be presented prior to the November 1, 2023, meeting and discussed at that meeting. The first public hearing will be on December 6, 2023, and the second hearing, if necessary, will be January 3, 2024.

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OTHER BUSINESS:

3. Minutes: October 4, 2023

**Chris Yates moved to approve the minutes of October 4, 2023, as amended [Line 296: replace the word “overall” with “of impervious area”] Seconded by Tom Silvia.
Vote: 5-0-0 motion carried**

4. Any other business that may come before the Board.

**Cynthia Dokmo moved to adjourn the meeting at 8:01pm. Seconded by Bill Stoughton.
Vote: 5-0-0 motion carried unanimously.**

Respectfully submitted,
Kristan Patenaude

Minutes approved: