

TOWN OF AMHERST  
Planning Board

November 16, 2022

**APPROVED**

In attendance at Amherst Town Hall: Arnie Rosenblatt – Chair, Bill Stoughton – Board of Selectmen Ex-Officio, Cynthia Dokmo, Tom Silvia, Tom Quinn, Tracie Adams, Tim Kachmar (alternate) and Dan LeClerc (alternate)

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

Arnie Rosenblatt called the meeting to order at 7:00pm. He explained that a number of proposals for amendments by the Zoning Ordinance and regulations have been made by members of the community, the Planning Board, and Nic Strong, Community Development Director. A number of working groups, containing members of the Planning Board, were established to draft proposed ordinances. Those discussions occurred during open, public sessions. He thanked all Planning Board members and members of the public involved in these efforts. He explained that this evening, the Board will review a number of the proposals and decide if they will be moved forward to a public hearing. At that public hearing, the Planning Board will determine whether to recommend each change and put it on the ballot. If the Planning Board decides to move items forward to the public hearing, this does not necessarily indicate approval or blessing by the Board.

Arnie Rosenblatt explained that the Board is not going to entertain any additional ideas this evening, in order to keep the process most efficient. Members of the public are still welcome to advance proposals by petition or wait for another year. This evening's discussions will primarily be among the Planning Board, with the public meeting being an opportunity for the public to comment.

**1. Discussion of potential Zoning Ordinance and regulations amendments' language**

Arnie Rosenblatt asked Bill Stoughton to present the proposed amendments he had a hand in drafting.

*Tim Kachmar sat for Chris Yates.*

Bill Stoughton explained that the first item deals with proposed changes to Section 4.9 - Industrial Zone #5. He explained that this item was discussed by a working group consisting of Cynthia Dokmo, himself, and Chris Yates, with substantial contributions from members of the public and from representatives of the landowner. He applauded the residents for how they approached this item, and asked Cynthia Dokmo to further explain the item.

Cynthia Dokmo explained that the group reviewed Industrial Zone zoning and came to the initial conclusion that there were a lot of changes that could be made to this Zone, based on input from abutters and residents. However, most of the big changes proposed will need further study. The working group will continue meeting for a year to discuss some of these larger issues, in hopes of proposing zoning that is in the best interest of the entire Town, not just as a certain group or area. She noted that some of the concerns presented by abutters deal with one specific piece of

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land. She explained that there are a lot of older buildings in the industrial park, and it is not inconceivable they will be purchased, torn down and rebuilt in the future. Thus, the group needed to consider zoning for the whole industrial park, not just that one parcel. The group also considered this area as the commercial tax base for the Town. Abutters do have legitimate concerns regarding what kind of activity occurs on that land, and the intention was, to the extent possible, to try to mitigate that. She noted that abutters will likely wish these proposals went further, while landowners will likely wish the opposite; the goal was to find an area of compromise.

Cynthia Dokmo stated that the first change is an addition that, “any use that results in off-site parking of vehicles, while such vehicles await access to the site or otherwise, on roadsides within the Town, on private property without the property owner’s expressed consent, or anywhere within the Town if the vehicle violates the internal combustion engine idling time limits [which is addressed further in the document]...” This addresses a concern regarding large vehicles jamming the Town’s roads and roadsides. The second addition is that, “any lot bordering on a Residential Zone or existing residential use shall have a buffer between any building and such Residential Zone or use as follows: 100’ vegetative buffer from the lot line, buffer planting shall be presented in a landscaping plan for Planning Board approval in accordance with Planning Board Nonresidential Site Plan regulations; and between the 100’ vegetative buffer and any building, an earthen berm topped by a noise attenuation panel shall be constructed for visual, light, and noise attenuation, the height of the earthen berm shall be not less than 6’ feet and the height of the noise panel shall be not less than 10’. The Planning Board may allow for breaks in the berms, if necessary, for emergency access, and stormwater control, or otherwise, if the general purpose of visual, light, and noise attenuation are maintained.” She noted that the landowners will likely believe that the 100’ buffer with plantings and berm are not the best way to address this, and abutters may prefer a higher berm and noise panel. Cynthia Dokmo explained that the group received a noise study from the town of Hudson to review, and so some of these numbers may change.

