

TOWN OF AMHERST
Zoning Board of Adjustment

February 18, 2020

APPROVED

1 In attendance: Doug Kirkwood – Chair, Robert Rowe – Vice Chair, Jamie Ramsay –
2 Secretary/Treasurer, Charlie Vars, and Danielle Pray.
3 Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute
4 Taker.

5
6 Doug Kirkwood called the meeting to order at 7:04 pm. He introduced the Board members and
7 explained the ZBA’s process.

8
9 Jamie Ramsay explained that, in his role as Building Inspector for the town of Milford, he has
10 worked with the Ciardelli brothers (EAM Amherst Holdings, LLC) on a number of projects. He
11 does not believe this is a conflict of interest and will not be recusing himself.

12
13 BUSINESS:

- 14
15 **1. CASE #: PZ12045–111519 – VARIANCE**
16 **EAM Amherst Holdings, LLC (Owner & Applicant) – 317 Route 101, PIN #: 008-**
17 **072-000 – Request for relief from Article IV, Section 4.3 to allow for a self-storage**
18 **facility. Zoned Residential Rural. Continued from December 17, 2019.**

19
20 Jamie Ramsay read and opened the case.

21
22 Andrew Prolman, Esq., and Chad Branon, PE, of Fieldstone Land Consultants, presented the
23 case. They were joined by Matthew and Andrew Ciardelli, members of EAM Amherst Holdings,
24 LLC.

25
26 Andrew Prolman, Esq., explained that this case was requested to be continued in December, due
27 to an exploration into using Red Gate Lane in order to access the proposed storage facility. The
28 owners and operators of Red Gate Lane were presented this opportunity, but most were opposed.
29 The amended plan has a couple of significant changes. First, due to comments from the
30 owners/operators of Red Gate Lane, the proposed paved area has been shifted westward as much
31 as possible. This will allow for a larger landscape buffer between the facility and Red Gate Lane.
32 This line of vegetation will run the entire length of Red Gate Lane and could also turn the corner
33 in order to better hide the storage facility. Secondly, a traffic study from Stephen Pernaw &
34 Company, Inc., and a property value assessment from Berkshire Hathaway were received and
35 entered into to the record.

36
37 Andrew Prolman, Esq., stated that this property is a two lot subdivision that totals 36 acres. Lot 1
38 is about two acres, right along Route 101. There is an existing house and barn on the lot that will
39 be kept.

40
41 *Tim Kachmar entered.*

42
43 Andrew Prolman, Esq., stated that the rest of the property is about 34 acres. The proposed self-
44 storage facility will sit on this land, and a 600’ driveway will run to it from Route 101. Lot 2 has

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45 an irregular shape with a significant amount of wetland buffers. About 56.6% of the entire lot is
46 wetlands, not including the wetland buffer area, an additional approximately 19 acres. 43% of
47 the land is upland, so there are significant constraints to the lot itself. There are about 14 acres of
48 land that can be built on. The entire property drops down from Route 101 about 10-12 feet to Joe
49 English Brook and Red Gate Lane. Between Route 101 and the proposed facility there is a thick
50 area of vegetation that can be left as a buffer. There is a bend in the proposed driveway which
51 will act as additional buffering.

52

53 Andrew Prolman, Esq., stated that the proposed facilities will include seven buildings, for a total
54 of 300 self-storage units. The buildings will be colored beige and green. He explained that there
55 will be no stand-alone lighting, but simple downcast sconces on the buildings. The lighting will
56 be as minimal as possible. There are no proposed hours of operation yet but they could be
57 flexible to meet the Board's requirements.

58

59 Andrew Prolman, Esq., explained that a market study revealed a demand for approximately
60 97,000sf of storage facilities, which would fill up within a short time. Countryside Self Storage,
61 located nearby, has been full for many years. There is a need for this type of business.

62

63 Andrew Prolman, Esq., stated that the traffic study completed by Stephen Pernaw & Company
64 Inc., shows that very little traffic generated from this business. The AM peak projected numbers
65 show about seven vehicle trips coming/going; the PM peak projected numbers show about 11
66 vehicle trips, with most coming from the east. The sight distance at the proposed location is
67 excellent.

