



**TOWN OF WEST BOYLSTON PLANNING BOARD** [planningboard@westboylston-ma.gov](mailto:planningboard@westboylston-ma.gov)  
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## **MEETING MINUTES**

### **February 26, 2014**

Chairman: Christopher Olson

Members Present: Marc Frieden, Vincent Vignaly, James Kaufman

Members Absent: Patrick McKeon

Others Present: See Attached Sign-In Sheet

**All documents referenced in these Minutes are stored and available for public inspection in the Planning Board Office located at 127 Hartwell Street.**

The meeting was called to order at 7:10 p.m.

#### **Master Plan Rewrite (review of updated drafts)**

Mr. Kaufman relayed the board's concerns about submitting sections one at a time to the Town Administrator. He said they talked about the organization of the Town Wide Planning Committee and where it came into existence in 1994. He said Mr. Gaumond is willing to meet with the Planning Board for any discussions. The Master Plan should guide us on how we want to go. Mr. Vignaly said piece meal is fine for data updates, but the town needs to look at the big picture for the Master Plan. Mr. Vignaly said there are many boards and committees with plans to use the limited lands and resources available in town. The Master Plan is seen as providing that overview and decision-making process to say what should be best for the whole town and guide the actions to accomplish this. Mr. Kaufman said the Town Administrator talked about seeing how other towns are managing it, involving town civic groups, masons, etc., or appropriate \$2,000-\$5,000 to get the job done by a consultant. Mr. Kaufman said Mr. Gaumond did not believe it best that he was the chair of the TWPC and that it should be chaired by someone else. The board noted that the TWPC is made up of all the key boards/committees in town and should be the proper forum to discuss the goals and fair assignments to complete the process. He will inform Mr. Gaumond that the board will work on the data updates, but that the real "Master Planning" is still needed.

**Board of Selectmen's Business License Comment Clarifications** – Further edits are needed and will be reviewed at the next meeting.

**New Borrego Solar Project Proposal** – Mr. Olson spoke with Jared Connell. There was a meeting last Monday with the Town Administrator, Building Inspector and Mr. Connell. They are formulating a plan for a new solar array on about 30 acres of the town land on the north side of Tivnan Drive and will be 4 megawatts. They need to go before the ZBA for a Special Permit

for the use and to the Conservation Commission because there are wetlands. If there is a permit issued by the Building Inspector, then it appears to trigger the need for a Site Plan Review for a non-residential permit. They plan to come before the Planning Board for an informal meeting in either March or April. Mr. Olson said he will ask the Town Administrator and Building Inspector if they agree with that interpretation before meeting with Borrego.

**Zoning Bylaw Change to Section 4.2C (Special Permits for the reduction of the minimum residential lot frontage requirements)** – Mr. Vignaly said he believes that this wording was created to allow the Zoning Board of Appeals (ZBA) to reduce the minimum frontage on residential lots to be issued a Special Permit to reduce frontage requirements of 150' or 120' down to a minimum of 100'. He read Section 4.2.C of the current Zoning Bylaw.

The Planning Board has advised past ZBAs to hold to the 120' minimum because that is the minimum expected by the townspeople when they buy their property. The current wording does not provide any technical standards on which to base a judgment by the ZBA. Adequate access to a house could be provided with as little as 20' of frontage, but the requirement for frontage is not solely based on access, but on preferences for street character and town density.

The main issue is that there is a conflict between Section 4.2.C which allows the ZBA to issue a Special Permit to reduce the frontage on a lot to be below the minimum frontage amount, and Section 4.1.E still requires the minimum lot width to be the minimum lot frontage.

“The minimum lot width, which is the shortest distance between side lot lines, when measured anywhere between the lot frontage and the existing or proposed main building on the lot, shall not be less than the required minimum lot frontage.”

