

MEETING NOTES
SAFE AND HEALTHY NEIGHBORHOODS – WORKING GROUP

JANUARY 29, 2013

Announcements

- Microphones working!
- Webpage has meeting notes & handouts from January 22nd Forum
- Handouts on the back table for this meeting and in members' packets
- February 19 Forum may need to be rescheduled
- Town staff have prepared material on inspections and rental regulations for review

Inspections

Julie Federman spoke about the current process the Health Department follows for inspections. Health Department enforces the State Sanitary Code, the Inspection Services enforces State Building Code and the Fire Department enforces the State Fire Code. Currently inspections are done as a result of a complaint being received about the property. When health officials arrive they are required to offer a comprehensive housing inspection. If they see other problems involving building or fire codes, they notify the appropriate department. The Health Department would like to have routine inspections that would prevent having to wait to receive a complaint.

Julie presented the Health Department's handout on what they consider a basic rental property inspection and the four categories proposed to be looked at during a routine inspection:

1. Zoning Requirements
2. Exterior Conditions & Maintenance
3. Basic Life Safety Requirements – incorporate pieces of building, fire & sanitary codes
4. Health Living Conditions

The State inspection is much more comprehensive – this basic inspection pulls out the most critical areas to inspect and can take less than an hour to perform. If a life safety problem is found, corrections must be made within 24 hours, other problems – landlord given time to fix. Health officials have the authority to have people vacate the premise, which is not the same as pulling a permit. Goal of the inspection is to create safe living conditions. At present, inspections are performed due to complaints being received, mostly from a landlord or a tenant, but can come from just about anyone. Gaining access requires contacting someone – owner, landlord or tenant and can require phone calls, visits or letters. Questions were raised regarding how successful they have been in gaining access. Julie indicated that access to property has been successful, because they keep trying until they get in. It is very rare that they cannot contact an owner. Over the last few years, have only had to get an administrative warrant two times. Rob Morra indicated that Inspection Services also has had success gaining access, it just takes time. Can't force access, so may require getting a search warrant. With 125 complaints received since June 1, haven't had to go to court.

Draft Rental Regulations – Inspections

Group reviewed section on inspections of the larger document that will address rental regulations.

DZ commented that he felt this section to rental regulations was: complaint driven, incentives based and phased in over time.

Jonathan Tucker gave an overview of the draft regulations regarding Inspections. He emphasized that the following are not addressed in these regulations:

- Single family home that is owner occupied and the owner is letting rooms (dealt w/under ZBL). (would, however, apply to lodging or boarding houses, where that is the principal use)
- lodging: hotels, motels, hostels, b&b – short term lodging
- group homes/transitional homes regulated by state& fed law
- large complexes that have state or fed inspections – Town would not duplicate inspections.

Really talking about smaller rental props in Amherst, which is the focus of these regulations.

Understand the limitations that the Town can operate under, but want to encourage that there will be access – including in the lease giving the Town as good a position as possible to gain access to prop.

What property would be inspected?

- 1st time rentals – construction or conversion, would receive a full inspection.
- Trying to respond to the concerns about the sheer number of rental properties that would need inspection. So over the first 3 years, will be emphasizing inspection of the following: complaints, known problems, requested inspection and other properties at the discretion of code official who may have noticed a problem.

Good housekeeping seal of approval – would like to have an opportunity where properties have been inspected thoroughly and meet a fairly high standard, that they could be designated as a preferred rental property. See it as a desirable marketing tool for landlord/owner to use to attract tenants and for prospective tenants to use when looking for housing.

Self certification – landlord/owners whose prop have had consistently good inspections over 3 years and property is well maintained, have had no violation or complaints are eligible to apply for self-certification. Would be able to use a check list to perform self inspection and self-certify that their property meets all the requirements for renewal.

Ken Rosenthal spoke on the question about access to property being required in the lease and what to do about landlords that do not use leases. Suggested that may want to have a sentence indicating that landlord has made tenants aware of this requirement.

Assumes this does not apply to dorms and wondered if UMass has any dorms that are not owned by UMass. NB indicated that is prohibited at UMass by State Law.

Hope to include placards being displayed on rental prop with relevant info, so that anyone called to the building will have easy access to who the owner is, who the landlord is. Feels this info

should be readily available to the public. DZ also have a suggestion to have electronic versions that are available to the public.

Steve Walczak felt that he needed to see the whole document – hard to see how these pieces fit into the whole.

Dave Ziomek indicated that the goal is to present these to get feedback and to include in the whole document next week.

Steve Walczak had many questions/concerns with many aspects of the regs:

- Access – doesn't want landlord held responsible
- Inspections – having to keep checklists for 400 units is too much
- How many inspections?

Pat Kamins also wants to see the whole thing in order to see how these sections fit in

- Doesn't want a permit
- Access – what if they can't get access,
- Inspection – who is liable
- Checklist: already doing it, shouldn't have to provide to the Town – State requires them to give to tenant
- Self-certification – should start in reverse, where assume everyone is good - start w/all certified, then go after ones w/complaints.
- Too much work, how is going to be funded?