68

69 Andrew Prolman, Esq., also explained that Michael Scanlon, with Berkshire Hathaway, has
70 looked at the plans and determined that the neighbors' property values will not be adversely
71 affected, due to the planned location, topography of the site, and nature of the proposed business.

72

73 Chad Branon, PE, explained that the 600' driveway will be, at most, 24' in width, but 20' may be
74 possible. There is a jurisdictional wetland on site, which is separated by the current access road.
75 The proposed facility will be outside of the 100' wetland buffer, outside of the stratified drift
76 aquifer, and also outside of the floodplain. The facility will be 100% self-contained in its design.
77 The land will be graded to create a permanent swale back to the drainage area; this is also located
78 outside of the 100' buffer area. All of the runoff will be captured and treated. This treatment will
79 meet the town's stringent regulations and the project will also trigger a State Alteration of
80 Terrain permit.

81

82 Chad Branon, PE, explained that this type of business is appropriate to be considered for the
83 residential zone as it is often considered a transitional use and will have no measurable impact
84 compared to other types of development that could be seen on this lot.

85

86 Andrew Prolman, Esq., explained that the only town district that allows for self-storage facilities
87 is the Limited Commercial District. The Limited Commercial District is located near the
88 northern portion of Route 101, not far from the proposed location of this project. This section of

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89 Route 101 is a mixed use area, with homes and some businesses as well (LaBelle Winery,
90 Amherst Garden Center, Salzburg Square, the Messiah Lutheran Church).

91

92 Andrew Prolman, Esq., ran through the five tests:

93

1) The variance will not be contrary to the public interest because the intent of the
94 Residential/Rural District is to maintain a low density, rural, country-like community
95 and the location of the proposed units will maintain the spirit of the ordinance and not
96 change the character of the neighborhood or affect the general welfare of the public.
97 He also noted that it will be meeting a need in this area and will not change the
98 character of the neighborhood.

99

100

101

102

2) The variance is consistent with the spirit and intent of the Ordinance because the 100'
setback will be maintained, and the facility will not be able to be seen from the road.
The proposed facility will not have an adverse effect on the area and this will not
unduly be changing the nature of the Ordinance.

103

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106

3) Substantial justice will be done because the proposed facility will be a gain to the
applicant without any adverse harm to the public. This is a reasonable use of the
property, there is a demand for this type of business, and it will cause no adverse
impacts to the neighborhood or town.

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4) The values of the surrounding properties will not be diminished. There is enough of a
buffer between the facility and any houses that it will not adversely affect the values.

5) Literal enforcement of the provisions of the Ordinance would result in an unnecessary
hardship because this is a unique site. The property drops down away from Route 101
and there is a large vegetated wetland. The only area available for construction on the
property is proposed for this use. There is no fair and substantial relationship between
the purpose of maintaining rural character and prohibiting the storage units. This is a
reasonable use and one that supports the neighboring residential properties. The use
meets the goals of the zoning ordinance without adversely affecting property values
or the neighbors.

118

119

120

In response to a question from Jamie Ramsay, Robert Rowe stated that Red Gate Lane is a
private road that the neighbors fund and take care of.

121

122

123

124

Charlie Vars explained that the state has put Route 101 in this area into their 10-year plan for
renovation. He stated that, if this area becomes a divided highway, the access to this site will be
limited from the west. Chad Branon, PE, stated that this would be addressed in the future.

125

126

127

128

In response to a question from Doug Kirkwood, Chad Branon, PE, stated that they would work
with the Amherst Conservation Commission regarding maintenance of the driveway. The runoff
from the roadway would be captured and mitigated to some level.

129

130

131

132

In response to a question from Danielle Pray, Andrew Prolman, Esq., explained that the
alternative use for this site would be for housing. The maximum number of units could be
upwards of 24 on 14 acres of land. This would lead to more traffic, and an increased usage of the
site. Chad Branon, PE, continued that if these were 2-3 bedroom units, they each could be around

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133 2,500sf in size. This usage would be more impactful on the land. There would be upwards of 24
134 septic systems, parking areas, etc.

135

136 In response to a question from Tim Kachmar, Chad Branon, PE, stated that there is an option to
137 fence in the facility, but the owners have not had issues with security at their other self-storage
138 facilities in the past. There is also an option to have the driveway gated.

139

140 In response to a question from Jamie Ramsay, Chad Branon, PE, stated that the lights on the
141 buildings will be very low level. The lights will only be installed at about 8' high on the
142 buildings and there will be tree canopy and vegetation surrounding.

