

TC PB Minutes from PB working group meeting 11.09.2022

AMHERST WORKING GROUP OF THE PLANNING BOARD AGENDA Please be advised that a working group of the Amherst Planning Board will meet on Wednesday, November 9, 2022, at 4:00 p.m. in the Barbara Landry Meeting Room at the Town Hall, 2 Main Street, Amherst, NH 03031 This meeting is to work on potential scenic setback changes.

Agenda:

Welcome all attendees by Tracie and distribute copy of agenda.

Read current Amherst Scenic Setback document found in Zoning

Amherst Article III General Zoning Provisions Section 3.11 Scenic Setbacks

Review difference between scenic road designation vs scenic setbacks.

Discuss legal concern raised about regulation/ordinance in relation to Penn Central Test (Penn Central Transportation v New York).

Discuss Citizen letter of September 14, 2022, and suggestion for addendum to Amherst Zoning Ordinance, Section 4.3 C Residential/Rural Zone, Area and Frontage Requirements...*The minimum lot area on all RSA 231:157 Scenic Roads, which have held this Scenic designation for a minimum of 7 years, shall be 5 acres and each new lot shall have a minimum frontage of 300 feet.*

Discuss other suggestions.

Adjournment.

Attendees:

Tom Quinn, Planning Board Member

Dave Williams

Nancy Williams

Amy Jo Muscott

Howard Muscott

Tracie Adams, Planning Board Member

Tracie Adams called the working group meeting to order at 4:00 pm and welcomed all attendees. An agenda was provided to each attendee and an overview of the meeting goals was reviewed and agreed upon by all.

Tracie Adams read Amherst Article III General Zoning Provisions Section 3.11 Scenic Setbacks.

Nancy stated that at another working group meeting a planning board member was ok with increasing the setback above the current 100 feet on scenic roads.

Tracie reviewed the difference between a scenic road designation and scenic setbacks including reading appropriate sections from RSA 231:158 Effect of Designation as Scenic Roads.

Nancy expressed concerns that developers/homeowners can clear areas within 100 feet. She understood that scenic road designation required DPW and Utility Companies to attend a public hearing before the Planning Board to address things like tree trimming and removing trees but did not prohibit landowners from working on their property.

Amy Jo considered that increasing the scenic setback to 150 feet might bring concerns and Dave also wanted to create changes that would be well received. Tom stated that good recommendations will likely pass. Amy Jo suggested splitting the difference and increasing the scenic setback from 100 feet to 125 feet would enhance the beauty of the Town but not be too much of a change.

Tom reported that Planning Board members expressed legal concerns about the proposed 5-acre minimum lot size on scenic roads which is up from the current 2 acre minimum. Concerns revolved around limiting what a landowner can do on their land and how limiting development and economic opportunities can lead to legal concerns.

Amy Jo suggested that frontage (changing from 200 feet to 300 feet) would really make a difference. Tom stated this increase would decrease curb cuts at roadway.

Dave stated that there are 16 scenic roads designated. Five are in the Northern Zone which already has a 5-acre minimum. Residential/Rural Zone scenic roads comprise 14.7 miles of roadway that are 12.7% of Amherst's total roadways. He felt not many undeveloped lots between 2 and 5 acres would be on scenic roads, except County Road. He stated based on research that there are 20 lots in all of Amherst greater than 2 acres and less than 5 acres on scenic roads that have not been built on.

Tom stated that lots of record would be grandfathered. The current large development concept has not entered an application and is not grandfathered. Lots on scenic road would have 100 feet setbacks.

Dave, Tom, and Amy Jo discussed the legal issue of changes that reduce useable land and negatively impact economic value of the land. Dave stated that Vonderosa conceptual plans indicated greater than 5 acre lots and large houses.

Nancy, Tom, and Dave discussed concerns with disproportionately affecting lots in different zones. Impacts to only some lots in each zone by changing frontage and minimum acreage could be issue. Dave expressed that the rural character of Amherst should be maintained in all areas, not just the Northern lots while grossly overdeveloping the Southern lots.

Tracie reiterated that she has no legal background and she recommended legal questions be raised to board members and Town Counsel. Tracie then read from a Harvard Law School Library document that explained The Penn Central test that Arnie mentioned at the Planning Board meeting on September 6, 2022. The case of Penn Central Transportation v New York led to the Penn Central factors that were generally listed as an inquiry into 3 things: 1.the regulation's economic effect on the landowner 2. The extent to which the regulation interferes with reasonable investment-backed expectations 3. The character of the government action.

