



TOWN OF WEST BOYLSTON PLANNING BOARD planningboard@westboylston-ma.gov
140 Worcester Street ** West Boylston MA 01583 ** Telephone 774.261.4073 ** Fax 508.835.3807

MEETING MINUTES

September 10, 2014

Chairman: Marc Frieden

Members Present: Christopher Olson, Vincent Vignaly, Mark Brodeur

Members Absent: Cheryl Carlson

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 140 Worcester Street.

The meeting was called to order at 7:03 p.m.

Status of Village Zoning Bylaw Grant with CMRPC – Mr. Olson is meeting with Eric Smith and Chris Ryan next week to discuss the scope of services and budget for the CMRPC to assist the board in compiling a draft Village Zoning Bylaw. In preparation for the meeting with CMRPC, Mr. Olson asked the members for input of possible locations, limitations and features. Mr. Frieden suggested the Central Street/Crescent Street area. Mr. Vignaly suggested the areas of Oakdale, North Main Street, Green Street, Central Street Market area to the Library and also Route 12. Issues of concern to discuss would be parking (limitations on the lots and street), drainage and current street configurations. Mr. Brodeur spoke of the possibility of talking with the Police Chief about installing meters for parking to help with infrastructure improvements. Mr. Vignaly said once there is a bylaw in place, that and many other things could be looked into.

1000 Goodale Construction Letter – Mr. Frieden signed the letter and Melanie will forward it to Holy Cross.

Crescent Builders Definitive Plan Submittal (Nuha Circle) Prospect Street – Mr. Ali, the applicant, was present. He said he would not be presenting the definitive subdivision plan tonight because he changed engineers and it is not ready for submittal. He also said that he will not be completing the Preliminary Subdivision Plan Application, but wants to go straight to the Definitive Plan. Mr. Vignaly explained that the process falls within the subdivision regulations; with a preliminary subdivision plan submittal, the board requests comments from many other town board/officials. When comments are received, and within 45 days of submittal, the board decides if the plan generally conforms to town standards and considers any requested waivers. Those changes are combined into the Definitive Subdivision Plan submittal and the board has 135 days to review and decide on that application. The comments that were received concerning the draft preliminary plan at the last meeting were discussed. No septic designs have been received by the BOH as yet but Mr. Brodeur said all the lots proposed have passed percolation tests by the Board of Health (BOH). Both the BOH and the Building Department comments

were that they would not be in favor of a grass island in the cul-de-sac. The surface should be road consistent for ease of maintenance and appearance. The temporary common driveway should be wide enough to accommodate emergency vehicles and have hay bales with silt fence at its western most termination. The Fire Department determined there is not an adequate municipal water supply and would require residential sprinkler systems with a tank to be supplied in each residence. Mr. Ali disagreed with that comment. The Board asked that he contact the Fire Department and Water District to discuss further and be sure they agree that the resolution is in the best interest of the town. The key issues that will need to be addressed are water and fire suppression and the width of pavement in the road. Mr. Ali said there will be catch basins and retention ponds. Mr. Ali was asked to address stormwater runoff in the Definitive Plan. He said the problem currently is that the gas company will not pave until all their connections are in place. Mr. Vignaly said the Board of Selectmen discussed the possibility of having the gas company put in a bituminous curb. Mr. Ali said he would take care of it with stone for now. He said they will have detention basins for a 100 year storm. Mr. Ali asked if corrugated pipe is allowed. Mr. Vignaly said the regulations state that it requires RCP or an approved equal. Mr. Ali can ask for a waiver from this but needs to describe what he will be using as an equal. The board would like to see a sidewalk on at least one side. All electrical will be underground. Mr. Ali is working with the Municipal Light Plant regarding street lights. It was noted again that we are not acting on a properly submitted preliminary plan. Fees have not yet been paid and components are missing. Mr. Vignaly explained to Mr. Ali that the town has not accepted the portion of the drainage system off the road. It will need to be included in a Homeowner's Association and documentation must be provided to the Planning Board for Town Counsel review and approval during the Definitive Subdivision Plan review. He may be able to incorporate the sprinkler system/water supply solution as well. Mr. Ali said he would like to put the catch basins in this fall. There is no plan before the board yet, so it was suggested he make sure his engineer locates them and sizes them properly. Coordination of the construction inspection could be difficult and he should contact the board's engineer to monitor the work.