An applicant would have to be granted a Variance to Section 4.1.E to use the Special Permit issued under Section 4.2.C, and the hardship standard for this appears difficult to overcome. One option for the Planning Board is to simply remove Section 4.2.C. Another is to replace it with something that allows “pork chop” lots, or “flag” lots, or “hammerhead” lots (all referring to the same shape of a lot). Mr. Vignaly looked at five different towns in Central Mass that have this kind of zoning and compiled the most applicable aspects into the circulated draft proposal. This draft bylaw wording would allow people to divide their property into two or more lots with one lot that meets zoning, and another lot to have at least 40' of frontage with a minimum of 3 acres. The 40' minimum width of the lot all the way back where it opens up into a larger area where a building could be constructed having 50' minimum setback distances to the property lines. The proposed 3 acres is a little more than twice the size required in our Aquifer Protection District. The lot area would be three acres with 40' frontage as opposed to what we have currently for one acre and 150' frontage. A change would have to be made to the proposed wording to note that Section 4.1.E does not apply to these lots. The proposed flag lot wording will help people who have a modestly large property to allow them to build for family or sell some of the property. The other conditions offered in the proposed wording are that the flag lot has to be accessed by a driveway on the access portion; would have to have sufficient sight distance for safe access; and that no flag lot is allowed within 150' of another flag lot.

Mr. Olson said that while he appreciates some of problems Mr. Vignaly is trying to address that are in the current 4.2.C Zoning Bylaw, he said there needs to be more clarity as to how this

section relates to the other sections about how the width can't be less than 120'. Another concern is Section 4.2.C refers to "residential lots", which to him includes both single and general residence districts, but the proposed bylaw is limited to the single residence district. Lastly, the current section may be applied to lots being at least 40,000 square feet to apply for a Special Permit with the ZBA, whereas the proposed bylaw requires that the lot be at least four acres before it is divided. Because of those two differences between the current bylaw and the proposed bylaw, there are properties in the general residence district and properties in the single residence district with a lot between 40,000 square feet and four acres who would no longer have that ability to ask for a Special Permit. Mr. Olson thinks it a good thing to look at the current bylaws to see how we can improve upon them. He is hesitant to make a change that is going to take away something people may currently use. The other piece that gives him pause is that the current Special Permit process includes a public notice. The neighbors get notified of a public hearing where they come to speak and have their voices heard before the ZBA. He said this proposed bylaw does not include public notice and only involves submittal under the Approval Not Required section of the Subdivision Control Law, which has no notice requirement, and there is no public hearing. Mr. Vignaly agreed with many points, especially the public notice part, and noting that making changes is always done in public to get input before a final version is offered to the town at town meeting. The main issue is to work on change to correct the conflict between the two sections.

Mr. Femia (ZBA) asked if it goes to vote and passes, is there any way parcels can be grandfathered and have to go back to the ZBA. Mr. Vignaly said no because Section 4.2.C would be removed. If they meet the zoning, that would mean they would have the frontage and area needed for a single lot, plus the area and frontage needed for the flag lot in the back, and all other requirements we might put on for access, sight distance, and separation.

Betsy DeMallie (13 Lost Oak Road) spoke of a "U" shaped lot owned by Mrs. Piscione that had requested a Special Permit to create two lots, without having less than 120' of frontage from the ZBA three (3) times already. Ms. DeMallie asked how the proposed change would affect this property. Ms. DeMallie said the covenants for lots in Lost Oak Road were designed to give privacy and wooded buffers which is why she bought there. This is a negative impact in the neighborhood. Ms. DeMallie wondered if the board would consider language that precluded subdividing a flag lot. Mr. Vignaly said the whole point of the proposed bylaw is to allow the division of properties in a way such that a flag lot is created. Mr. Frieden said it is a "U" shape lot where somebody has two frontages and has to have the driveway go through the frontage that qualifies. It could be worded that you would have to have a contiguous frontage for it to be by-right.

After further discussion, Mr. Vignaly said that it may be a state requirement that the minimum frontage for a lot is 50', so that should be increased. It was also discussed that the minimum area should be increased to a 4 acre lot instead of 3 acres, to reduce the impact to abutting neighbors to the new flag lot. The bylaw should also be corrected to require that the 50' width be the minimum for the whole length of the entry portion of the lot. Regardless, the current Section 4.2.C as is doesn't work. Mr. Vignaly suggested that there were options the board needs to consider: (1) simply remove the current Section 4.2.C so frontage reductions are no longer allowed; (2) revise Section 4.1.E to allow a reduced lot width for these permitted lots; and (3)

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remove Section 4.2.C and add a flag lot section with changes to 4.1.E to allow reduced width when in compliance with Section 4.2.C.

