



Town of Pelham Planning Board
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May 3, 2021

**Preliminary Planning Board Comments and Recommendations
on Waivers Requested by Home City Development for Comprehensive Permit**

This is the first proposal for a multi-family development in the Village Center District since the 2018 town meeting vote that created the district. Granting of waivers being sought for this project presents a complex fit into a space that has been very lightly used in the past. Public safety, accessibility and environmental standards in our zoning bylaw are being challenged by the size and site of the Amethyst Brook development.

The Board's primary concerns with the requested waivers fall into three major categories:

- Public Health and Safety issues including adequate parking, screening of parking, and sidewalks;
- Site design issues concerning town character and enhancement of the Village Center including street trees and Open Space and Scenic Road requirements;
- Environmental zoning and non-zoning bylaws and regulations including lighting and habitat protection.

The Board would like to draw attention to the following issues:

- **Site constraints.** Due to siting a development of this size onto a steeply sloped riverfront area, we note concerns regarding appropriately sized stormwater infrastructure and the need for mandatory scheduled maintenance; snow removal constraints; an increase in impervious cover; an inadequate number of parking spaces in relation to the number of units; questionable emergency vehicle access; lack of public transportation and sidewalks to assist residents when walking on the busiest road in Pelham center. Safety concerns are paramount given that there will be children walking to school. The development should not undermine the intent and purpose of the VC District Zoning bylaw to promote a safe, pedestrian-friendly environment.
- **Adequate parking.** Of concern is the relationship between the number of apartment units proposed and the provision of adequate parking for residents and visitors. Given that there is no public transportation or nearby shopping, the number of vehicle trips per day will be significantly greater than current conditions.

Order of Board comments presented on requested waivers. We will discuss the waivers listed in Section 8a Table of Waivers by following the planned ZBA public hearings schedule and referencing the number in that table referring to particular bylaw sections. The Board notes that several waivers

are key because they request significant deviations from the zoning bylaw in order to have this 40B project move forward at all. These are:

- Waivers 1. Multi-family Schedule of Use Regulations Waiver requesting 34 units sought.
- Waivers 25, 26. Parking management plan is needed and justification for waiver of fewer number of parking spaces sought.
- Waiver 33. Waiver from OSD site plan review to permit multifamily housing in excess of zoning requirements.
- Waivers 46. Requests waivers for deviation from Open Space Design Requirements and parking. Planning Board calculations would require 69 parking spaces.

If these are approved per Comprehensive Permit requirements without discussion of the details that can make the project more protective of the environment and acceptable to the community the project will move forward even though voter approved zoning will not apply as intended.

ZBA Schedule for Waiver Discussions.

April 28, 2021 Lighting. *Waivers 6 through 17 and 29 dealing with lighting.* All lighting requirements should be enforced, particularly those dealing with the amount of lighting on or near the stream where both humans and wildlife will be affected. Residents in the neighborhood report that the Amethyst brook ravine “is often fully engulfed in fog” and that currently, with only the single light on a pole in the existing parking lot, the entire area glows from the fog diffused light during high fog conditions. For over half a century, Pelham has consistently demonstrated a commitment to protecting the environment and habitat through zoning, river restoration, and support of land acquisition/protection projects. It is vital that we apply what scientists now understand about the adverse effects of excess lighting on humans as well as plants and animals.

May 5, 2021 Traffic & 1st round of parking, focusing primarily on number of spaces & locations.

To distinguish the Village Center area on Amherst Road from the more rural portions further east, the intention of the VC zoning is to provide an attractive, intimate, safe-for-pedestrian neighborhood. To that end, a sidewalk must be provided for the full length of development to enable safe walking that is not immediately adjacent to the road.

A claim was made at public hearing of “convenient transportation” being available, but without a safe sidewalk or bike lane on this busy road, attempting to walk or ride a bike to a bus stop is a clear danger. With no public transportation or shopping or amenities other than the town library and school within reasonable walking distance, this is a public safety and an aesthetic issue.

If the applicants are unable to reduce the number of units to ensure adequate parking along with adequate environmental protection of the riverfront and wetlands at the bottom of a steep grade, then additional parking may be required. The parking provided in the plan appears insufficient and should be increased or the development downsized since no public parking exists in the vicinity.

