



TOWN OF WEST BOYLSTON PLANNING BOARD planningboard@westboylston-ma.gov
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MEETING MINUTES

March 26, 2014

Chairman: Christopher Olson

Members Present: Marc Frieden, Vincent Vignaly, Patrick McKeon

Members Absent: James Kaufman

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 regular meeting was called to order at 7:30 p.m.

Medical Marijuana Zoning Bylaw Town Meeting Warrant Article – Mr. Frieden made a motion to draft the bylaw as presented with an edited Zoning Map for the Town Clerk and to send it all to the Selectmen to become a warrant article; Mr. McKeon seconded; all voted in favor; motion approved.

Master Plan Rewrite (review of updated drafts)

After brief discussions, it was agreed to submit the three chapters to the Massachusetts Department of Housing and Community Development. Mr. Frieden made a motion to submit updates to the Master Plan for Chapter 5 (Economic Development), Chapter 8 (Cultural and Historic Resources), and Chapter 11 (Financial Strategies); Mr. McKeon seconded; all voted in favor; motion approved. Mr. Olson will contact the Town Administrator to determine who it should be submitted to.

Zoning Bylaw Change to Section 4.2C (Special Permits for the reduction of the minimum residential lot frontage requirements) – Mr. Vignaly will summarize the current Zoning Bylaw references to determine the jurisdiction of each of the noted Special Permit Granting Authorities. Members hope to review the Special Permits and how they are distributed among the different boards to possibly suggest changes. It will be discussed at the next meeting.

Non-Conforming Signs under Town Bylaw Section 5.6.A.5.e – Mr. Olson will respond to the Building Inspector's email. Mr. Femia asked about the references to non-compliant signs in the new Sign Bylaw section of the Zoning. He was told there is definition in the bylaw and it reflects the requirements included in the state law relative to non-conforming issues. Mr. Frieden asked about guidelines. The Planning Board cannot write guidelines since we are not the enforcing authority, but the Building Inspector can. Mr. Vignaly suggested Mr. Frieden draft an email to the Building Inspector to consider distributing to all sign permit holders letting them

know that when a sign permit is renewed, compliance with the zoning setbacks and size limits will be required. If the existing sign is not in compliance, then the applicant is responsible to submit documentation to substantiate the claim that the sign is a legal non-conforming sign.

Status of Village Zoning Bylaw Grant with CMRPC – Mr. Frieden contacted CMRPC and found that the deadline for the first round of applications is March 30th. Mr. Frieden will contact Chris Ryan for assistance to draft the application for this grant which will be to create a Village Zoning Bylaw in West Boylston.

Proposed Borrego Solar Project on Tivnan Drive – After discussions at our last meeting, Mr. Olson responded to Mr. Gaumond's email explaining that if there is a building permit issued for a non-residential structure at the site, then Site Plan Review needs to be considered. Mr. Olson said he received an email on Monday from Mark Brodeur and Leon Gaumond which was forwarded to Town Counsel. Mr. Brodeur is confident that Site Plan Review is not appropriate even though the Planning Board said that Site Plan Review is required for a non-residential building. Mr. Vignaly said that if it will be a 3' x 5' building, then he believes that it does not need a building permit. He was not familiar with the interpretations if it is not a permanent structure, but they may not need a building permit for that.

Mr. Frieden spoke with John Hadley (BOS) who asked why we wanted a Site Plan Review (SPR). Mr. Frieden said we don't specifically want a Site Plan Review, but we want the bylaw to be implemented as it was voted on by Town Meeting. If a building permit is issued, we need to do a Site Plan Review. He told Mr. Hadley that if it is the case, the Planning Board will host it. Town Counsel was instructed by Mr. Gaumond to review the Site Plan Review triggers, but did not comment on the condition where no building permit was needed or for a non-permanent structure. She did say, however, that the 3' x 5' structure with a solar array is an accessory to the overall use of that property, therefore it comes down to how the Building Inspector wants to interpret that part of the law, although his interpretation is reviewable via the appeal process to the ZBA.