143

144 In response to a question from Jamie Ramsay, Chad Branon, PE, stated that the buildings will be
145 12' tall at their peaks.

146

147 Jamie Ramsay stated that there appears to be a 10' difference between the road and the site. If
148 the facility is prepared at the site elevation there will be no substantive build out that would
149 allow the facility to be seen much at all from the road.

150

151 Chad Branon, PE, stated that the topography of the field will allow for the facility to be built at
152 elevation. There will be a shallow swale along the edge that allows for drainage runoff. Building
153 at the existing elevation will allow the facility to be above the 100 year flood elevation. The
154 facility will also sit 600+' from the road, and so, even if it could be seen, it will feel further
155 below the road.

156

157 In response to a question from Doug Kirkwood, Andrew Prolman, Esq., stated that there will be
158 no external storage for boats, etc.

159

160 Charlie Vars stated that he has concerns about the applicant being able to prove a hardship in this
161 case. There are 7/10 other uses allowed in the Residential/Rural zone that could be used on this
162 site. The applicant will need to convince him of the literal enforcement of the ordinance and give
163 a reason into the hardship.

164

165 Andrew Prolman, Esq., stated that this site was focused on due to it being unique in its
166 topography, vegetation, and wetland areas. There are other permitted uses that could be sought
167 on this site, but the applicant doesn't believe that these uses are the best possible ones without
168 impacting the neighborhood.

169

170 In response to a question from Charlie Vars, Chad Branon, PE, explained that the front buffer to
171 the road is a jurisdictional forested wetland. This would be maintained and could be augmented
172 with additional landscaping. This type of use is typical in many residential areas because it has a
173 low-impact nature. There are many types of commercial uses along Route 101 near this location.
174 Each of these could have been a residential development, but it was determined there was a
175 better use. A residential development would be a permitted use on this site, but the applicant

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176 doesn't believe it would be the best use. The applicant believes the proposed use would be a
177 great balance considering all of the sensitive features around the property.

178
179 Robert Rowe stated that each piece of property is unique. The Board must perform a balance test
180 to consider if there is a great cost/benefit to the applicant versus the town. There are many other
181 permitted uses on this property and it must be shown why this application is in the best interest
182 of the town.

183
184 Andrew Prolman, Esq., explained that other potential uses would likely have a greater impact
185 than the proposed use. There seems to be a need for this usage and there will be no negative
186 impact to the town from it.

187
188 In response to a question from Robert Rowe, Chad Branon, PE, explained that, if the state does
189 decide to create a divided highway in this area, it is a condition that exists in many places. This is
190 not something that is discounted, but does not have a negative impact on this project.

191
192 In response to a question from Jamie Ramsay, Chad Branon, PE, explained that the wetland area
193 has existing scrub/shrub/bush type material. The forested area has some mature trees. The site
194 layout is typical of a self-storage site layout. He explained that the Ciardellis keep very clean,
195 nice sites for their facilities. The buildings will have pitched roof systems. The average distance
196 between self-storage facility buildings is about 24'.

197
198 In response to a question from Doug Kirkwood, Chad Branon, PE, stated that a secondary access
199 point is not usually required for self-storage facilities. The loop system means that there are
200 technically two access ways into the facility area. The Fire Department may require the project to
201 have underground utilities. The project will have to come back before the Board for buffer
202 impacts, and there will be more information regarding landscaping and any requests from the
203 Fire Department at that time.

204
205 In response to a question from Jamie Ramsay, Chad Branon, PE, stated that the power is located
206 on the project's side of the road. There is a pole nearby that can be accessed. There may need to
207 be an additional pole placed in order to drop the power down and then go underground. This will
208 not include any additional impacts or cutting. There will be no exterior lighting and no service
209 outlets.

210
211 Danielle Pray expressed concerns regarding the spirit of the ordinance and an impact on the
212 health, safety and welfare of the public. She explained that the ordinance is meant to implement
213 the goals of the Master Plan; one of those goals was to envision Route 101 in the Horace Greely
214 Road area as a preserver of the nature of the 101 corridor.

215
216 Andrew Prolman, Esq., stated that the benefit of choosing this site is that one will only see a
217 driveway leading into the woods, thus going along with the intent of keeping Route 101 rural and
218 not overdeveloped.