Cynthia Dokmo stated that the ordinance currently reads that no structure shall be more than 40’ high from the Boston Maine Railroad to Route 101A, 50’ from the other side and 80’ for an uninhabited structure. Abutters would like to see this changed to 40’ across the district, and the landowner would like to see it changed to 55’. She explained that there are two different numbers currently in the ordinance because in the 1980s the Planning Board imagined that Route 101A would be a gateway to the Town. The Board asked that structures built in this area have colonial façades at the time; there were no architectural guidelines, just a request from the Planning Board because they thought that lower buildings would be visually more appealing. Once Walmart came into Town, most of this thinking was changed. The 80’ height was in the ordinance because it was thought at one point that a structure like the New Hampshire Dome would be located there, long before Hampshire Hills was built. This never came to fruition. The current proposal is to remove the 80’ requirement and make it 44’ in front and 50’ on the other side of the former Boston and Maine Railroad right of way.

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Cynthia Dokmo noted that Chris Yates found that the State statutes and regulations already have provisions against a car or truck idling for more than a certain amount of minutes. This is based on temperature and a number of other factors. Thus, the next change includes language regarding trucks idling. Another proposed change is that adequate parking needs to be provided, sized to accommodate the appropriate vehicles. Another proposed change is that parked vehicles shall not be used as lodging for vehicle operators or passengers. She stated that she disagrees with Bill Stoughton on this item. She noted that Bill Stoughton's point is that some long-haul truckers use their trailers for illegal activities. Her theory is that, as this is already illegal, the Police can take care of it. However, long-haul drivers should be allowed to sleep in their cabs, instead of being made to continue driving on a lack of sleep. An additional change is to require that there be restrooms available for truckers 24 hours/day.

Bill Stoughton noted that he would like to suggest a change to the proposed language, that the height of the earthen berm and the noise panels shall be sized and determined by the Planning Board to be adequate for visual, light, and noise attenuation. This can then be dealt with on an application-by-application basis.

Tracie Adams noted that she likes Bill Stoughton's proposed change to the language.

Tom Quinn noted that over-the-road drivers are required to sleep, so barring allowance of trucks being used as lodging is going to be a problem. He believes this may violate the National Transportation Safety Board regulations.

Tracie Adams asked if the study group received any feedback regarding requiring indoor restrooms versus a portable restroom. Cynthia Dokmo stated that no feedback was received, but the group felt requiring indoor restrooms was more reasonable than abutters looking out their windows to see people using outdoor amenities instead. A more permanent restroom option was preferred.

Tim Kachmar agreed that truckers need to sleep in their large truck caps. He stated that he does not believe it is up to the Board to decide if truckers have to pay for a hotel to sleep. He stated that he was also surprised by the proposed idling requirement. He suggested that the actual State RSA referencing this item be placed in the language. Bill Stoughton stated that language referencing the regulation is already included.

Tom Silvia asked what the property owner's preferences were for the building requirement items Cynthia Dokmo stated that they preferred a 55' height requirement, instead 50'. Tom Silvia asked if that extra 5' increase was considered. Bill Stoughton explained that this request was made in regard to the clear height inside the building. The state of the industry seems to be moving toward a certain adequate clear height. Cynthia Dokmo noted that abutters preferred 40', as that seems to be the height of many of the existing buildings in this Industrial Zone area. She noted that the study group would like to spend a year reviewing the correct height for this item. Bill Stoughton noted that there are various types of warehouses, and it will take time to study what impact the various types would have to Amherst. The study group will make an informed

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recommendation to the Planning Board. He noted that the study group would also like to consider if additional uses might be appropriate for that land and beneficial to the Town, in addition to industrial uses.

Tim Kachmar stated that there are exemptions which should be included in this language. For example, Section 1102.03 speaks to allowing idling if it is providing power for refrigeration, liftgate pumps, or auxiliary items. Cynthia Dokmo agreed that there are also exceptions based on the outside temperature. Bill Stoughton suggested that the language reference the entire Section 1102.

**Bill Stoughton moved to advance this item to the public hearing, with the changes discussed this evening. Seconded by Tracie Adams.  
Motion carried unanimously 6-0-0.**

Tracie Adams addressed the scenic setback proposed ordinance changes. She explained that a proposal was made by a member of the public to bring the frontage requirement from 200' to 300' and the lot size requirement from 2 acres to 5 acres on scenic roads. The intention was to balance the needs of the homeowner and the ability for landowners to use their land, as well as to move forward the agenda of the Town to allow for conservation land and to honor the Master Plan. There were two meetings held which were attended by members of the public. The study group was made up of herself, Tom Quinn, and Tim Kachmar. A gentleman from Town drafted the original letter and has a great understanding of the research done for it. She asked if Arnie Rosenblatt would like to hear from this resident on this item. Arnie Rosenblatt stated that he would like to follow the process he laid out in the beginning of the meeting.