Julie Federman commented on the idea of doing the reverse – assume every rental property is good, is basically what the Town is now, with a complaint based system. Problem is that there is a certain swath of properties we don't get into.

Pat Kamins feels tenants are protected and that we shouldn't inspect all to find the few that have fallen between the cracks.

Steve Walczak indicated that he had called many towns in Mass. and found that the tougher you make it, the more the compliance goes down.

- Provincetown compliance under 50%
- Chapel Hill – dropped the program – too hard to maintain
- Boston – compliance under 50%, inspection under 10%

Residential Parking - Current

RM: Reviewed what the Town currently has on the books with Zoning Bylaw:

Current Zoning Bylaw Provisions for Dwellings (ATM 2012)

- Minimum of 2 parking spaces for each unit
- Parking shall be on paved surface
- Maximum of 2 cars parked in front setback
- Parking for 5 or more cars shall be arranged to allow access for users

Current Zoning Bylaw Parking Plan Requirements (ATM 2012)

- For new or altered parking areas of 5 or more spaces (no SP or SPR)
- Accurate scaled site plan submitted to Building Commissioner
- Site plan to describe driveway, grading, slope, drainage, design, setbacks, layout, location, circulation, lighting, landscaping and other pertinent information
- Building Commissioner may waive certain provisions for reasons of safety or design

How do the current Zoning Bylaw provisions and design standards apply to parking areas in existence prior to ATM 2012?

They do not.

When is a property affected by the current Zoning Bylaw provisions and design standards?

1. When a driveway is enlarged to accommodate 5 or more cars
2. When an existing parking area of 5 or more spaces is altered
3. When the property is changed into a rental

Current Challenges/Issues

- Minimal oversight by property owner or manager
- Difficulty in getting a response from owner
- Penalties assessed to property owner
- Unable to identify vehicle owners
- Unable to confirm authorized tenants
- Multiple site visits to determine if a violation exists
- Length of time to resolve violations

Inspection Services efforts to gain compliance

- Contact property owner to make aware of the issue
- Reach out to tenants when possible
- Formal notice in writing to property owner
- Suggest parking plans and policies
- Fines issued to property owner

How can Rental Regulations help with residential parking problems?

- Clear expectations to property owner or property manager
- Educate property owner, manager and tenant
- Provide us with immediate contact information for responsible party
- Allow for immediate confirmation with parking management plan and policy
- Reduce time it takes to determine if in violation (leases, parking permits, etc.)
- Provide an appropriate penalty

Potential Parking Plan Requirement

- Use of an existing survey, GIS or clear and accurate sketch
- Clearly identify parking location, surfaces and total number of spaces

- New or altered parking will require a more detailed plan

Inspections and Enforcement of Parking Regulations

- Currently majority of cases are complaint response
- Rental Regulations can incorporate compliance check of parking at periodic inspection
- Parking Management Plan can be referenced in a lease
- Property owner, manager or tenant is informed of any violation of parking plan
- Reasonable timeframe to correct situation
- Possible penalty for noncompliance

How can repeat violations of the Parking Requirements affect the owner's ability to rent the property?

To be determined

Draft Rental Regulations – Parking Requirements

DZ appreciates way Rob was able to articulate current challenges in regards to parking. Parking if not the number one, then one of the top couple of areas of complaints the Town receives regarding rental property throughout town. It takes up an enormous amount of time for Town staff. Likes how Rob articulated how we are currently doing and what the advantages are to having a program where things are much more clearly spelled out and expectations are clearly articulated to owners, landlords and managers in similar fashion to the rental inspection program.

JT: This draft is substantially a restatement of the Town of Amherst's existing Zoning Bylaw as parking requirements need to be consistent w/one another and in tandem. – they have to be the same. These regulations do get into more detail than Rob's examples – we may need to think about “tiering” to accommodate different types/sizes of properties. Some may need a full blown plan and others may not need the same level of detail and can be done on GIS. This draft reflects the zoning requirements and design standards borrowed from Mansfield, CT (home of UConn in the Village of Storrs). Mansfield is a community in New England closest to Amherst in terms of its own size relative to size of educational institution that inhabits it.

Section at end talks about allowing for a period of compliance if there are no public health and safety issues, which we may want to borrow for other sections of the bylaw.

One new element not in the Zoning Bylaw – while the Zoning Bylaw stipulates a minimum number of parking spaces required, this would also include the **maximum** number of parking spaces allowed. Which would deter having property turn into a parking lot.

Ken Rosenthal commented that there is an inherent tension between tenants & landlords desiring parking in close proximity to the rental unit and neighbors who don't want to see property turning into a parking lot. These days not everyone expects to live very close to his or her own car. Urban areas – there are often no parking spaces available close to where you live and it may be that way with some of the neighborhoods. We have some internal conflicts that will have to be worked out. Example - Sections B1 & B7. It may be that we will just have to live w/the fact that there will be some props which do not have adequate space on those props to accommodate all the vehicles that otherwise we say would be expected for tenants.