219

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220 Danielle Pray stated that, while this advocates for the site view, it doesn't necessarily speak to
221 not changing the character of the area.
222

223 Chad Branon, PE, stated that there will not be a measurable felt impact from this proposed
224 facility as driving down the road. This will not change the character of the area because the
225 existing house and barn at the front of the property will be maintained; the rest of the facility
226 won't be seen from the road. The applicant will provide adequate buffers to the abutters and will
227 mitigate any runoff. A potential housing development on this site could be a much greater
228 magnitude of impact. The proposed facility will maintain the rural character because it will keep
229 the same view and feeling as currently exists.
230

231 Danielle Pray stated that she is not sure that commercial buildings were being considered as part
232 of preserving the character of the area when the Master Plan was created.
233

234 Public Comment:

235 Richard Ball, Goffstown, and member of the Messiah Lutheran Church (303 Route 101), stated
236 that he has an issue with the traffic pattern in this area. There have been three deaths in the past
237 20-25 years in the area of Pine Rd and Schoolhouse Road. There are a few feeds that come into
238 the highway, and any additional ones may make things more difficult, unless the state puts in a
239 few more turnarounds.
240

241 Susan Lebel and Kevin Bevis, 45 Embankment Road, addressed the Board using many maps,
242 photos, and visual aids. Susan Lebel stated that this area is zoned for residential use, not
243 commercial use. She fails to see how this is not contrary to the public interest. This proposal
244 does not observe the spirit of the ordinance because it is in conflict with the ordinance itself. She
245 explained that this proposal is located on a very sensitive piece of waterway. She showed FEMA
246 maps and explained that this area has been catastrophically affected by recent 100 year floods.
247

248 Kevin Bevis stated that cutting an approximate acre of trees in order to complete the project is
249 not a minimal thing. The vegetation and hill in this area protect the land from being flooded. He
250 believes the proposed facility is only about 8" above the flood stage. The hill on the lot will need
251 to be taken down in order to have a flat space to build. This project does not fit in with the
252 current neighborhood. He also believes that the applicant has left space on the land in order to
253 come back and subdivide it eventually.
254

255 Susan Lebel explained that the applicant's two other storage locations in Milford are highly
256 visible. She believes this facility will be a magnet for crime, and that this will also affect
257 property values. This will ruin the rural character of this area. She explained that this is also a
258 natural wildlife habitat and corridor.
259

260 Kevin Bevis stated that he believes a residential development of about five houses could be put
261 on this lot. That is an acceptable use for this zone.
262

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263 Susan Lebel stated that this proposal is located near Baboosic Lake and Joe English Brook. She
264 believes there are many items that can be brought into these units that could then spread into
265 these sensitive areas.

266
267 Jeanne Weller, 7 Saddle Hill Road, stated that she has a concern regarding turning onto Route
268 101. She believes the proximity of the proposed driveway could set up for accidents to happen.
269 She would also like to hear more information regarding signage for the facility and lights.

270
271 Don Gagnon, 31, 33, 35, 37 Embankment Road, stated that he disagrees with the applicant
272 stating that there will be a minimal traffic impact. While that might be true on Route 101, he
273 doesn't believe that will be true on Red Gate Lane. He believes that people will access it more
274 often and that it will become a magnet for undesirable traffic.

275
276 Jebb Curelop, President of the Baboosic Lake Association, addressed the variance tests:

- 277 1) He stated that the proposal is contrary to public interest, as evidenced that its business is
278 not supported by the town zoning in this area. He also believes that the demand is far less
279 than the applicant is suggesting. He stated that there are about 12 self-storage facilities
280 within a 5-10 mile radius of the area. Based on a phone call to the storage facility
281 mentioned nearby, it is only at about 78% capacity. There are other zones/areas in town
282 that are already established for this type of business.
- 283 2) He also stated that the spirit of the ordinance is not observed with this proposal. This area
284 has been set aside for residential dwellings and to place this facility in the middle of it
285 would be contrary to the spirit of the ordinance. He also believes that impervious surfaces
286 will be installed to the detriment of the wetlands and that the water from this facility,
287 including salt, sand, etc., will drain right into the nearby wetlands.
- 288 3) He stated that substantial justice is not done, as there is no injustice to the landowner that
289 needs to be corrected. The applicant knew what this land was zoned for when it was
290 purchased.
- 291 4) He explained that the value of surrounding properties will be diminished. He doesn't
292 believe anyone wants to live right next to a self-storage facility. There are many vacation
293 homes nearby and he doesn't believe this type of facility meets the high bar established
294 by the ordinance's criteria.

