

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Amhad Development Corporation to modify Special Permits

ZBA FY87-104,
ZBA FY90-0020,
ZBA FY96-0029 and
ZBA FY99-0058

so as to change the number and type (1, 2 or 3 bedroom) of units being constructed within each building phase; to reduce the number of assisted living units from 120 to 98; to eliminate the nursing care units and to provide instead contractual agreements with area nursing homes; and to modify the phasing of the project; they are not asking to increase the total number of approved units, at Greenleaves Retirement Community, Northampton Road and Greenleaves Drive,

Map 13D, Parcels 1-58 through 6-58
Map 13D, Parcels 76, 77, 78
Map 13D, Parcels 201-79 through 236-79
Map 13D, Parcels 101-80 through 136-80
Map 13D, Parcel 81
Map 16B, Parcel 3

PRP Zone

(Formerly Map 16B, Parcel 1 and
Map 13D, Parcels 41 and 58)

with conditions, as follows:

1. The numbers of units and numbers of bedrooms shall be as follows:

Buildings #24, 25, 26, 27, and 28 will each contain 39 units. The numbers of bedrooms in each apartment in each building will be:

- 11 – One-bedroom units
- 24 – Two-bedroom units
- 4 – Three-bedroom units.

The Assisted Living Care facility shall contain 98 units.

Building #23, which has already been built, will contain 36 units. The numbers of bedrooms in each apartment will be:

- 4 – One-bedroom units
- 28 – Two-bedroom units
- 4 – Three-bedroom units

There are 6 existing cottage units. These units shall remain as they are.

There shall be a total of 335 units.

2. There shall be a total of 221 parking spaces to serve Buildings #24, 25, 26, 27 and 28, including the parking to be contained within Buildings #25, 27 and 28.
 3. A new site plan for parking shall be presented for approval by the Board at a public meeting, prior to the sale of the first unit. This new site plan shall include information confirming the number of parking spaces to be contained within Buildings #25, 27 and 28.
 4. The property shall be managed in accordance with the Management Plan approved on July 22, 2004. Any changes in the Management Plan shall be submitted to the Board for approval at a public meeting.
 5. Operating plans for the existing 6 cottage units and the existing Building #23 shall be submitted to the Board prior to September 30, 2004.
 6. Operating plans for Buildings #24, 25, 26, 27 and 28 shall be submitted to the Board prior to the sale of the first unit in each of these buildings.
 7. Operating plans shall be in the form of copies of the recorded Condominium Documents.
 8. The parcel shown as Map 16B, Parcel 3, on the Town of Amherst Assessors Maps shall be deeded to the Town in fulfillment of the requirements of Condition #19 of ZBA FY90-0020 and Condition #14 of ZBA FY96-0029. A right of way or easement over Greenleaves property for use as public access to the Norwottuck Rail Trail shall also be deeded to the Town. These transactions shall take place prior to the sale of the first unit in Building #24.
 9. The development of the Greenleaves property shall be in accordance with the construction schedule approved by the Board on February 12, 2004. Any changes to the construction schedule shall be submitted to the Board for approval at a public meeting.
-

10. The new parking plan shall show changes in grading and surface drainage if there are proposed changes in or additions to paved areas.
11. Landscaping shall be installed in accordance with the plan approved on February 12, 2004. Landscaping shall be maintained for the life of the project.
12. Exterior signs and lighting shall be presented to the board for approval at a public meeting prior to installation.
13. Exterior lighting shall be downcast and shall not shine on adjacent properties.
14. Building #26 shall be built in substantial accordance with plans for Building #24, on file in the Building Commissioner's office. If substantial changes are made in the plans for Building #26, these changes shall be submitted to the Board for approval at a public meeting.
15. Plans for the first of Buildings #25, 27 and 28 shall be presented to the Board for approval at a public meeting. All three buildings shall be built in substantial accordance with plans for the first building. If substantial changes are made in the plans for the first building, or if plans for either of the two subsequent buildings change substantially, these changes shall be submitted to the Board for approval at a public meeting.
16. Plans for the Community Building shall be submitted to the Board for approval at a public meeting. If substantial changes are made in the approved plans, these changes shall be submitted to the Board for approval at a public meeting.
17. Plans for the Assisted Living Care Center shall be submitted to the Board for approval at a public meeting. If substantial changes are made in the approved plans, these changes shall be submitted to the Board for approval at a public meeting.



TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE



Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Amhad Development Corporation

Date Application filed with the Town Clerk: June 23, 2004

Nature of request: Petitioner seeks to modify Special Permits
ZBA FY87-104,
ZBA FY90-0020,
ZBA FY96-0029 and
ZBA FY99-0058

so as to change the number and type (1, 2 or 3 bedroom) of units being constructed within each building phase; to reduce the number of assisted living units from 120 to 98; to eliminate the nursing care units and to provide instead contractual agreements with area nursing homes; and to modify the phasing of the project; they are not asking to increase the total number of approved units.

