



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

April 23, 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 meeting was called to order at 7:00 p.m.

Master Plan Rewrite (review of updated drafts):

School Chapter – The only change recommended was to spell out the acronym “STEAM” (Science, Technology, Engineering, Arts, Math) that was mentioned in the chapter. Mr. McKeon made a motion to submit the School Chapter to Elaine Wijnja (DCHD) subject to the change noted; Mr. Frieden seconded; all voted in favor; motion approved.

Open Space & Recreation Chapter – Mr. Vignaly felt it referred more to Open Space and not enough Parks & Recreation. He will send it to Parks Commission for their input before putting it before the Planning Board again. Mr. Olson asked about the dollar source of revenue used in the Cost of Community Services assessment that is included in the draft. Mr. Vignaly said it is the taxes paid for the privately owned land, not in reference to town-owned open space. It is an assessment of the undeveloped property vs. developed residential property vs. developed commercial property.

College of the Holy Cross Site Plan Review Application – John Lapomardo, representative for Holy Cross College, attended. He was told the application was received yesterday and the board scheduled a hearing date for May 28th at 7:00 p.m.

Sue Meola (discuss potential projects for 249 West Boylston Street) – Ms. Meola, the property owners and potential buyers for the property were seeking input as to what can be done with the property. They have no specific plans yet. The property is north of the Shell station and south of the Nutrition Source health food store. They are not sure if MassDOT has records for a curb cut onto Route 12, but there is an existing driveway. It is about a half acre and they may want to demolish the existing structure to start from scratch. The potential buyers are interested in a business. The current use is residential, but is in the business zone. Mr. Vignaly said the

current zoning allows 10' front, side and rear setbacks. One allowed use would be a small retail space with some professional offices downstairs and apartment(s) upstairs. The Zoning Bylaws are available on the town website, to confirm their options, but they are allowed to have two stories, mixed residential and/or business uses are allowed. A Site Plan Review would be required, where the board looks at drainage and traffic impacts, and they would have to go to the DOT to obtain permits for access. Paula Howard, an abutter at 17 Pierce Street, said the northern area is a big hole that is up higher than her property, so drainage would be an issue. They were advised to read Section 3.2 of the Zoning Bylaws for the allowed business uses since there are many options available. If they choose to have both residential and business uses, they would be required to provide an agreement about sharing the parking. They were encouraged to pave parking spaces expected to be used intensively, but also have overflow parking on improved grass or porous pavers to improve drainage.

Non-Conforming Signs under Town Bylaw Section 5.6.A.5.e – The draft email was reviewed. It will be addressed to the Town Administrator with a copy to the Building Inspector requesting an opinion from Town Counsel on the issue of non-conformity and grandfathering, specifically, to signs covered by the new town sign bylaw and the “non-conforming” statute as described in Mass General Laws Chapter 40A, Section 6, Paragraph 1, or any other statute or relevant law. The board wants to clarify whether signs may be “grandfathered”, and if so, what standard of evidence is appropriate to be requested by the Building Inspector when an application for a sign permit renewal is submitted. Where appropriate, reference to the Municipal Law book should be included. Mr. Olson read from a section of non-conforming uses and buildings which noted that modern ordinances or bylaws contain landscaping, buffer, screening, environmental and aesthetics limitations that cannot be grandfathered. Our primary concern is with signs, but he read that there are no recorded appellate level decisions regarding the application of the statute or local provision to pre-existing non-conforming site attributes like screens, buffers, signs, etc.

Secondly, do such “non-conforming” signs maintain their protected status where the principal structure has been altered for a substantially different purpose? Mr. Olson said there was one case from 1988 where there was a non-conforming garage that was converted into a home office, but that they had not changed the exterior of the building; only the interior. The court said that was something that requires a Special Permit or Finding by the Building Inspector that it is in compliance with the Zoning Bylaws. The point of the case was that they were altering the structure, albeit internally, which is what Gourmet Donuts did (the interior was changed from a bank to a coffee shop). Mr. Vignaly said we need a legal interpretation from Town Counsel so the town can proceed appropriately.

Lastly, how does a business substantiate their right to grandfathering? Town Counsel should be asked to provide the requirements that an applicant needs to provide in order to prove that they are entitled to “grandfather” status. The draft will be revised and reviewed at the next meeting.

Status of Village Zoning Bylaw Grant with CMRPC and Discussion of Town Administrator’s Use of CMRPC Hours – Marc has not contacted CMRPC on this, but will be prepared to discuss it at the next meeting.