Tracie Adams explained that all scenic roads in Amherst have scenic setbacks. Scenic setbacks prevent structural building, and the current setback is 100'. A scenic road designation requires utility companies and public works companies to come before the Planning Board for permission to remove trees, to work on stone walls, etc. Additional language for the definition of 'scenic' has been proposed which comes directly from the Cambridge Dictionary. The letter which was written by a resident was supported by the signatures of 56 citizens. She noted that Howard and Amy Muscott provided language in the letter they wrote to the Planning Board which focuses on the benefits of highly rated wildlife habitat and wildlife corridors on scenic roads. An attempt was made to balance and not overburden landowners, while also supporting conservation goals of Amherst.

Arnie Rosenblatt commented that the proposed language looks to change for scenic roads, the setback requirement, including but not limited to County Road, from 100' to 125'; the frontage requirement to increase from 200' to 300'; and that, regardless of what Zone in Town, the minimum lot size be 5 acres rather than 2 acres.

In response to a question from Tom Quinn, it was noted that these three items would be applicable across all districts in Town.

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In response to a question from Cynthia Dokmo regarding how many scenic roads there are in Town, Tracie Adams stated that there are 16 designated, with an additional 11 that have scenic setbacks but are not scenic roads.

Cynthia Dokmo stated that she cannot support this proposal. She stated that she believes this would lower the value of people's land by 50%-60%. She stated that this seems to be proposing to rezone the whole Town based on certain streets. Normally, zoning is based on geographical areas. This proposal could almost be considered spot zoning. She explained that this was originally proposed by residents, based on the potential development of one large piece of land. That plan showed all proposed houses in the back of the lots. The Planning Board asked for these houses to be brought to the front, in order to retain as much of that pristine back area as possible. Changing the requirement to 5 acres would force the development to the back of the land and lower the land value.

Bill Stoughton noted similar concerns. He stated that lot sizes are currently proposed based on the ability of the land to support development. In the northern areas of Town, there are steeper slopes and different soils, so there is a higher lot size requirement. He agreed with Cynthia Dokmo that frontage is a density reducing measure, and the objective of these changes seems to be to reduce density. Currently, the only area in Town with larger frontage allowances is in the Northern Zone where the land cannot support denser development. He is concerned about making these changes under the guise of maintaining scenic appearance.

A resident on County Road explained that she decided to move to Amherst because, at the time, there was a 5-acre minimum lot size requirement. This has since changed, and there is now a developer that wants to pave County Road. She stated that she has lived in her home for 28 years but now may not be able to continue to afford it based on the tax rate. Many residents are concerned with building along County Road and the additional infrastructure proposed.

Dave Williams, 56 County Road, stated that he worked with the study group on this item. He agreed that the Northern Zone is a large swath of Amherst that does have the privilege of having a 5-acre minimum and a 300' frontage requirement. The justification for this, as stated in the Town ordinance, is that lower density development is desirable, that this area has a unique rural, scenic, and natural character, this area has poor soil on its slopes plus other issues such as wetlands and aquifers, and it has physical limitations as well. He stated that he believes these four items also apply to scenic roads in Town. The Master Plan is a guideline and vision for the Town's future. It states that the challenge is to identify policies and actions for managing future changes so that unmanaged growth does not destroy a community's heritage. He explained that 91% of residents responded to the Master Plan survey saying that they want to protect open space and natural resources. That is what the Town wants for its future. He stated that he believes protecting scenic roads is a real policy and action that will move the Town toward its goal to preserve open space and rural character. He noted that, to address Cynthia Dokmo's concern regarding diminishment of land value, the Penn Central Test states that it is not incumbent upon the Planning Board to maximize the return on the investment of any developer.

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These proposed changes do not restrict building, but instead place guidelines to protect open space and rural character.

Will Ludt, 3 School Street, suggested that all of the proposed changes apply to both scenic roads and scenic setbacks.