Location of property: Northampton Road and Greenleaves Drive
Map 13D, Parcels 1-58 through 6-58
Map 13D, Parcels 76, 77, 78
Map 13D, Parcels 201-79 through 236-79
Map 13D, Parcels 101-80 through 136-80
Map 13D, Parcel 81
Map 16B, Parcel 3
PRP Zone
(Formerly Map 16B, Parcel 1 and
Map 13D, Parcels 41 and 58)

Legal notice: Published in the Daily Hampshire Gazette on July 7 and July 14, 2004 and sent to abutters on July 7, 2004.

Board members: Tom Simpson, Ted Rising and Brenna Kucinski

Submissions:

The applicant submitted:
• A new Management Plan

- A Site Plan entitled "Greenleaves, Phase 2", prepared by Robinson Engineering, revised February 9, 2004, and approved by the Zoning Board of Appeals on February 14, 2004
- A letter, dated July 20, 2004, from Sharon E. Meyers of the Center for Extended Care at Amherst, to David Robinson of Amhad Development, confirming an agreement between the Center and Amhad, regarding nursing care for Greenleaves residents

The Planning Department submitted Memorandum 2004-26, which discussed zoning, previous permits on the property, and issues that remain to be resolved.

Site Visit: July 20, 2004

Board members Tom Simpson, Ted Rising and Brenna Kucinski attended the site visit. At the site visit the Board observed:

- The exterior of existing Building #23 and the site around it, including the parking lot and existing garage for 10 cars;
- The exterior of existing Building #24, the foundation of Building #26 and the graded areas around them and the future locations of Buildings #25, 27 and 28;
- The 6 existing cottage condominiums;
- The adjacent Windfield Apartments development in Hadley.

Public Hearing: July 22, 2004.

At the public hearing, Attorney Don Allison, of Allison and Bartmon, presented the petition for Amhad Development. Also present was Jerald Gates, one of the original owners of the property.

Mr. Allison stated the following:

- There have been no changes in the footprints of the buildings from the site plan approved by the Board on February 14, 2004;
 - The construction schedule, approved by the Board on February 12, 2004, is still in effect;
 - The Management Plan revised and approved as noted on March 11, 2004, has been rewritten in a final form and resubmitted to the Board for approval;
 - The total number of condominium units in Buildings #24, 25, 26, 27 and 28 is 195, not 185 as shown on the Management Plan;
 - The petitioners are asking to increase the number of units, in Buildings #24 through 28, to 39 units per building, an increase from 37 units per building;
-

- This increase in the number of condominium units will be offset by a concurrent decrease in the number of units in assisted care, from 108 units down to 98 units;
- In 1998 the Board approved a reduction in the number of assisted care units from 120 to 108;
- The original permit provides for 40 nursing care units, but these will be deleted;
- Amhad Development has an agreement with The Center for Extended Care in Amherst to offer nursing home care for its residents;
- The original permit allowed one bedroom units;
- Now there are one, two and three-bedroom units, existing or proposed for each building;
- The petitioners need approval for the number of bedrooms proposed for each unit, as well as for the number of units in each building.

The Building Commissioner, Bonnie Weeks, inquired about the number of bedrooms that had been proposed for the Assisted Living Care facility. It was understood at the time that the Methodist Church wanted to build one bedroom units in the Assisted Living Care facility. Ms. Weeks was concerned about the increase in the number of bedrooms and thus the number of potential inhabitants that would be permitted by substituting multi-bedroom condominium units for single-bedroom assisted living units.

Mr. Gates responded that the extra bedroom in the condominium units did not necessarily imply an increase in inhabitants. He stated that these extra rooms were often used as dens or as bedrooms for a spouse or caregiver.

The Board inquired about increasing the number of parking spaces to accommodate the increased number of condominium units. There was discussion about the required number of parking spaces.

The Board noted that:

- The inhabitants of the added condominium units were likely to be more active than those who were to have lived in the deleted assisted care units, and would therefore be more likely to have cars and need parking spaces;
- Previous permits had allowed a reduction in the number of parking spaces from what would normally be required by the Zoning Bylaw, that is, 2 spaces per unit.
- The Board had approved a ratio of 1.08 parking spaces per unit for Buildings #24 through 28 in February 2004;
- There would be 10 condominium units added if the new Special Permit were to be granted;
- The site may be unable to accommodate more pavement for parking areas.

The Board inquired about the purpose of the three-bedroom units. The petitioner responded that the third bedroom might be used by a 24-hour care giver.

The Board inquired about the reason for deleting assisted living units and adding apartments.

Mr. Gates responded that there had been a court case involving The Arbors and the developers of the Greenleaves Assisted Living Center, in which The Arbors objected to the building of the assisted living units and nursing care units. Amhad Development currently has an agreement with The Center for Extended Care in Amherst to offer nursing home care to residents of Greenleaves. At some time in the future, Greenleaves may again explore the possibility of having on-site assisted living units.