Marcia Cairns (208 Prescott Street) had drainage concerns because her house is located lower than street level and the pipes in Prescott Street now were engineered for the present houses; not new houses. She feels there will be runoff and that an engineer needs to re-evaluate the pipes. Mr. Brodeur said that would be up to the DPW and said that Mr. Ali should contact the DPW. Mr. Vignaly said that it is a requirement of the Definitive Subdivision Regulations that the developer's engineer has to analyze for the stormwater flow that is coming off the site now and in the development stage. It will have to be on the plan and the board will have the town's engineer review it. The frontage lots will also have to be evaluated to be in compliance with the town's Stormwater Bylaw. Mr. Ali was advised to send a letter to the board agreeing to rescind the intent to submit a Preliminary Subdivision Plan application.

Lisa Meola Harris – Update on Proposed Auto/Motorcycle Repair Facility for Wonder Bread Building (215 West Boylston Street) – Ms. Meola Harris was not present. Mr. Brodeur, as Building Inspector, reviewed the Zoning Bylaws. He said that if the space involved is an actual change of use and will contain 4 bays for repair or service then he does not believe that Section 3.6, B3 would apply. The parking requirements under Section 5.2, B, sub-section g (public garage) requires that 3 spaces be provided for each bay or stall used for service. As there is only room for 4 bays or stalls, which translates to 12 parking spaces, it does not meet the threshold (15 spaces) for Site Plan Review. The Building Department did send them a denial

letter which allows them to proceed with an appeal to the ZBA for the change of use determination. More documentation from the applicant on what they propose to do is needed. The Chair will send an email requesting more details and to be copied on ZBA correspondence.

Daniel Mercurio – Update on Proposed Building Lots on Raymond Huntington Highway –

Mr. Mercurio was not present. Mr. Vignaly explained that private roads would have to go through and follow the subdivision process because there does not appear to be frontage for common driveways. They could decide to submit a Definitive Subdivision Plan that is not in compliance with all town subdivision roadway regulations, but a requirement that the owner is responsible for repair and maintenance would need to be documented with the Registry of Deeds and in town records so that the town will never be asked to accept the road; it would be a private road. No further action needed at this time but an email noting same will be sent to Mr. Mercurio.

RFP Discussion for Engineering Services – Mr. Brodeur said he has received complaints and

feels it is time to look at other engineering firms. He felt that the \$5,000 requested from Holy Cross College was excessive and said this is the kind of comments he has received. Mr. Vignaly said there may be other local companies that can do the work for less, but they will not have the experience and the scope we get from VHB. He also said that since contracting with VHB there have been no legal issues which saves the town money and it is a cost that developers expect. Mr. Vignaly said that the \$5,000 in fees for Holy Cross, who will be spending more than a million dollars on construction, is not excessive. If traffic surveys and work associated with wetlands comes into play, other firms may not have that capability and have to pay additional costs, whereas VHB has those services in-house. Mr. Frieden said the engineering firm should not be based solely on rates. There is the potential for VHB's rates to increase if there is an RFP. Mr. Brodeur said we have the option not to respond to the RFP. Mr. Brodeur feels we can't lose anything and will contact Nancy Lucier and Leon Gaumond for information on how to proceed with an RFP.

21 Franklin Street Project Update – Attorney Sushchuk (attorney for applicant) was in

attendance. He said because of an oversight on his part, sign designs were not submitted to the Planning Board prior to applying for a sign license from the Building Department. He thought it only needed to go to the Building Department. Attorney Sushchuk said there will be additional signs and they plan to file for Site Plan Approval. Mr. Vignaly said that their original approval noted that they need to file for an Amended Site Plan Review for review of the signs and maybe they should cover the signs until that process is completed. Attorney Sushchuk said he prefers not to cover the signs because they want to start their business, but will work on it. Attorney Sushchuk was reminded that they don't have approval which means they are illegal and the Planning Board could have them take the signs down which would be excessive. Attorney Sushchuk said the signs are not intrusive, but Mr. Vignaly said they are not in compliance of the Site Plan Approval. Mr. Vignaly expects they will be coming back in two weeks to ask for a temporary occupancy permit even though all work is not finished and is concerned for the neighbors regarding the drainage and screening for the new shed in the back. Attorney Sushchuk said he was unaware he needed SPR for the shed. Mr. Vignaly said when the fence was discussed, the shed was not included and the Site Plan Approval states that any changes to the plan must be presented to the Planning Board. The attorney said the intent is to store recyclables. It will be locked and accessed twice daily. Mr. Frieden agreed that a shed is