Mr. Olson said the Municipal Law book talks about building permits and the purpose behind them. It notes that people have a right to build a house in a single residence district, and to put a fence up as long as they meet all the setback requirements, etc., but a building permit can be required to confirm that the proposed work is in compliance with the bylaws. The building permit essentially means the Building Inspector is signing off that the structure meets local standards for safety, the location is in compliance with local bylaws, and that the proposed use is allowed in that particular area of town. In that definition, it is including not just buildings, but other things like fences; other things that are going to require a building permit. The Site Plan Review definition is narrower than that. There is no language in the SPR Section 3.6 for non-residential structures; it is only non-residential buildings. Mr. Olson interprets this to mean that there are situations where a building permit is required, but SPR is not. Mr. Vignaly agreed and noted the example where a building permit is needed for a fence and a building permit for a sign, but these would not trigger the need for a SPR application. Town Counsel noted mention of a temporary structure, but the board was not clear if that related to existing structure on the current site. Was a building permit issued for the building on the current site, and should it have triggered SPR? Mr. Vignaly said the board's letter said that the site of the current array has some type of building on it. With the proposed Borrego site, if they can construct it without

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being issued a building permit that applies to a building, not for a fence, then they would not need to apply for Site Plan Review. If SPR is needed, they can request waivers where the standards do not apply, and it would provide a public hearing for residents to be heard. Either way, the ZBA will need to issue a Special Permit for the solar array. Mr. Femia feels all Special Permits should be issued by the Planning Board. He also felt that the boards need to be educated and trained. Mr. Olson will respond to Mr. Brodeur and Town Counsel's email. Jared Connell (Borrego Project Developer) has already requested to attend the April 9th Planning Board meeting at 7:00 p.m.

New Business/Review of Correspondence/Emails Received – An email was received from the Town Administrator informing the board that the Zoning Reform Bill was approved by the Municipalities Committee.

Reports from Other Boards – No reports tonight.

Mr. Frieden said he attended the ZBA meeting regarding the Village at Oakdale. Residents were upset that no discussion was allowed since it was on the agenda. Mr. Femia said Town Counsel advised them not to discuss it because there was nothing to discuss. The Town Administrator put out a blog with information. There are some residents that don't understand that it was previously approved.

Mr. Frieden suggested contacting the developer to let him know that the town is aware of what the permit requires (which is to provide adequate sewer resources, etc.), but this is beyond any reasonable capacity that the town can fulfill and there is reason to believe that in the future this will not be provided as quickly as his schedule would like. This way when the developer has the building up and wants his connection point and the town says we are not quite ready, there is no surprise. Another possibility is for the Planning Board to appeal the permit. The Housing Production Plan is now in place. It can also be noted that this is unreasonable for the town to provide to this one developer because of the budget. Mr. Vignaly said he believes that the developer will be coming before the Board of Selectmen because of a change to the subsidizing agency. At that time, the town should clearly stipulate that there is now a Housing Production Plan, and for the developer to amend the character of the units to reflect the needs of West Boylston citizens. He expects that the developer will be prepared to work the town, to a point. Mr. Femia said a Cease and Desist was issued March 24th because of non-compliance with the building permit. Mr. Frieden will draft a letter with his suggested wording for the board to consider at our next meeting.

Other Topics – Mr. Femia told the board the American Planning Association will be holding a meeting on inclusionary zoning on May 14th at Devens. Mr. Vignaly said the board decided not to have inclusionary zoning and in 2006 created the town's Incentive Zoning Bylaw instead. Inclusionary zoning means any developer who builds a residential complex/facility other than a few single family homes, is REQUIRED to build some percentage of subsidized affordable units. The board wanted only to ENCOURAGE the subsidized affordable units by allowing higher density that is typically allowed.

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Approve Payment of Invoices/Review Draft Meeting Minutes of February 26, 2014 – Mr. Vignaly made a motion to approve the March 12, 2014 Meeting Minutes with changes noted; Mr. Frieden seconded; all voted in favor; motion approved.

A motion was made by Mr. Frieden to adjourn; Mr. McKeon seconded; all voted in favor; motion approved. The meeting adjourned at 9:15 p.m.

Date Accepted: _____

By: _____
James Kaufman, Clerk

Submitted by: _____
Melanie Rich