

Approved 1/13/10

**HAMPDEN PLANNING BOARD
REGULAR MEETING MINUTES
December 9, 2009
Town House**

Meeting called to order: 7:08pm

Members Present – Neil Flynn, Chair, John Matthews, Charlie Dolben, Joe Kruzel and Robert Howarth.

Minutes – The minutes from the November 18th regular meeting were read. Mr. Kruzel made a motion to approve the minutes as presented. Mr. Howarth seconded. The vote was unanimous.

Bills – The clerk’s payroll voucher was approved and signed.

Ed Kennedy, Mia Tosoni, Carl Perella/546-548 Main St – Mr. Ed Kennedy, the owner of 546-548 Main Street was asked to present the Board with a parking plan for the building. A take-out pizza shop is going to be added as a tenant. The current tenants are the Black Horse Tavern, a dance studio, a hair salon and a groomer. Mr. Kennedy researched the Zoning Bylaws and presented the Board with a copy of an approved parking plan from 1969 and copies of the bylaws section 4.1 Continuance of Existing Uses and section 7.5411 Minimum Parking Space Requirements. Mr. Kennedy’s argument is “continuance of existing uses”. He referenced section 4.1 noting that there have been no structural changes or alterations done to the building. The pizza shop would take over the 750 square foot area vacated by Windows on Wheels. Using the parking plan from 1969, he stated that there are a total of 68 spaces on the plan, the only difference today is that the plan shows some plantings in the parking lot which are not there now. Section 7.5411 #11 and #15 were discussed also. Restaurants serving food require 1 parking space for every three seats. Since the pizza shop will only have take-out service, Mr. Kennedy felt that #15 “other uses not covered” pertained which allows for 1 parking space for each 200 square feet of gross floor area. He highlighted a spot on the plan which will be the designated parking spot for the take-out vehicle. Mr. Kennedy pointed out that the last paragraph on a letter to the original owner from the Planning Board dated 5/16/1969 states that the plans for the building are anticipated to be “mutually beneficial to the Town of Hampden and yourself” and 40 years later is still fitting.

Mr. Dolben stated that the base count of 50 spaces/10,000 square feet is more than adequate. The Board reiterated that the pizza shop will only have take-out service and no dining-in service and agreed that 4 seats would be sufficient for customers waiting for their orders.

Mr. Flynn informed Mr. Kennedy about a letter the Planning Board received from the Board of Health stating that water issues needed to be addressed before any permits were issued. Mr. Kennedy said that he is currently working with the DEP and Board of Health.

Mr. Dolben made a motion to approve the proposed use in the building at 546-548 Main Street for a pizza shop. Mr. Kruzel seconded. The vote was unanimous.

Mr. Dolben made a motion to suspend the regular meeting at 7:28pm in order to continue with the Public Hearing. Mr. Kruzel seconded. The vote was unanimous.

The regular meeting was reopened at 7:50pm

Roger Beaumier/298 North Rd ANR – Mr. Beaumier submitted an ANR to divide his father's property into two parcels. Roger Beaumier will be the owner of the 10 acre lot. The Board reviewed the plans. There is a non-conforming horse barn on the property. It is too close to the property line. Mr. Beaumier said that he will move it so that it conforms to the Zoning Bylaws.

Mr. Dolben made a motion for approval of the ANR subject to the resolution of the non-conforming barn. Mr. Howarth seconded. The vote was unanimous. Mr. Flynn will do a visual inspection to assure that the barn has been moved and then sign the ANR. A timeline of January 31, 2010 was given to Mr. Beaumier.

Atty McEwan/Richard Hatch 522 Main St – Attorney McEwan submitted a letter to the Planning Board regarding a request from Mr. Hatch to put an apartment in where the restaurant used to be at 522 Main Street. The area is zoned business and the building originally had a residence and a business in it. There are currently two residences and a business in the building. A second apartment was added to the back approximately 7 years ago per Mr. Hatch. He does not have any permits or paperwork for this.