Reducing the number of units could address both the lack of adequate parking for residents and visitors and also reduce the need for parking on the frontage.

Two areas owned by the applicants could provide additional parking and at the same time allow for better screening if there is no possibility of putting the parking in the rear as zoning requires. The first is at the eastern frontage of the 22 Amherst Road property that could include a sidewalk across ROW in front of the Weinberg house. Also, removal of the small house next to the proposed driveway would provide the space extra parking needed to address the number of residents and visitors. Given that the house would require significant updates to make it usable or even salable, this seems an obvious choice for parking and will also provide safer, screened walking along the road.

Waivers 20 through 27; 40 through 45. These waiver requests deal with assorted related parking and screening type issues. The Board notes the following in addition to comments above:

- Tree planting will be needed for both screening and natural cooling purposes around parking areas. If planted in the ROW, appropriately sized and located plantings that do not interfere with overhead wires would be best.
- Without adequate screening of parking lots, the potential new tenants' experience as well as the entire town center concept of a neighborly village center is in jeopardy. As the first project in the Village Center of this size, ABA will set the stage for further development on Amherst Road as well as on interior streets in the VC-MU District
- Waiving the parking management plan would put the onus on the town to provide additional off street parking if it proves insufficient.
- Police and fire officials should advise on issues such as blocked drives (by cars, fallen trees, party guests, etc.) in case of fire or other emergency to ensure that driveway and parking lot aisles provide sufficient access.
- Children are drawn to parking lots for some activities; enough space to permit clear visibility and turning should be a concern.

May 18, 2021 The beginning of a series of meetings dealing with local ConCom & Health bylaws, & the following sections of Pelham's Zoning Bylaws: 125-8.1, 8.2 (especially H & I), 13, 18.3, 19, 20, and 21.

Water Supply Protection.

All pertinent aspects of this bylaw should be applied. Although Section 125-8.1 D. (5) (a) [1] exempts "normal household use," the addition of 34 households in a fragile environmental area calls for considering what this might mean in the apartment complex for storage of liquid petroleum products. Similarly, there should be no outdoor storage of salt, deicing materials, pesticides or herbicides (Section D.(6) and (D (7) hazardous chemicals. Provision of a special container and pick up of common household hazardous waste would provide further protection of the stream and riverfront areas. Care should be taken to stockpile contaminated snow in such a way as to prevent entry into the stream or groundwater and wetlands.

Village Center 125-8.2 (H& I)

Please see pertinent comments in Parking Comments above.

- *Waiver 3. Dimensional and density regulation waivers:*
 - a. front yard setback 7 feet rather than 30 feet. It would benefit the residents of this building to have the house set further to provide more green space and screening and additional protection from headlights, traffic noise, and associated pollution from cars as well as distance from the travelled way for pedestrians.
 - b. Maximum impervious surface 36% instead of 30%. Provide justification.
 - c. a portion of 22 Amherst Road will encroach into rear and side yard setback areas. It is unclear from the map and description provided whether this encroaches on the riverfront area or into the space between the Weinberg property and this development.
- *Waiver 18. Request to screen dumpsters, etc., only “where possible.”* An aesthetic concern and possibly a public health issue for prospective tenants with children.
- *Waiver 19. Side walk and street trees.* The number and type of trees to be planted is important. Large, woody native plantings are best because their deeper roots provide more protection, filtration, and erosion control. A sidewalk removed from the traveled way for the full length of the development should be required for public safety.

Common Access Drives

- *Waiver 37. Common Drive requested.* Justification is the steep grades and water resource areas. While this may be permissible under 40B regulations, again, it points to an inappropriate site for such a large housing development in a sensitive resource area and requires full scrutiny as to whether all stormwater management and mitigation requirements are met or exceeded. Zoning requires the first 30 feet of drive to be no greater than 2% and the next 20 feet no greater than 5%—is this standard being met? Are guardrails needed? The Board has concerns about the potential dangers to children either walking along the driveway itself or where the elevation is such that a fall could cause serious injury.