Cynthia Dokmo reminded the Board that the Town was sued 15-20 years ago regarding 5-acre zoning. The only reason the Northern Zone still has 5-acre zoning is due to the character of the land. The Transitional Zone of 3.5 acres was created as a compromise. She stated that she believes there needs to be more justification for 5 acres zoning than for scenic appearance.

Arnie Rosenblatt stated that he does not believe the Board can go forward with converting to 5-acre zoning. While he would prefer this, he does not believe it is a realistic thing to do. He believes it will diminish the credibility of the Board and open the Town up to legal battles. He stated that he believes the only way to diminish development in Town is by buying the land. The Town has an open space bond for land acquisitions and efforts are being made through that. He would like to see other parts of this proposed ordinance change move forward.

Tom Silvia stated that he is in favor of open space but generally finds that the 5-acre requirement is very heavy-handed and not consistent with other ordinances and Board history. He stated that he believes the proposed changes to the setbacks and frontages will allow for some expansion of lots, and that may be enough of a step forward at this time.

Tim Kachmar stated that he is in favor of all three proposals. He believes there has been enough public input on these items and that the Board should listen to its constituents. He would like to move all three items to the public hearing to allow both sides to speak. He also suggested that Town Counsel could weigh in on any potential legality issues for this.

Tom Quinn agreed that by requiring a longer frontage and a larger setback, this will likely result in a larger than 2-acre lot. He stated that the most important thing is to get some improvements to scenic roads and scenic setbacks on the ballot. Placing two out of the three items on the ballot would be an improvement. He did note that the 91% of residents who spoke in favor of open space on the survey was striking, and thus would also be content to allow the 5-acre minimum item to move forward to the ballot as well.

**Tracie Adams moved to forward the presentation of this ordinance change related to the increase of the scenic setbacks and the addition of increased frontages from 200' to 300' on scenic roads to the public hearing. Seconded by Tim Kachmar.**

**Discussion:**

**Arnie Rosenblatt asked if the third item regarding lot sizes would be included in the motion.**

**Tom Silvia requested that they be voted on separately.**

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**Motion carried unanimously 6-0-0.**

**Tim Kachmar moved to forward the presentation of the 5-acre lot size change to the public hearing. Seconded by Tom Quinn.  
Motion failed 2-4-0. [T. Kachmar and T. Quinn in favor, all else against].**

In response to a question from Nic Strong regarding proposed language under the regulations for this item of the suggested establishment of a 50' buffer that had not been discussed at all this evening, Arnie Rosenblatt stated that he assumed this language would remain. All language as proposed, except for the 5-acre minimum, will remain.

Bill Stoughton explained that the next proposed change is to Section 4.19 - Offsite Improvements. The concept is that the Town has the power to require a developer to pay for a proportionate share of off-site improvements that are necessary to highways, drainage, sewer, and water upgrades necessitated by a development. These changes would formalize that process. The changes would require that, for each development, the Planning Board address the DPW and ask if there are changes necessary as part of the development. If there are, the DPW would be able to hire engineering support at the applicant's expense. DPW would then come back to the Board with a cost estimate from the engineering firm and the Board would then have the ability to determine a proportionate share of that amount to be assessed against the developer. There is some guidance from the State regarding the definition of proportionate. These fees would be set as a condition precedent by the Board, so that developers would have to make the deposit of that fee into the Town's accounts. It would be held for six years and, if not used in six years, returned to the developer. The Planning Board would not make the decision to make the improvements; that would be up to DPW and the Board of Selectmen.

Tom Quinn asked about circumstances where the developer would not be required to pay 100% of offsite improvement costs. Bill Stoughton suggested a scenario in which a road has to be paved but 25% of the distance of that road has already been developed. The proportionate share for the developer would be 75%.

In response to a question from Cynthia Dokmo, Bill Stoughton stated that this is being proposed in addition to regular impact fees and this is allowed by RSA.

Dave Williams asked if the Board would also use these changes to consult other Town departments, such as for fire services, bus services, etc. Bill Stoughton explained that the DPW typically uses Hoyle Tanner, which follows certain safety standards to design roads so that emergency safety equipment and buses can traverse roads safely. In Amherst, these changes will mostly deal with roads and drainage. Bill Stoughton explained that, as part of any application, the Board reviews it with all Town departments, such as Fire, DPW, etc., and the schools for comment.