295 He respectfully asked the Board to decline this application.

296
297 Louis Imbriano, 8 Lake Outlet Road, stated that he has lived on the Lake for 50 years. He has a
298 fear that apartments or condominiums being built on this site would cause a much greater impact
299 than the proposal. He explained that Red Gate Lane already has had an increased usage and that,
300 perhaps, the applicant should agree to maintain the road if the variance is granted. He stated that
301 there is crime in a lot of places, not just in storage units. He believes the self-storage units would
302 be less impactful on the neighbors. If condos are built there instead, that will add more people
303 who will find their way over to the Lake. He believes that change brings the person doing the
304 change and that Matthew Ciardelli is an honorable person.

305

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306 Jan Langer, from the Baboosic Lake Association Board of Directors, has lived on the Lake for 69
307 years. She has concerns regarding the 100 year flood plain. She stated that the Baboosic Lake
308 Association is very diligent regarding what happens on the Lake. This is against what everyone
309 wants to see happen near the Lake. She believes the best use for the land is for it to be left as is.
310

311 Keith Wentworth, from the Baboosic Lake Association, stated that, though a market need was
312 shown by the applicant, there was no community need shown. He would like to see how this
313 proposal would be a benefit to the community. He doesn't believe there is a hardship to the
314 applicant, as this zoning was in place when the property was purchased. He also believes that this
315 proposal could become a safety issue and fire hazard for those who live on the nearby roads.
316 Steven Sher, 24 Lakeside Drive, Merrimack, stated that businesses of this type must be visible
317 and he believes the owners will have to find a way to let people know they're there – either
318 through signage, lights, etc. He also believes that these units will be used for things like tractors,
319 etc., which are the last things people want near the Lake. This will change the character of the
320 area because this type of business cannot exist without making itself known.
321

322 Karry Pena, 6 Lake Outlet Road, stated that she believes this facility will be a huge eyesore. This
323 will increase traffic on Red Gate Lane, which could damage the road and weaken the bridge. She
324 would like to know what the applicant plans to do to maintain and improve Red Gate Lane if the
325 variance is granted.
326

327 Richard Pena, 6 Lake Outlet Road, stated that he would like to see this land remain as it is. He
328 would also like to see the road and bridge on Red Gate Lane improved. He also stated that he
329 believes storage units are not the safest of places and that they bring crime to areas.
330

331 Sean Facey, 2 Saddle Hill Road, stated that he does not believe there is a need for storage units
332 in town and that the town has already decided this area should be zoned residential. This
333 proposal is directly in the middle of a residential zone which he believes could lower the value of
334 surrounding properties. He stated that there is no middle turning lane on Route 101 for this area
335 currently. He also believes that possibly more than half of the facility will be visible from the
336 road. He stated that this land is viable as a residential development and thus there is no reason to
337 turn it into an industrial property.
338

339 Matthew Ciardelli, EAM Amherst Holdings, LLC, stated that his family has lived in Amherst,
340 Milford, and Hollis for over 100 years, and they have the same values as many of the residents.
341 He explained that many of the concerns brought up tonight are issues that will have to be
342 addressed at future Planning Board hearings for this application. He commended the attorney and
343 engineer for presenting a compelling case. He explained that, if this application is denied, he and
344 his brother will have to go to market with this property. At that point it could pass on to someone
345 who would have a much greater impact on this land.
346

347 Ron Nelson, 14 Saddle Hill Road, stated that he would be fine if the land was sold and
348 redeveloped in a different manner. He requested that the Board deny the application. He

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349 explained that the applicant failed to adequately pass the five tests. He believes that this is
350 Amherst, not Brookline, and that people do not want to see this type of facility in this location.

351
352 Joanne Farley, 333 Route 101, stated that she believes the proposal will affect the character of
353 her property. The Board's choice will set a precedent for what she will ultimately do with her
354 property.

355
356 Kevin Bevis again stated that he believes the applicant has enough land to put three businesses
357 on this property.