Dave and Tracie shared personal experiences in Georgia and Ohio that related to uncontrolled growth and its negative impact on the community. Dave understood the desire of a businessman to want a reasonable return on investment.

Nancy felt that 5-acre minimums in the Northern area should be good for the Southern area too. Tracie thought she was told that the 5-acre minimum was appropriate for the Northern areas due to the character of the land there. Dave felt that increased density decreases rural character. Tom suggested that there has been a push for smaller lots to build more affordable housing even on scenic roads.

Dave and Tracie felt that the Vonderosa conceptual presentation leaned toward larger lots and included conservation efforts. Tracie stated that conceptual presentations are non-binding for both parties.

Howard arrived at 4:37 pm and he stated that Vonderosa marketing revealed their intentions. He was pleased that a Planning Board member verbalized a cumulative effect of development perspective.

Tracie and Dave agreed that the Planning Board Chair should be made aware of the working group discussions. The group agreed that further legal perspective could be helpful.

Nancy felt that frontage increases could be more impactful since there would be fewer breaks on the scenic roads. Tom confirmed frontage is at 200 feet currently.

Howard perceived that moving to 5-acre lots might be too much and wondered if numbers could be run for 3 or 4 acres to see the impact of those lot sizes. He was open to finding an acceptable number of acres to get rural character and move forward in the process successfully.

Tom looked at recently passed 5 lot subdivision with 200 feet frontage requirements and thought it might have had fewer driveways if frontage requirement on a scenic road was 300 feet.

Amy Jo felt that fewer road cuts/driveways would feel very different. Tom stated that reduced frontage lots would have shared driveways and thus fewer road cuts.

Nancy still had issue with increased traffic even if have fewer driveways and expressed concerns about proximity of homes to wetlands.

Dave did not want to give up on 5-acre minimum lot sizes since have precedent in Northern Zone and would only impact scenic roads/12.7% of Amherst roadways. He wanted to look at reasons to support the Southern area needing 5-acre lots too.

Tom stated that market changes might have an impact on what is desirable. He mentioned The Fells PRD which has one opening on the roadway and then the development opens further into the area. The Penn Test says not to decrease economic value, but Tom thought increased frontage may be good way to balance.

Nancy and Amy Jo wanted to keep the County Rd scenic and rural so the kids can continue to enjoy playing outside and people can walk the beautiful scenic road safely.

Howard felt we were doing a balancing act and that the biggest impact would need both increased frontage and increased acreage requirements too whether that be 3 or 4 or 5-acres.

The group agreed that all present share the goal of maintaining Amherst's rural character. The group pondered where to start and what changes would move the needle in the direction we want to go. The group is trying to balance Amherst's goal of preserving rural character with landowner development and economic gain.

Howard wondered what investment would yield the greatest results and stated he did not want rest of Amherst to look like road into Milford.

Amy Jo stated that the first piece at Cricket Corner and County Rd will impact her area even though the studies say it won't. Tracie stated that the Planning Board has been diligently requiring studies and third-party reviews but understands her concerns.

Dave summarized that we are looking at balancing Amherst goals against landowner/developer and legal concerns. Tracie was asked to take the suggestions to Planning Board Chair and ask about getting legal perspective.

Summary of what group discussed...

- 300 feet frontage instead of 200 feet on scenic roads in Residential Rural Zone (RR Zone).
- 125 feet setbacks instead of current 100 feet on scenic roads...Tom added idea of 50 feet no disturb section to preserve trees for homeowner, DPW, and Utility Co.
- 5 acre (3.5 to 5 acre) minimum lot size on scenic roads in RR Zone like in Northern Rural Zone (5 acres) and Northern Transitional Zone (3.5 acres).

Group agreed to meet again before presentation of proposal at Planning Board meeting 11/16/2022 at 7pm in Town Hall. Tracie mentioned that proposed ordinance changes can be moved forward through the Planning Board or citizen petition.

Tracie to work with Deb in Community Development to get room and have meeting posted on Town website. Preference for Monday November 14, 2022, at 3:00 pm. Second choice Nov 14 1:00 pm and third option Tuesday Nov 15 at 4:00 pm. Group to check Town calendar next couple days to see what date worked. Also discussed use of library space if Town Hall not available any of these options.

Adjourned 5:50 pm.

Minutes taken and presented respectfully by Tracie Adams