Attorney McEwan informed the Board that he used a three part test to determine if alterations for a new apartment are grandfathered or not. He believes they are. He reviewed his letter and the three part test with the Board.

The building has already been expanded to a multi-family and a business. Section 4.3 of the Zoning Bylaws states that a "non-conformity shall not be increased". The Board suggested that this be continued with the Zoning Board of Appeals. Attorney McEwan agreed. Mr. Flynn informed Mr. Hatch that the issue of the second existing apartment will be brought up with the ZBA and to check with the Building inspector to see if he has any information on it. Mr. Flynn noted that he did speak with Town Counsel about this but he needed more time to go over it. Town Counsel thought ZBA also. The Building Inspector will need to deny Mr. Hatch a building permit and refer him to the ZBA. Mr. Flynn also informed Attorney McEwan and Mr. Hatch that a letter was received from the Board of Health stating that a change of use to any building requires a Title V inspection of the existing septic system.

Phil Grant/GIS Mapping System – Phil Grant brought the Conservation Commission's laptop in to the meeting to show the Board the GIS mapping system that they have. He is using the Arc View program. The laptop was acquired through grants offered to Conservation Commissions. Mr. Grant was required to attend classes at Westfield State College to learn about the program. He has a Mass GIS data disk specific to Hampden loaded into the laptop. The overlays were free from Mass GIS. They show open space, vernal pools, protected areas and wetlands. He has the data and attributes tables also. The layers can be turned on or off as needed. Mr. Grant would like to have the Assessor's maps added in so that one particular parcel could be viewed. Mr. Kruzel has been checking with PVPC on this. They have the Town's zoning map from 2004. They can give us that data. Modifications will take some doing. Creating a parcel layer would be a substantial effort for PVPC per Mr. Kruzel. Mr. Grant noted that this is a \$4000 piece of software. Amherst and West Springfield have elaborate systems. Mr. Kruzel will ask the representative from PVPC to come to our next meeting for a discussion. Mr. Grant would be interested in attending also. The Board thanked Mr. Grant for coming in.

Demolition Delay Bylaw Proposal/Connie Witt – Ms. Witt gave the Board copies of a state sample of a demolition bylaw, Longmeadow's demolition bylaw and Amherst's demolition bylaw. She believes Capital Points could be earned by having this bylaw, but she does not know how many. The Historical Commission voted unanimously to seek the Planning Board's input on this. They suggested a 9 month delay before a permit can be issued. The process would be a set waiting period and a Public Hearing before a demolition permit is issued. Ms. Witt feels that some benefits of this bylaw are:

- Opportunity to explore options
- Town would gain Capital Points
- Historical value

The Board feels that the 9 month time frame is too long and may be a financial burden to the seller and/or potential buyer. The Board agreed to review the bylaw copies that Ms. Witt sent in and would like to discuss this with the Building Inspector at a future meeting. Ms. Witt reemphasized the need to increase the Town's Capital Points and suggested an Agricultural Committee.

Mark Casey/303 Main St /ANR – Mr. Casey sent in his ANR plans ahead of time since he could not attend the meeting in person. The Board reviewed the plans. Mr. Casey will be purchasing a small piece of land from his neighbor so that his barn will conform to the setback requirements. The land purchase will also fix the problem of the neighbor's non-conforming addition. Both the barn and the neighbor's addition will now be in compliance. Mr. Kruzel made a motion to approve the ANR as presented. Mr. Howarth seconded. The vote was unanimous. Mr. Flynn signed the ANR.

Building Inspector/Home Occupation Bylaw – The Board reviewed and discussed a letter from the Building Inspector regarding home occupations and large trucks parked at residences. He will be asked to attend a meeting for further discussion.

Other Items – Reviewed without further discussion

Mail - Reviewed

Mr. Matthews made a motion to adjourn at 10:08pm. Mr. Howarth seconded. The vote was unanimous.

Submitted by: Deborah House, Clerk