358
359 Doug Kirkwood explained that, if the variance is not granted tonight, the applicant has the
360 opportunity to reapply or have their case reheard. If the variance is granted, the applicant will
361 still need to go through the Planning Board, ACC, supply data from traffic studies, and have the
362 plan reviewed by the Fire and Police Departments.

363
364 *The Board took a five minute recess.*

365
366 Andrew Prolman, Esq., stated that the Ciardellis own and operate other self-storage facilities and
367 have never had any issues with security or unsafe items. The applicant does see the concern
368 voiced by the public and has agreed to fence in the area around the proposed facility with a gate
369 at the main entrance. The applicant has also heard the public's concerns regarding visibility of
370 the facility and the buffers; thus, they agree to remove building #7, the eastward most building
371 on the site. This will allow for the thickening of the buffer off Red Gate Lane. If, at a later date,
372 the Planning Board decides it would like the facility to have a fence in this location, the applicant
373 will also consider it. In regards to this use not being allowed in this zone, there are other
374 businesses nearby which must have also received variances in the past. In regards to the
375 comments regarding there being enough land on the site for three businesses, he explained that
376 this application is for a self-storage facility only. As for keeping the site how it currently he, he
377 stated that something will be done with this site. The proposed facility will have much less
378 impact than squeezing a bunch of condos onto this lot.

379
380 Chad Branon, PE, explained that the self-storage facility is located outside of the 100 year
381 floodplain, outside of the aquifer district, and outside of the 100' wetland buffer. While some of
382 the maps shown tonight by the abutters were taken from aerial photography and topography,
383 Fieldstone Land Consultants uses a licensed surveyor to look at the profile of the watershed and
384 determine the floodplain. The application is not proposing anything that it not permitted on this
385 site, and it will follow all of the necessary regulations. He explained that the bridge on Red Gate
386 Lane is actually restricting the water flow to this area, which is creating some floodplain on an
387 uphill zone here. Simply because the project isn't wanted by some of the residents of the area,
388 doesn't mean it will cause a negative impact on the floodplain. He also explained that Fish &
389 Game puts a wildlife corridor on almost every non-developed tract of land. The applicant will be
390 working directly with Fish & Game on this project due to the Alteration of Terrain permit. In
391 regards to the possible crime mentioned, with a fence and a gate around the facility, if there is
392 ever an issue on site, the owners will know who caused it. There will be additional buffer room if

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393 the #7 building is removed, as proposed by the applicant, creating an additional visual barrier.
394 Also, the number of peak trips proposed for this facility would never warrant off-site
395 improvements by the applicant. This proposal allows for the character of the area to remain
396 intact. It will be a much less impactful project than a development that would include increased
397 traffic, septic systems, wells, yards, and additional children in the school district. This project
398 will meet all local and state regulations.

399
400 In response to a question from Jamie Ramsay, Chad Branon, PE, stated that the stormwater
401 management plan for the site is taken up by the Planning Board at a later hearing in the process.
402

403 Robert Rowe commented that he was unclear that EAM Amherst Holdings, LLC included the
404 Ciardelli brothers. While he has known the Ciardellis for a long time, he does not find himself to
405 be prejudiced in this case.

406
407 **Jamie Ramsay moved to enter deliberations. Charlie Vars seconded.**
408 **All in favor.**

409
410 **CASE #: PZ12045-111519:**
411 **Charlie Vars moved no regional impact. Jamie Ramsay seconded.**
412 **All in favor.**

413
414 Doug Kirkwood pointed out that any decisions made apply to this case only. No
415 precedent is set.

416
417 **Discussion:**

- 418
419 1. The Variance will not be contrary to the public interest.
- 420 • C. Vars – not true, this proposed use is in the wrong place.
 - 421 • J. Ramsay – true, there is no issue to the safety and welfare of the public from this
422 proposal. While he doesn't dismiss the concerns of abutters, he believes this is a
423 thoughtful proposal as Amherst is being inundated with high-density housing
424 development proposals. This project has a low-impact on the community but a high-
425 impact on the abutters.
 - 426 • R. Rowe – not true, Amherst has put time and effort into maintaining the character of
427 the Route 101 entrance into Amherst; this proposal would change that character.
 - 428 • D. Pray – not true, persuaded by the residents, she believes this will be an eyesore and
429 not in keeping with the character of the area.
 - 430 • D. Kirkwood – true, he believes the public interest would be better served with a
431 lower impact use, such as this, than a number of housing units.