The Board noted that:

- There would be ten additional units as a result of the changes being proposed and that some of these units would have 2 or 3 bedrooms;
- The Board would therefore require an additional 20 parking spaces to accommodate the increase in the number of units;
- Some of the additional parking spaces could be sized for compact cars, under Section 7.102 of the Zoning Bylaw;
- The Board would allow up to 20 percent of the spaces to be for compact cars.

The Board also noted that several of the previous permits had required that a 1.5 acre lot be deeded to the town for use as a park. This lot was to have been at the south end of the development, adjacent to the Norwottuck Rail Trail, and was to include a walkway/bikeway connection from the Greenleaves development to the Rail Trail.

Mr. Gates explained that the parcel in question will be deeded to the town, but that it will be smaller than 1.5 acres. However, an easement or right of way will also be granted to the town over the Greenleaves property, for access to the Rail Trail.

There was some discussion about whether the town should require that the parcel be the full 1.5 acres. It was determined that a smaller parcel was acceptable as long as the town also received an easement or right of way over the Greenleaves property for public access to the bike path.

Condition #19 of Special Permit ZBA FY90-0020 and Condition #14 of Special Permit FY96-0029 required that an Operating Plan be submitted, outlining ownership, operation, and management of the facility, prior to the issuance of a Certificate of Occupancy.

The Board and Mr. Allison agreed that the Operating Plan can be the same as the condominium documents, and that as each set of condominium documents is prepared and recorded, it will be submitted to the Board.

Ms. Weeks noted that condominium documents have not yet been created for Buildings 24 through 28.

Mr. Allison noted that the 6 existing cottages and Building #23 each have condominium documents already and that these documents can be submitted to the Board after they are recorded at the Registry.

Brenna Kucinski MOVED to close the public hearing. Tom Simpson SECONDED the motion. The Board VOTED unanimously to close the public hearing.

Public Meeting:

At the Public Meeting the Board noted that it now had an understanding of the number of units being proposed and that 20 parking spaces should be added to accommodate the 10 additional units and the increased number of bedrooms.

Findings:

Under Zoning Bylaw Section 10.33 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district, because the Greenleaves Retirement Community is surrounded by residential and commercial uses on Northampton Road, by a similar apartment community (Windfield) to the south, in Hadley, and by an apartment complex (Hawley Meadows) and the Nortwottuck Rail Trail to the north and east. The addition of ten condominium units, and the other proposed changes, will not substantially alter development of the Greenleaves Retirement Community site or its effect on the surrounding properties.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance, a substantial inconvenience or a hazard, and the proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site because the changes being proposed will redistribute the number of units on the site, rather than add to the total number of units, so the resulting effect will be minimal for surrounding properties.

Twenty additional parking spaces will be added to the site to accommodate the additional condominium units, but there will be no additional pavement constructed for these new parking spaces, so that storm drainage will not increase as a result.

10.384, 10.387 and 10.389 – Adequate and appropriate facilities would be provided, the proposal will provide convenient and safe vehicular access and movement, and the proposal provides adequate methods of disposal of sewage because the size of the buildings is not changing from that approved in February, 2004, parking spaces will be added to accommodate the 10 new condominium units, the configuration of roadways and parking lots will not change, keeping vehicular movements unchanged, and the site is adequately served by town sewer and water systems.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Brenna Kucinski MOVED to approve the application, with conditions. Ted Rising SECONDED the motion. The Board VOTED unanimously to approve the application, with conditions.

Zoning Board Decision:

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit, with conditions, to Amhad Development Corporation, to modify Special Permits

ZBA FY87-104,
ZBA FY90-0020,
ZBA FY96-0029 and
ZBA FY99-0058

so as to change the number and type (1, 2 or 3 bedroom) of units being constructed within each building phase; to reduce the number of assisted living units from 120 to 98; to eliminate the nursing care units and to provide instead contractual agreements with area nursing homes; and to modify the phasing of the project; they are not asking to increase the total number of approved units, at Northampton Road and Greenleaves Drive,

Map 13D, Parcels 1-58 through 6-58
Map 13D, Parcels 76, 77, 78
Map 13D, Parcels 201-79 through 236-79
Map 13D, Parcels 101-80 through 136-80
Map 13D, Parcel 81
Map 16B, Parcel 3

PRP Zone

(Formerly Map 16B, Parcel 1 and
Map 13D, Parcels 41 and 58)

Thomas D Simpson Fed Rising Brenna Kucinski
TOM SIMPSON FED RISING BRENNA KUCINSKI CB

FILED THIS 24th day of September, 2004 at 9:15 A.M.
in the office of the Amherst Town Clerk Annam Maciaszek.

TWENTY-DAY APPEAL period expires, October 14 2004.

NOTICE OF DECISION mailed this 24th day of September, 2004
to the attached list of addresses by Christina Bulstrop, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2004,
in the Hampshire County Registry of Deeds.