

PLANNING BOARD
Minutes of December 17, 2014

ATTENDEES: Arnold Rosenblatt – Chairman, Sally Wilkins- Vice Chairman, Cliff Harris, John D’Angelo – Ex Officio, Richard Hart – Conservation Commission, Colleen Mailloux – Community Development Director, Michael Del Orfano (arrived at 8:45pm).

ABSENT: Gordon Leedy, Marilyn Peterman – Alternate, Allen Merriman – Alternate, Eric Hahn – Alternate

Arnie opened the public hearing at 7:35PM.

(Please see attached proposed full zoning amendments)

Amendment 1 – Sections 4.3.A and 4.3.B.3 Elderly Housing – The proposed amendment allows elderly housing as a permitted use subject to a Conditional Use Permit in zones where it is currently permitted and eliminates the special exception for elderly housing. Arnie stated that the subcommittee has reviewed this extensively and provided information to the Board on this amendment. Arnie asked if anyone in the audience had comments relative to Amendment 1.

John Walega stated that he has a question on Amendment 3. Sally stated that the board would address each amendment individually. Sally asked if the language addresses the concern of what happens if Amendment 6 passes but 1 does not pass and vice versa. Colleen stated that the proposed language will work.

Sally stated that Mike Del Orfano has requested that the board consider changing the allowed density from 1 unit per ½ acre to 1 unit per acre. Sally indicated that she had no strong feelings either way. Consensus of the Board was to change the allowed density to 1 per acre. Sally made a motion to amend the proposed language to a minimum of one acre per dwelling unit. Cliff seconded. Motion passed 4-1 (John D’Angelo against). Arnie noted that this is a substantive change to the language and stated that it will be reposted for a second public hearing to be held in January.

Amendment 2 - Sections 4.14.C.2, Section 4.17.C and Section 9.1, Net Tract Area Definition– The proposed amendment provides a consistent definition throughout the Zoning Ordinance of net tract area as the total area of the parcel less wetland, floodplain and steep slopes over 20 percent. Sally noted that the board had reviewed this and proposed this language in order to eliminate inconsistencies that currently exist throughout the ordinance. Peter de Bruyn Kops asked if this language is rendered moot if Amendment 6 passes. Sally said that it does not matter if 6 passes or not, this creates a consistent definition. Town Counsel Bill Drescher has reviewed the proposed Workforce Housing and Innovative Housing Ordinances. Peter stated that the proposed amendments are very complex and there is a chance of bugs but cannot point to an absolute flaw. Sally made a motion to post Amendment 2 to the warrant as written. Seconded by Cliff. All were in favor with none opposed.

Amendment 3 - Section 6.3, Expiration of ZBA Approvals – The proposed amendment brings the Zoning Ordinance into compliance with a 2013 RSA change that requires Zoning Board approvals be valid for a period of two years. John Walega asked if an applicant can come back for a new approval after the expiration of a variance or special exception. Colleen stated that yes, you can come back for a new approval of a permit that has expired. The change is to come into compliance with state law which requires extending the time that a zoning approval is valid from 1 year to 2 years. This change was made in recognition of the fact that some permitting takes substantial time and this allows an

50 applicant to obtain zoning approval and then move forward with obtaining other permits necessary for
51 a project.

52 Sally made a motion to post Amendment 3 to the warrant as written. Seconded by Cliff. All were in
53 favor with none opposed.

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55 **Amendment 4** - Sections 9.1 of the Zoning Ordinance and 5.1 of the Building Ordinance, Structure
56 Definition – The proposed amendment establishes a minimum structure size of 32 square feet and
57 exempts structures smaller than 32 square feet or temporary structures from needing to obtain a
58 building permit. Peter de Bruyn Kops stated that this amendment is appreciated as it eases the burden
59 on small agricultural structures. John Walega stated that the minimum should be 100 square feet or a
60 larger number. John D’ Angelo explained that the previous community development director proposed
61 the policy change to the Board of Selectmen to set a threshold below which review is not required.
62 There is no code to review for a structure of this size. Cliff stated that requiring a permit for structures
63 preserves setbacks. Colleen stated that for sheds and other small improvements, permits are required
64 and a final inspection and the setbacks are verified. There is no building code relative to sheds and
65 small structures. The proposed amendment will still require a building permit for typical sheds, but
66 exempts smaller structures like chicken coops or dog houses.

67 Sally made a motion to post Amendment 4 to the warrant as written. Seconded by Cliff. All were in
68 favor with none opposed.

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70 **Amendment 5** – Section 4.14, Workforce Housing - The proposed amendment deletes the existing
71 Section 4.14, Affordable Housing in its entirety and replaces it with a new Section 4.14, Workforce
72 Housing, which is intended to bring the Ordinance into compliance with RSA 674:58-61. Arnie noted
73 that the language should be revised as it currently reads it sounds as though the existing Affordable
74 Housing ordinance is not in compliance with the RSA and that is not the case. Sally reviewed 5
75 typographical errors that were noted by Mike Del Orfano and asked that they be revised. Sally gave a
76 brief overview of the proposed ordinance. The Workforce Housing Ordinance is innovative and is
77 going to allow the town to encourage creativity and variety in the ways that workforce housing
78 developments are put together in exchange for flexibility in density, setbacks, etc. There is a
79 determination of market value, and economic viability is the key factor for consideration in granting
80 waivers to density and setbacks. Claudia Frades asked what is the goal of the ordinance, is it allowed
81 in every zone in town? Sally stated that affordable housing is currently permitted in any zone in
82 Amherst. Workforce housing is the term used by the state. Claudia asked what is the benefit to
83 current citizens. Sally – the underlying benefit is that teachers, fire-fighters, etc can afford to live here.
84 Arnie – there are two purposes 1) perspective that it is good for the town to have a mix of housing
85 types and 2) the state mandates that the town must provide an opportunity for workforce housing. It is
86 not a matter of if the Town wants it or not, we are required. This allows the planning board to have
87 some control in the review of these developments as they are proposed.