The Planning Board needs to consider the idea of allowing flag lots. We can set the frontage minimum to whatever we want, but the idea of having flag lots, is that something we want to do? Mr. Olson said that he would talk to the ZBA chair to determine their thoughts/concerns with this part of the bylaw. We can discuss this at the next meeting because it is not intended to go to town meeting any sooner than the fall of 2014.

**ZBA Informational letter denying the Variance Request at 184 West Boylston Street** – The ZBA denied the request for a variance.

Mr. Femia (ZBA) said Cumberland Farms sent a letter to the ZBA seeking to withdraw their petition. No action was taken pending clarification from the Town Administrator.

**Reports from Other Boards** – Mr. Frieden said the Affordable Housing Trust held their forum on senior housing and input will be reviewed at their next meeting.

Mr. Kaufman said the Community Preservation approved \$42,900 for the repair of cemetery gravesites, and \$11,000 for a new computer system for the cemetery.

**Other Topics** – Allison Smith (223 Prescott Street) attended to ask questions for a conceptual plan for the property. There is frontage for three ANR lots. She is not interested in 40B. There is an existing lane and enough acreage for a 750' cul-de-sac road. Because of the way it is set up, there is extra land which abuts DCR land which she would like to see if the town is interested in to allow public access. She does not have direct street access for this area, but didn't know if there was a way for the town and state (DCR) to work together for access. It was suggested she go to the Parks & Rec meeting and talk to them to determine their interest and the Open Space Committee after that. Ms. Smith would like to get preliminary approval of a plan before she contacts a builder. Mr. Vignaly said she can present a preliminary subdivision plan under our Subdivision Control Regulations which the board can approve, contingent on getting percolation test approvals from the Board of Health. She was advised to review the Subdivision Regulations because there are certain standards as to what has to be on the preliminary plan such as the plan has to be stamped by a PE, show conceptual drainage/stormwater treatment; the minimum angle of the lot lines to the road is 70°. She was told about the Open Space Residential Development Zoning and Incentive Zoning bylaws that might help develop the property as she wishes.

Ms. Smith asked if there was a list of engineers the town uses. Mr. Vignaly will put together a list of engineers that have been before the Planning Board in the past and were familiar with our regulations; but it is not an endorsement or a complete list.

**231 West Boylston Street** – Mark Brodeur's 2/19/14 email response stated that his decision to issue the building permit for the sign and change of use was based on his review of the file and the applicant did not submit documentation to substantiate the conditions. Mr. Olson is still unsure if grandfathering applies to signage. There are no cases on point with regard to signs, parking, or accessory uses, as to whether or not the grandfather statute applies to those cases. He

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could not find any clear cases to say for sure. Mr. Vignaly said that the Sign Bylaw, Section 5.6.A.5.d and e, describes non-compliance and non-conforming signs, and was written for these cases and submitted to the Building Inspector for his comments multiple times before it was voted on last May at town meeting. He should be applying this standard and requiring applicants to submit documentation and if they cannot, then he should not be issuing the permit.

We didn't have a problem with the building because the building didn't change; the use is fine, it is a business district. At this point, the Building Inspector feels we should move on. Mr. Vignaly said we could ask the Town Administrator for an interpretation from Town Counsel. We should have this clarified before another application is submitted. It needs to be made clear in an email or letter that we can reference when board members or town officials change. Mr. Olson will call Mr. Gaumond to ask for Town Counsel's opinion, and ask if he is happy with Mr. Brodeur's implementation of the bylaw because the Planning Board is not.

Students studying a Land Use Planning course attended the meeting to observe and obtain information relative to zoning and land development. This was a good example for them because the Approval Not Required plan, the Zoning Bylaw change for flag lots, and a preliminary subdivision of a parcel were all discussed.

**Approve Payment of Invoices/Review Draft Meeting Minutes of February 12, 2014** – Mr. Frieden made a motion to approve the February 12, 2014 Meeting Minutes with changes noted; Mr. Kaufman seconded; all voted in favor; motion approved.

A motion was made by Mr. Kaufman to adjourn; Mr. Frieden seconded; all voted in favor; motion approved. The meeting adjourned at 10:26 p.m.

Date Accepted: \_\_\_\_\_

By: \_\_\_\_\_  
James Kaufman, Clerk

Submitted by: \_\_\_\_\_  
Melanie Rich