ANR Plan (Lancaster Street), Vincent & Mary Pusateri – Ron Thunberg (Hub Survey Associates) was in attendance. The plan meets the required SR District frontage (120') and the required area (40,000 square feet) and appears to have adequate access. Mr. Frieden made a motion to approve the ANR Plan of Land located in West Boylston MA, owned by Vincent F. & Mary I. Pusateri, Assessors Reference: Map 126, Lot 26, prepared by Hub Survey Associates, Inc. dated April 7, 2014; Mr. McKeon seconded the motion; all voted in favor; motion approved and the board signed the mylar and 6 copies of the plan. Mr. Vignaly recused himself from the matter since DCR abuts the property.

ANR Plan (Hosmer & Keyes Streets) Andrew Beardsley & Robert Armstrong – Ron Thunberg (Hub Survey Associates) was in attendance. The plan depicts 4 lots that meet the required Aquifer Protection Overlay District frontage (150') and the required area (540,000 square feet) and appears to have adequate access. Mr. Vignaly made a motion to approve the ANR Plan of Land located in West Boylston MA, owned by Andrew A. Beardsley & Robert Armstrong, Assessors Reference is Map 108 Lot 11, prepared by Hub Survey Associates, Inc. dated April 16, 2014; Mr. McKeon seconded the motion; all voted in favor; motion approved and the board signed the mylar and 6 copies of the plan.

Medical Marijuana Prep Work for Town Meeting – Mr. Olson will prepare a brief summary explaining that it is a follow-up of the moratorium that was voted on last May, that it is controlled by the state public health, and that without a zoning bylaw in place, these facilities could be located anywhere in town, including a single residence zone. Mr. Olson asked how a business could end up in a single residence zone. Mr. Vignaly said if a business is not legally allowed anywhere else in town, then business owners have won past court cases stipulating that they can put it anywhere. If it is not clearly specified in the bylaw, then it is allowed anywhere. Mr. Vignaly will revise the zoning map.

ZBA Special Permit Petition from Borrego Solar – No comment letter will be sent.

ZBA Variance Petition for Dollar Tree – Mr. Vignaly prepared a draft which was reviewed and revised. The wording will be revised to soften the language, but still note that the Planning Board does not believe that the requirement of the applicant to meet the hardship standard for issuing a variance clearly does not appear to have been met. It will be forwarded to the ZBA before their meeting on Monday.

A reminder email to attend the TIP session on May 7th was received from Nicholas Burnham CMRPC, Assistant Transportation Planner. No members are available to attend.

A copy of the memo regarding CMRPC's proposal to Leon Gaumond and the Town Wide Planning Committee to produce the Master Plan Update to Land Use Zoning and Population/Housing Chapters from Christopher Ryan (CMRPC, Community Development and Planning Manager) was received. The proposal indicates that CMRPC would use the technical assistance hours that the Planning Board has discussed previously to be used to draft a new Village Zoning District bylaw. Mr. Olson will email Jim Kaufman (the Planning Board's representative on the TWPC) to ask if we can do only one project with the number of hours available. Mr. Frieden will contact CMRPC to find out how many hours it would take to complete the Village Zoning Bylaw grant application and subsequent bylaw work.

Planning Board Meeting Minutes – April 23, 2014

Reports from Other Boards – Mr. Frieden said the Affordable Housing Trust talked about town-owned properties to build senior subsidized housing on. Orchard Knoll and the Mixer properties will be compared. No report on Oakdale except that the Cease and Desist is still in force. Mr. Vignaly asked if AHT has approached Mr. Ali of the Oakdale development to work cooperatively with the town and incorporate some of the needs of the Housing Production Plan, which did not exist when the project was permitted, into the project now.

Mr. Olson commented that the Conservation Commission Meeting Minutes from February 3, 2014 state that they will give a draft of the Wetlands Bylaw to the Chairman of the Planning Board to review and possibly attend their next meeting. Mr. Olson has not received any correspondence to review or request to attend their meeting.

Approve Payment of Invoices/Review Draft Meeting Minutes of March 26, 2014 – Invoices were approved and signed. Mr. McKeon made a motion to approve the April 9, 2014 Meeting Minutes; Mr. Frieden seconded; all voted in favor; motion approved.

A motion was made by Mr. Vignaly to adjourn; Mr. Frieden seconded; all voted in favor; motion approved. The meeting adjourned at 9:30 p.m.

Date Accepted: _____

By: _____
James Kaufman, Clerk

Submitted by: _____
Melanie Rich