88
89 Arnie noted that affordable housing is already in place (Sally – since 1989), this allows the planning
90 board with more flexibility while complying with statutory requirements. Cliff stated that if we had no
91 standards, we would have no say. The standards allow us to make sure that a development fits in the
92 Town of Amherst the way we want it to be and the design meets the needs of the Town. Cliff- wants
93 to provide housing opportunities for younger people who currently cannot afford to live here due to
94 housing prices. Claudia wants to be sure that we are not marching to the tune of someone else’s
95 drummer, the Town should question the state and federal mandates and their impact on property
96 values.

97
98 Rich stated that the Town would like to work towards a more mixed use type of environment where a

development can include some lower income, some elderly housing and some “normal” housing development mixed together in one development. Arnie stated that Amendment 6 addresses the innovative housing ordinance, this amendment is workforce. Claudia has concerns that calling it workforce is deceptive and seems disingenuous, the Town put in good zoning in the 50s and 60s to preserve the character of Amherst and does not want to see the Town lose its character.

Peter de Bruyn Kops identified a revision needed in Section 3, preliminary density. Sally noted that it is a punctuation error and needs to be corrected. Peter asked if he is correct in understanding that a development could provide 1 single unit of workforce housing. Sally stated that it is possible but is determined by economic viability. Peter expressed a concern regarding constitutional requirements for equal treatment. Sally stated that the language has been reviewed by Bill Drescher and revisions made as a result of his review. Arnie stated that the intent of the proposed amendments is not to take on a ZBA function but will provide the Planning Board with the flexibility to deal with projects that are submitted.

Peter asked if a developer could put up 1 unit of work force housing and commercial recreation fields? Is there a loop hole in this ordinance? Sally stated that any time we write an ordinance, there is the potential for holes, but this has been reviewed by Town Counsel. Claudia expressed concerns with the potential for an anthill of activity to spring up on a dense site with people gathering to visit recreation fields.

Arnie stated that this is a change and suggested that perhaps this should be continued to another public hearing to take additional public testimony. Sally made a motion to repost Amendment 5 for a second public hearing in January. Seconded by Cliff. All in favor, none opposed.

Colleen will identify dates for the 2nd public hearing based upon room availability and statutory deadlines.

Amendment 6 - Sections 3.18, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.13, 4.15, 4.16 and 4.17, Integrated Innovative Housing Ordinance – The proposed amendment deletes the existing Section 4.16 Open Space Plan and replaces it with a new section 4.16, Integrated Innovative Housing Ordinance and allows for implementation of the Workforce Housing, Planned Residential Housing and Elderly Housing Ordinances by Conditional Use Permit and includes insertions and deletions throughout the ordinance for consistency. Rich asked how do we use the percentages presented in the table. Sally stated that Section C.1 defines the baseline density. The Board agreed that the table heading needs to be revised to read “add to baseline”.

Peter de Bruyn Kops asked what if a developer wants to charge a fee for access to the public park or space? Sally, we can address this in the definitions. Cliff stated that the public use is designed as a non-fee use. Rich stated that we do not want to eliminate the ability of the recreation department to collect fees. Arnie does not want this ordinance to be used to create a for profit/commercial recreation use. Colleen suggested language in the definitions regarding public use space available at no fee except as may be assessed by the Town. Claudia Frades stated that her concern is the character of the neighborhood. From the standpoint of abutters, this is a bad idea. Brings more people and more traffic to neighborhoods.

Sally made a motion to insert a definition that Open to the Public is available for public use at no cost except for fees as may be assessed or collected by the Town. Cliff Seconded. All in favor, none opposed.

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149 Sally made a motion to repost Amendment 6 for a second public hearing in January. Seconded by
150 Cliff. All in favor, none opposed.
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152 **Other Business**
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154 **Petition Warrant Articles** - The Planning Board received one petition warrant article requesting that
155 the *Amherst Zoning Ordinance be amended by changing the zoning of the property identified as Tax*
156 *Map 2, Lot 12-2 from the Rural Residential Zoning District to the Industrial District.* Colleen stated
157 that the parcel in question abuts the industrial district off Hertzka Drive. The Board will hold a public
158 hearing on the petition warrant article on January 7, 2015 at 7:30PM.
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160 Colleen reviewed the applications submitted for the January 7 board meeting: A site plan amendment
161 for American K9 on Route 101, a site plan amendment for a 5,400 square foot retail building at
162 Amherst Plaza and a site plan and condominium subdivision for a 16-unit development at 131 Hollis
163 Road. Sally made a motion that none of the items are of regional impact, seconded by Rich. All in
164 favor, none opposed.
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166 Colleen stated that a right to know request had been received related to proposed 2015 zoning
167 amendments. As several board members are not in attendance this evening she will email the board
168 tomorrow with details on what information has been requested.
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170 Arnie asked if there was a motion to adjourn.

171 Cliff made the motion; John seconded. All were in favor with none opposed.

172 Meeting was adjourned at 9:15pm.
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