432 **2 True, 3 Not True**

- 433
434 2. The Variance is consistent with the spirit and the intent of the Ordinance

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- 435 • J. Ramsay – true, the spirit of the ordinance is in not changing the character of the
436 neighborhood and not imposing a threat to public safety; any proposal will change the
437 character of this section of 101, but this is a reasonable proposal to consider.
438 • R. Rowe – not true, this area allows for many other types of uses and this proposal
439 doesn't maintain the open and rural character.
440 • D. Pray – not true, there are other uses allowed in this zone. The Master Plan
441 language looks to preserve the character of Route 101 by keeping the area residential
442 and not changing it to commercial.
443 • C. Vars – not true, there are numerous potential uses that could be considered first
444 and he is having a hard time accepting that this will not affect the rural character,
445 region, and abutters.
446 • D. Kirkwood – true, not every requirement of the zone can be met by every parcel
447 that is why the Board issues variances. He believes that, in time, there will be
448 pressure to develop the east side of Route 101 as well and it will become difficult to
449 maintain the rural character of the area. He believes this lower impact use addresses
450 the spirit of the ordinance.

2 True, 3 Not True

3. Substantial justice is done.

- 454 • R. Rowe – not true, each and every person should have the ability to have a
455 reasonable use for their property, however, getting more money for a certain type of
456 use is not justification for a variance. There are other allowed usages on this site that
457 may not be as profitable as this proposal, but that are reasonable uses of the property
458 under the terms and conditions of this ordinance.
459 • D. Pray – not true, the applicant is not shut out of using this property for other
460 purposes, but the neighbors, abutters, and public have shown their concerns over this
461 project.
462 • C. Vars – not true, this proposal is not fitting with the character of this neighborhood.
463 • J. Ramsay – true, this application has the best use of the property. There may be other
464 allowed uses on site, but they do not appear to be viable.
465 • D. Kirkwood – true.

2 True, 3 Not True

4. The values of the surrounding properties will not be diminished.

- 466 • D. Pray – not true, she weighed the letter submitted by the broker against the abutter
467 concerns.
471 • C. Vars – true, there was nothing stated that refuted the broker submitted letter.
472 • J. Ramsay – true.
473 • R. Rowe – not true.
474 • D. Kirkwood – true, determining if the value of the surrounding properties will be
475 diminished is as subjective of an opinion as one can get. The applicant is willing to
476 collect all stormwater runoff and drainage and treat it.

3 True, 2 Not True

February 18, 2020

APPROVED

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5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
- C. Vars – not true, he was not convinced of any hardship.
 - J. Ramsay – true, there is a hardship because, while the use is not permitted in this zone, the applicant contemplated a use that would be a lower impact on a unique piece of property.
 - R. Rowe – not true, there is a fair amount of useable land on this property that could be utilized for an allowed use under the terms and conditions of the zoning ordinance.
 - D. Pray – not true, there is no hardship as there are other uses that are allowed on this property. This would change the character of the neighborhood, and the fact that it is a lower impact usage is not critical for her.
 - D. Kirkwood – not true, this ordinance lists a number of permitted uses in the residential/rural zone, some of them are more/less impactful than others. These permitted uses have been specified for a fair length of time and the economy of the area has changed. Some of the allowed uses are probably not viable on this site. He didn't hear the applicant articulate all of those possibilities and relate them to the specific conditions of the property. He believes the only other option on this site is a housing development.
- 1 True, 4 Not True**

The Chair stated that the application, as it did not pass all of the tests, is denied.

**Charlie Vars moved to exit deliberations. Jamie Ramsay seconded.
All in favor.**

OTHER BUSINESS:

1. Minutes: January 21, 2020

**Charlie Vars moved to approve the minutes of January 21, 2020, as amended [Amend Line 160 to read: "1) The materials used for the decking shall have at least 1/4" spacing between..."]. Jamie Ramsay seconded.
All in favor.**

**Robert Rowe moved to adjourn at 10:31 p.m. Jamie Ramsay seconded.
All in favor.**

Respectfully submitted,
Kristan Patenaude

Minutes approved: November 17, 2020