Ken Rosenthal suggested that perhaps we need to add something that says, when you build parking spaces you provide permanent year-round vegetative screening around the edges of those parking space - side yards & backyards to protect the neighbors.

Steve Walczak questioned, what about prop that is non-conforming? Are they going to have to comply with existing code? What if they can't?

Rob Morra responded that we are not far enough along on how you waive a provision of the regulation. It is something to be considered. We will have to build in a mechanism to allow to continue or a way to give relief to that provision.

Pat Kamins expressed concern about many areas of the parking regulations. He feels that some of these things are going to be very difficult for pre-existing properties:

- All parking paved – needs to be addressed, as it will be difficult.
- Who determines how many spaces allowed?
- Drawing to scale – difficult – need some leniency..
- Why existing landscaping has to be included, since providing picture from GIS. Why spell out again?
- Barrier or fence required – who determines?
- Provide nature of sub-grade – on old houses, how do you determine? Feels it's a burden.
- Downtown housing – what then for parking?
- How do you prove adequate space for maneuverability?
- Restricting backing out into street – some properties just don't have room to provide a turn-around.
- Need some leniency built in.

Dave Ziomek asked the group if they were comfortable ending at this point and letting the staff work on incorporating the comments and suggestions from this meeting.

Janet Keller asked that while the staff is working on these regulations that they should be conscious of presenting to Town Meeting and that they don't want to confuse or overwhelm Town Meeting members.

Stephanie O'Keeffe feels that the draft regulations on parking look so much like Planning Board or ZBA requirements for new construction and feels that the group needs to step away from this degree of detail and formality. She worries that if it is too complicated to comply, we won't get compliance. She likes the baseline inspection concept. Thinks we need to focus on basic requirements, thinks this is overkill and thinks they should simplify.

Steve Walczak agreed with Stephanie. He asked if the Town could look at 20 rental houses now and see how they comply. He also feels the most important component of the regulations is in controlling the number of people in a rental.

Stephanie likes Ken point – about parking and that not all properties will be able to provide parking for the number of people who can legally be in the unit. Property owner's challenge of

marketing the property – don't necessarily have to come up with enough spaces to accommodate all the tenants that can live in the rental. It's about making it very clear to the tenants that they will have to find alternate parking.

Scott Livingstone commented that tenants living in downtown park at friend's houses, on other streets or by making other arrangements. He feels that we shouldn't have to get into the business of accommodating parking. We have to be careful about creating paved parking lots on every street in town. There are some areas we are just not going to be able to fix.

Ziomek Town does not want to be in the business of putting people out of business if they are renting units in Town of Amherst. Parking comes up over and over again as being a major complaint in Town. Hearing the requests to make it simple in order to get compliance, but how do we do that and still have it be meaningful? So when Rob or JCT go out and visits those properties you see in the photos presented, they can tell what is in compliance and what is not. Balance that with telling property owners that they can only have two parking spaces and then property owners/managers saying you are affecting my business by doing that.

Public Comment

Joan Burgess: With regard to inspections, are regular town inspections the basic inspection and if one wanted a safe rental designation it would be "super duper" inspection. So there are two levels of registration going on?

Julie Federman: Yes, but still up for discussion & debate as to what exactly that would look like.

Joan Burgess: With regard to parking – understand the dilemma, but feels the biggest dilemma is how to draft a regulation (gen bylaw) that is not in conflict w/the Zoning Bylaw and still accomplish what we want to do as a general bylaw? We can't build all of the Zoning Bylaw into the a general bylaw – just wouldn't work.

Jonathan Tucker: Agrees, they either have to duplicate each other (be the same) or one has to refer to the other. They can't create a conflict between the two.

Joan Burgess: But the Zoning Bylaw are not retroactive.

JT: When you incorporate the zoning design regulations in the general bylaw, there is no grandfathering .

Valerie Hetzel: What will the cost of registration & inspections will?

Who is responsible for closing out her permits?

Is she eligible for safe designation as a single family person renting out rooms?

She is planning on converting an out building and living in that – will that mean she will be switching categories?

Parking – exception to the ???

Currently backs out into her private way which has very little traffic. Will she have to provide a turnaround?

Current driveway provides 3 parking spaces (in total would see 5 cars in front of 2 potential properties) –doesn't want to lose parking spots
Doesn't ever want to pave her street as a green community, we should avoid paving in Town.
Be creative – people in Town should be able to rent out driveways, parking spaces and make tenants aware of these parking rental possibilities.

Tom Crossman: Some of his tenants sign paperwork when they move in, that they understand the number of parking spaces that are available for them. Will he still be fined as a property owner, when they don't comply?

February 19 Meeting

The February 19 has been cancelled due to it being school vacation week. The public forum that was to be held on that date will be rescheduled – date to be determined at the next meeting.