something you can put on your property, but we are in the middle of a Site Plan Review process and the shed was not included on the original plan for approval. Mr. Vignaly said to put it and any other changes on the Amended Site Plan Review along with the sign details. The process could be handled within two weeks. If it is not submitted, it would be an act of poor faith. They should be following the process that all other applicants have to follow. Mr. Brodeur said he had an extensive meeting with Matt Grenier and reviewed the site plan and talked about the shed and additional screening and believes they followed what they should have. Attorney Sushchik said he will not ignore the issue and will contact Matt Grenier and email the Board.

Lori Carvalho (17 Franklin Street) said she was pleased with the fence, but the shed is new. She feels that it is part of the operation and should have been included on the original plan. If it had been, she would have asked for the fence to be extended and does not feel it is an unreasonable request. Attorney Sushchik said they would prefer not to cover the shed and do not plan to let litter build up. He said the slope is very narrow and thinks the fence construction will be an issue. She believes over time the wooden shed will wear and weather and will not look the same. Mr. Frieden told Attorney Sushchik to talk with his client's engineer to address it and come up with a solution when they file an Amended Site Plan Review. Mr. Carvalho said she was pleased with the work and appreciates it.

ANR Plan (Gary & Bruce Peterson – 419 Prospect Street) – Robert Smith (B&R Survey) and Gary Peterson were in attendance. Mr. Smith said the Petersons are remediating a non-compliant issue with Zoning by transferring additional parcels of land to meet building setbacks on two existing lots. They were unsure of the correct fee since they started with three lots and they are not creating any new lots. The fee was determined to be \$300. Mr. Vignaly made a motion to approve the ANR Plan of Land located at 419 Prospect Street in West Boylston MA, owned by Gary F. Peterson and Bruce R. Peterson, prepared by B&R Survey, Inc. dated August 23, 2014 with a fee of \$300; Mr. Brodeur seconded the motion; all voted in favor; motion approved and the board signed the mylar and six copies.

ANR Plan (CLT Park, LLC – 137 Shrewsbury Street) – Mark Tomaiolo was in attendance. He said he will be back before the board to further subdivide, but would like this plan for three ANR lots acted on tonight. He explained that DCR will be taking 60 acres. He will only be developing the front four acres and he will be donating land to the American Legion where their horseshoe pit is located. The property to be donated needs to be listed as “parcels”, not “lots” because there will not be sufficient frontage to be a “buildable lot”. He will bring a new ANR Preliminary plan to the next meeting. He was told to take into consideration the lighting, drainage, signs and parking when he begins developing the sites on Shrewsbury Street. Mr. Brodeur made a motion to approve the ANR Plan of Land located at 137 Shrewsbury Street in West Boylston MA, owned by CLT Park, LLC, prepared by Robert D. O’Neil, Jr. dated August 22, 2014; Mr. Olson seconded the motion; four members voted in favor; motion approved and the board signed the mylar and six copies. Mr. Vignaly recused himself from the matter.

Planning Board Mailing List (inclusion of private citizens) – Mr. Vignaly said there are a couple of past members who would like to be included on the mailing list to monitor minutes and issues. Karen Pare emailed Mr. Vignaly the reasons why she believed that was not a good idea. One of the reasons being is that if executive session minutes or matters were distributed to all, it would be a violation of the Open Meeting Law. Mike Kane (The Banner) asked what was being

sent out that would be a violation of the Open Meeting Law. Mr. Vignaly did not know of anything, but that the town's IT person advised against it. He said with executive session minutes and the Open Meeting Law only certain things can be discussed and can't be put it in an email, so that would be a violation. Mr. Vignaly said he understands that we can send an email with information, but cannot deliberate. Mr. Vignaly said we don't conduct business, just send out information in preparation for the next meeting. Mr. Kane said he can request our emails which the board knows are public. Mr. Kane said we can discuss setting up meetings by email; anything else is not legal.

Afra Terrace Project (ZBA request for information) – Mr. Brodeur said the Planning Board does not have information. Mr. Vignaly said Mr. Ali came to the Planning Board under the Common Driveway Bylaw for seven common driveway lots a year or so prior to filing with the ZBA for the current 40B project.