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Howard Muscott, 48 County Road, stated that it seems to him that asking a developer to pay a portion of the amount of the cost to develop an area is no brainer.

In response to a resident from Crystal Lane regarding if an impact fee will be assessed for each house a developer tries to hook up to Pennichuck Water, Bill Stoughton stated that existing homes would not be assessed any fee under this provision. The sole fee assessed under this regulation is for the developer of a subdivision or a site. Pennichuck may charge individuals to hook into the water main, and this is not something that the Town would pay for or require the developer to pay for. The resident noted that Pennichuck will not drag water to people's houses for free. Bill Stoughton explained that this language says nothing about what Pennichuck can do. The only thing it says is that necessary improvements for a development must be paid by the developer in a proportionate share. The resident suggested wording to help protect abutters from a fee if Pennichuck has to drag the water to them. Bill Stoughton acknowledged this idea but noted that this is not what the proposed language is attempting to do.

**Bill Stoughton moved to advance the proposed changes to Section 4.19 to the public hearing. Seconded by Cynthia Dokmo.  
Motion carried unanimously 6-0-0.**

Bill Stoughton stated that the next proposed change is to reduced frontage lots. Currently there is a provision in the regulations that allows for reduced frontage lots, in certain cases allowing as little as 35' reduced frontage. Those regulations have been questioned by applicants as to how they should be interpreted. A working group was set up to review these ambiguities. The group reviewed the way Hollis, Brookline, and Wilton handle reduced frontage lots, and drafted a proposed ordinance. The proposed language would allow reduced frontage lots, with several controls designed to lessen the likelihood of dense packing. One of the controls would say that, with a reduced frontage lot, the lot size of that lot must be larger. In the Rural Residential Zone, it must be a 5 acre back lot, in the Northern Transitional Zone it must be a seven-acre lot, in the Northern Rural Zone it must be a 10-acre lot. This is consistent with what some of the other towns have done. This essentially doubles the current lot sizes for reduced frontage lots in Amherst. The other change would be that every reduced frontage lot has to be contiguous with a normal frontage lot, so that a bunch of reduced frontage lots cannot be placed together. Two reduced frontage lots are allowed to share a driveway. There are a few other requirements regarding the back lot still meeting the net tract area, exclusive of wetlands, steep slopes, and floodplains.

Tracie Adams stated that she appreciates the effort to clarify this item.

In response to a question from Will Ludt, Bill Stoughton stated that scenic roads are not exempt with this proposed change. There is language which proposes that the frontage for reduced frontage lots be expanded to 50' from the 35' allowed today. There is also language that no reduced frontage driveways are allowed within 750' of another reduced frontage driveway. The intention is to avoid dense packing of back lots and to retain open space. Tim Kachmar noted



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that the proposal seems to improve scenic roads as it will not push development to the back of the lots.

In response to a question from Tom Silvia, Bill Stoughton explained that if the proposal is for a full lot, then a reduced frontage lot, and then another reduced frontage lot, two reduced lots would share a driveway. The two lots would still have a total of 100' of frontage but the driveway could be anywhere within that 100'.

**Bill Stoughton moved to advance the proposed changes to the ordinance and regulations for reduced frontage lots to the public hearing. Seconded by Cynthia Dokmo.**

**Motion carried unanimously 6-0-0.**

Bill Stoughton explained that the next set of proposed changes are for outdoor lighting requirements. This would become a new Section 3.20. This item was suggested by residents and has been slightly amended. This ordinance follows the policy as already set out in State law. New Hampshire has a Dark Sky Policy, in which it encourages towns to adopt ordinances like this. The general idea is that lighting is necessary at nighttime but there is no need to light anything beyond the area around the light. The intention is to reduce light going up towards the sky and reduce light escaping outside the property. This ordinance has requirements on the allowable fixtures, that they be shielded so that the light does not escape upwards. It also has requirements on light trespass, which is the light escaping to an abutting property. It has requirements for controlling glare. Regarding how much light can escape, Nashua uses a standard of two-foot candles, and Rye uses 0-foot candles. A full moon is approximately 0.03-foot candles. This ordinance proposes using 0.05-foot candles, or approximately twice as bright as a full moon. There would also be height and distance restrictions for mounting devices.

In response to a question from Tracie Adams regarding how 0.05-foot candles was chosen, Bill Stoughton stated that he decided on this number by himself. He noted that Nashua uses 0.2-foot candles, and it seems that those living in the city may expect there to be more stray light. He tried to strike a balance between this, and the zero-foot candles allowed by the seashore.