Open Space Design

Note on Open Space Design. 18.3 A (2) a [4] and b— while OSD is allowed by right and technically ABA is not a subdivision, the new driveway does seem to comply with the requirement that “the applicant demonstrates the the proposed alternative development configuration provides adequate protection of the site’s environmental resources and fulfills the purposes of this Article *as well as or better than* an Open Space Design.” Unfortunately, it does so by seeking exemptions from set backs, screening, and clearing at the edge of Amherst Road.

18.3 B 1 & 2. Conservation analysis and findings are critical to this review; the applicants may have done some of this work already, but questions remain about what a conservation analysis might mean if considered in the zoning context. B. 2. indicates minimums of 10% to 50% to preserve open space and is a reason for donating the remaining land to KLT to satisfy zoning if OSD is at least partially addressed rather than fully waived (see 18.3 F.)

18.3 C. Deals with “Allowable Residential Lots or Units” using a formula to calculate the permitted size and number of units, but the entire section may be obviated all or in part because of the 40B provisions. Section C also deals with Density bonuses and recreational values to the town.

(1) Buildable area calculation—given that it’s in the Riverfront, have to look at this zoning context because it deals with slopes and Pelham Wetlands Bylaw as well as other state laws.

(4) (b) deals with affordable housing

(5) deals with lots in more than one district

18.3 E. 10 feet is the minimum set back from any property line. (3) a and b speak in terms of Village Character. (3) c deals with screening and clearing at the edge of the road

18.3 F. Permanent Open Space requirement in the zoning (as well as DEP for riverfront area work.)

- *Waiver 46. Requests waiver for deviation from Open Space Design Requirements.* This is both a safety and an aesthetic issue. Even though the project generally addresses many OSD requirements, putting parking lots on the frontage of the town’s main road undermines the zoning purpose which is, in part, to preserve the Town’s rural character. The applicants are proposing to donate their remaining acreage to Kestrel Land Trust for preservation which may address some of the OSD requirements, but it is unclear whether DEP’s regulations are being met by this donation. [See foot note.]
- *Waivers 48. 49. 50. Waiver of special permits for multi-family and office.* Parking issues including sufficient maneuverability for cars where children are present is a safety concern since less than required parking is being proposed. Realistically speaking, children will be looking for a place to bounce balls, ride tricycles, or play hopscotch and a parking lot will be go to place.

Filling of Water and Wetlands

- *Waiver 47. Filling of land other than water or wetland.* Filling outside of the riverfront area results in a topographical change. Are there elevation implications for safety or other zoning concerns?

Filling of Land Other than Water or Wetland

- *Waiver 51. Waiver for modification of existing driveway.* Filling the current driveway may result in safety, environmental, or aesthetic issues as the topography of the site will be altered.

Environmental Performance Standards.

- *Waiver 52. Earth removal waiver for construction.* Whereas the waiver request is from a town bylaw, both, DEP and the Conservation Commission have jurisdiction of the riverfront area where this may be happening.

May 25, 2021 Energy. Given climate crisis concerns, the Planning Board strongly encourages state of the art heating and cooling systems be required in keeping with the state stretch code and current discussions on the Clean Energy and Climate Plan for 2030 seeking limits on fossil fuel use after 2024. If possible, electric car chargers or at least the wiring for them should be in place at the end of construction.

June 1, June 8, June 29, 2021. Continuation of the series that began on May 18.

Non-problematic Waivers (once major 40B waivers are accepted) include:

- Waiver 30. Front entrance opens onto sidewalks connecting to parking lots.
- Waivers 34, 35, & 36. Signs seem to satisfy a legitimate need and purpose.
- Waivers 38 & 39. Connection of utility services and roadways in town ROW under Comprehensive Permit guidelines.

Additional Environmental concerns:

- DEP may require off site mitigation to be supplemented with on site mitigation. It is not clear that donating to KLT meets the spirit or the regulations of this requirement since the land being offered is unbuildable and will be impacted by lighting and people in a much different manner than is currently the case if waivers are granted.
- Conservation Commission should consider requiring a significant upgrade in the Riverfront Area; snow storage area is shown partially in the riverfront area as well as along Amherst Road frontage, and shown on map as in the riverfront area next to the parking lot.