Mr. Femia (ZBA) asked Mr. Brodeur about Conservation information he received. Mr. Brodeur said the Conservation Commission has inspected, at the request of the Homeowners Association, the issues that relate to them (wetlands crossing and retention basins). A letter was sent to the developer informing him of what is needed. The Homeowner's Association was copied so all parties are aware. Because it is a 40B project, the ZBA will have to accept the project when it is completed. The developer will also have to provide accounting documents because he is only allowed to make a limited amount of profit because it is a 40B project.

Mr. Femia asked if, in the future, it would be advantageous for the ZBA to send information to the Planning Board for review since they are not familiar with Site Plan Review. Mr. Vignaly said he thinks that the ZBA has enacted a policy that Dick Heaton drafted that the ZBA should follow. Plans should be reviewed and sent to all town boards for comments and input provided before the start of construction with the Planning Board as one of many involved.

Open Meeting Law Discussion – Mr. Olson talked about an article in the August 22nd edition of the T&G where the Attorney General found that the mayor did not violate the Open Meeting Law. It came about when a topic was brought up in a meeting by an audience member which was discussed and voted on. It read in part..."while it is not unlawful for a public body to discuss an unnoticed and unanticipated topic, the attorney general strongly encourages public bodies to postpone discussion of topics that do not require immediate action that were not listed in a notice at least 48 hours before meeting, particularly if those topics are ones that may be of significant public interest. Where the chair of a public body, or his agent, declines to add a topic to a meeting notice, it is not a violation of the Open Meeting Law when someone else introduces the topic at a meeting." All future Planning Board Agendas will now include the following: "Citizens' Comments (*Except in unforeseen or emergency circumstances, any matter presented for consideration of the Board by a member of the public shall neither be acted upon, nor a decision made the night of the presentation. A scheduled time on a future agenda may be necessary, at the Board's discretion.*)".

Reports from Other Boards – Mr. Brodeur said he met with the ZBA and Conservation and those topics were covered in his conversation with Mr. Femia under the Afra Terrace topic.

Mr. Vignaly said the Open Space Committee met and were not pleased with the Board of Selectmen's decision not to purchase the 405 Prospect property. They drafted a letter to the BOS

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asking them for the reasoning for their decision not to move forward. Mr. Frieden said the Affordable Housing Trust had the same discussion.

Citizens' Comments – Students from WPI working on their senior design project (Chris Long, Brianna Weisgerber and Melissa Landi) attended to gather information for research to evaluate and make recommendations on our Residential Cluster Development Bylaw and investigate why it has not yet been used. Specific sites to evaluate how the bylaw would impact development were noted by the Board could be Westland Circle, 223 Prescott Street and the Mixter property on Prospect Street. Mr. Vignaly said we have a bylaw, but no regulations are in place. We have draft regulations for the Incentive Bylaw, but they should evaluate if regulations for the RCD Bylaw are needed. The students should review the Zoning Bylaws as well as the Subdivision Rules and Regulations. Mr. Frieden said to research if there is a size property where it won't work because it is not big enough. The students offered to create brochures/flyers that would be helpful to give to developers so they could see what the benefit would be for both them and the community. Mr. Brodeur will provide the students with the contact information for the owners of the properties.

Correspondence Received:

FY16 Capital Request Form: The Town Administrator is requesting all departments to review their needs over the next ten years and submit any items they may need valuing \$5,000 or more. The Board does not have any items to submit and will let Leon know.

Semi-Annual Town Meeting: The Planning Board does not have any proposed articles for inclusion.

Community Preservation Committee Application addressing the Affordable Housing Needs of West Boylston: Mr. Vignaly made a motion to support the Affordable Housing Trust warrant article submitted by Patricia Halpin; Mr. Brodeur seconded the motion; all voted in favor; motion approved.

Approve Payment of Invoices (1000 Goodale & 21 Franklin Street)/Review Draft Meeting Minutes of August 13, 2014 – Vouchers were approved. Mr. Vignaly made a motion to approve the August 13, 2014 Meeting Minutes as amended; Mr. Brodeur seconded the motion; all voted in favor; motion approved.

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

Date Accepted: _____

By: _____

Christopher E. Olson, Clerk

Submitted by: _____

Melanie Rich