In response to a question from Tom Quinn, Bill Stoughton explained that this ordinance would be required for new construction or substantial renovations, for both commercial and residential. There are certain exceptions included, noting that for residential purposes anything less than 100W is not controlled. Bill Stoughton stated that a low powered floodlight is about 50W.

In response to a question from Dan LeClerc regarding required hours for this ordinance, Bill Stoughton referenced the hours of operation clause. "Outdoor lighting shall be turned off or reduced in intensity by 11:00 p.m. unless an activity being lighted extends beyond that time. Lighting of display lots such as, but not limited to, automobile sales or rental, recreational vehicle sales, or building material sales shall be turned off within thirty (30) minutes after closing at the end of the business day. Any outdoor lighting used after work/activity/event hours shall be security lighting only, reduced from the level of full illumination lighting. Similarly,

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lighting for parking lots shall either be turned off or noticeably reduced to security levels after the closing of business. The intention of this requirement is to reduce after-hours illumination to the greatest extent while recognizing the need for security lighting. The Planning Board may impose limitations on lighting, hours of operation, or both, consistent with the purposes of this paragraph.”

In response to a question from Tim Kachmar, Bill Stoughton stated that enforcement of this ordinance is well beyond the scope of this language. This ordinance will not disallow patio or landscape lighting.

In response to a question from Cynthia Dokmo, Bill Stoughton agreed with the suggestion to add October to the months for allowable holiday lighting.

In response to a question from Cynthia Dokmo regarding the Waiver portion of the ordinance, Bill Stoughton stated that this should be stricken.

In response to a question from Cynthia Dokmo regarding an email from the Conservation Commission regarding that motion sensors could be approved on a case-by-case basis, Bill Stoughton noted that he considered this, but assumed that lights constantly turning on/off may have more impact than a low intensity light that is always on. He noted that the proposed language does not preclude motion sensors.

David Sutherland, 32 Peacock Brook Lane, asked how this ordinance will affect lighting coming from a large warehouse. Bill Stoughton explained that the intent of this ordinance is that the Planning Board would require that light not escape the boundaries of the lot. This would be done by the developer shielding the lights and using fairly low intensity lighting. There are requirements that lights be mounted no higher than 20’ in the Commercial and Industrial Districts, no matter the height and size of the building.

**Bill Stoughton moved to advance the proposed Section 3.20 on outdoor lighting to the public hearing, with the changes as discussed this evening. Seconded by Tom Quinn.**

**Motion carried unanimously 6-0-0.**

Nic Strong explained that the State statute recently changed to require the Zoning Board of Adjustment to approve or disapprove an application within 90 days of the date of the receipt of the application. The next proposed change to the ordinance would put that statute into effect.

**Bill Stoughton moved to advance the proposed changes to this ordinance to the public hearing. Seconded by Cynthia Dokmo.**

**Motion carried unanimously 6-0-0.**

Bill Stoughton explained that the next proposed change is to add well water testing requirements, both for chemical impurities and for quantity, into the Town’s Building Code. The Planning

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Board has adopted these items as conditions in the past, but this would make them applicable to all new buildings. There is also some language to eliminate conflicts with the State Building Code that have arisen over the years. This language has been reviewed by Scott Tenney, Building Inspector and, will now have to go before a State Board for review. The State Board will not review this until January but agreed that the Town could begin to move it forward.

In response to a question from Cynthia Dokmo regarding the proposed language for 960 gallons of water over a four-hour period, Bill Stoughton stated that this is the optimum amount recommended by the State. The minimum amount is 600 gallons over two hours.

In response to a question from Tom Silvia, Bill Stoughton explained that the State Well Water Board has minimum and optimum requirements. Those listed in the proposed Building Code amendments are the optimum ones.

In response to a question from Tim Kachmar, Bill Stoughton explained that if the requirements are not met, this will need to be mitigated for, and the treated water will also be required to be tested.

**Bill Stoughton moved to advance the proposed changes to the Amherst Building Code to the public hearing. Seconded by Cynthia Dokmo.  
Motion carried unanimously 6-0-0.**

Bill Stoughton stated that the final proposed change is to the sign ordinance. Currently, in the Zoning Ordinance there is language dealing with both permanent and temporary signs. It contains language that political signs can only be up for 30 days before an election and have to be taken down five days after the election. One can only tell that a sign is political by reading it. There was a Supreme Court case several years ago called Reed v. Gilbert which stated that any regulation of a sign which requires one to read what the sign says is unconstitutional. This would essentially be a restriction of speech by the government, as some messages would be treated differently from other messages. This proposal came up at the Board of Selectmen recently due to complaints about political signs being placed out early. The approach proposed was adopted by the town of Warner and it essentially no longer looks at what a sign says but allows a certain number of signs of a certain size for a certain length of time, based on events. For example, during the 30 days before an election, a certain number of signs are allowed and can say anything. The Board will not regulate what the signs say. This language will be better under the constitution but could result in weird signs.

Bill Stoughton reviewed a couple of changes suggested by the Selectman. First, in the Purpose Section, a recommendation that one of the purposes be to enhance public health, safety, and general welfare. He noted that the regulation of signs at all is to reduce clutter, which is important for public safety, and the rural appearance of the Town. Another recommendation was to change the requirement for signs to be 3' off the traveled way instead of 5'. There are also a couple of changes regarding signs on Town property. There are three general places in Town where signs are allowed in certain circumstances: the Transfer Station, the Long Common

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(outside of Moulton's Market), and Huntington Commons (along Route 122). Signs will still be allowed in these areas, but with controls regarding the number of signs at one time and many will require a permit. For signs other than political signs at the Transfer Station and on Long Common, a permit will be required.

In response to a question from Dan LeClerc regarding scrolling-type signs, Bill Stoughton stated that movable display signs are only allowed in the daytime hours.

In response to a question from Tim Kachmar regarding how this ordinance deals with the new sign at the High School, Bill Stoughton explained that the School District is exempt from the Zoning Ordinance.

In response to a question from Bill Stoughton regarding if this ordinance addresses penalties for removing or destroying other people's signs, Bill Stoughton stated that there are criminal laws which likely already address this item.

Tracie Adams stated that she appreciates the inclusion of language regarding how this will work to maintain the Town's rural aesthetic.

In response to a question from Cynthia Dokmo, Bill Stoughton stated that when signs are allowed to go up and must be removed are covered by State statute.

Dave Williams stated that he believes there was a Supreme Court decision several years back that allows towns the right to not allow political signs on public right of ways. He noted that the Town could likely ban all signs, political or otherwise, from public right of ways. He stated that he personally finds it annoying to see massive numbers of signs at every intersection. This destroys the beauty of Town neighborhoods. These signs likely come up during a time of the year when people flood this area for its scenic beauty.

Bill Stoughton explained that he tried to maintain the status quo of the existing sign ordinance, rather than making sweeping changes. The Town could ban all signs in public rights of way, but that is not what he was trying to do with this proposal.

**Bill Stoughton moved to advance the changes to Section 3.4 regarding signs to the public hearing, with the changes as discussed this evening. Seconded by Tracie Adams.**

**Motion carried unanimously 6-0-0.**

It was noted that the public hearing will be held on December 7, 2022, regarding these proposed changes.

## **2. Scenic Road Designation – Will Ludt**

*This item was not addressed at this time.*

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**OTHER BUSINESS:**

**3. Minutes: November 2, 2022; and non-public November 2, 2022**

**Tracie Adams moved to approve the meeting minutes of November 2, 2022, as amended [Line 557: change “need” to “needed;” Line 558: change “precedent” to “subsequent”.] Seconded by Bill Stoughton.**

**Motion carried unanimously 6-0-0.**

**Bill Stoughton moved to approve the meeting minutes of November 2, 2022, as amended [Motion language should read that the Motion passed 7-0 and that Pam Coughlin’s votes should be removed]. Seconded by Tom Silvia.**

**Motion carried unanimously 6-0-0.**

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

Dan LeClerc stated that he was recently voted to be a State Representative by the Town. He noted that he will be resigning from the Planning Board, in order to give this new position the energy it deserves. He thanked the Board for their time and the Town for electing him to the position on the Planning Board.

Arnie Rosenblatt thanked Dan LeClerc for his time and effort.

**Bill Stoughton moved to adjourn at 8:57pm. Seconded by Tom Silvia.**

**Motion carried unanimously 6-0-0.**

Respectfully submitted,

Kristan Patenaude

Minutes approved: December 21, 2022