



**TOWN OF WEST BOYLSTON PLANNING BOARD** [planningboard@westboylston-ma.gov](mailto:planningboard@westboylston-ma.gov)  
140 Worcester Street \*\* West Boylston MA 01583 \*\* Telephone 774.261.4073 \*\* Fax 508.835.3807

## **MEETING MINUTES**

### **March 25, 2015**

Chairman: Marc Frieden

Members Present: Vincent Vignaly, Cheryl Carlson

Members Absent: Christopher Olson

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 moved to 227 Room because of an odor in the regular meeting room. The meeting was called to order at 7:12 p.m.

#### **Old Business/Outstanding Issues/Follow-Ups:**

Pinecroft Dairy, 555 Prospect Street Farmer's Market (Business Center needs SPR) – Mr. Brodeur sent an email to the Building Inspector indicating that no Site Plan Review (SPR) was needed for the Farmer's Market to proceed. There was an article in the Banner that they received tremendous support from town officials and are happy to be moving forward. The Building Inspector will follow up with the Business Center issues.

Olde Century Farm Homeowners Association Town Counsel Inquiry – Mr. Olson sent an email to the Town Administrator requesting Town Counsel's advice on how to create a Homeowners Association. Leon Gaumond popped in and was asked to follow-up. The request is because the residents do not have an Association set up. If none exists, then the DPW will likely be required to conduct the regular maintenance and repairs at an unexpected cost to the town.

Goodale Park Master Plan (preparation for Roundtable SPR and Zoning Compliance) – Mr. Vignaly was in attendance as the OSIC representative at the Parks Facilities Committee (PFC) meeting. He asked to have a roundtable discussion but was told they wanted to come up with their recommended plan before that. The roundtable was intended to ensure compliance with the process rather than the results. A vote of the PFC was taken (6 to 5) to request a delay for a roundtable discussion. It is not known if the \$50,000 budgeted for a consultant will be mostly spent before the roundtable. The consultant who was present said that they did not conduct a needs assessment; they only spoke with the board members and whomever attended the PFC meeting. The Facilities Committee is responsible for the future park planning; the Parks Commission is responsible for the implementation. It appears the Parks Facilities Committee wants to move forward to get it built.

Local Wetland Bylaw Draft Review – Ms. Carlson said she reviewed the bylaw and did not see any changes from the previous draft other than the notes on the side and said it is still more stringent. The bylaw will allow the Conservation Commission to create regulations. Mr. Vignaly was hoping to see a comparison with the State Wetlands Protection regulations to highlight the differences. The Conservation Commission wants to put the bylaw before town meeting in May. Mr. Frieden said his concerns were that it isn't clear why they would want to be more restrictive to residents, and does it benefit or hurt the residents. There could potentially be some buildable lots that now become unbuildable because of the bylaw. Mr. Femia asked if there would be grandfathering provisions, but the board did not know. Ms. Carlson does not think that something more restrictive will pass at town meeting. Mr. Femia said if it is too restrictive people will not move into the town. Mr. Frieden recalled at the last bylaw meeting they said they didn't want to be more restrictive, they wanted to be involved in more of the decisions and can waive portions, but as written, the bylaw is more restrictive. They will meet again on April 6<sup>th</sup>. Mr. Vignaly will attend the meeting to raise the board's concerns, such as concern with being more restrictive, summarizing the differences with the Wetlands Protection Act, and the question of grandfathering.

TWPC Open Space and Recreation Chapter – Mr. Vignaly said the Open Space and Recreation Committee met and voted to send an email to Leon not to update the Open Space Chapter of the Master Plan because it will change when the Open Space and Recreation Plan is updated.

TIP Project – Route 140 Improvements (Pedestrian/Bicycle Widening) – Mr. Sylvia will be invited to the April 22<sup>nd</sup> at 7:00 p.m.

**New Business/Review of Correspondence/Emails Received:**

Mr. Femia asked about existing zoning violations in the business district, including signs, parking, and public safety situations. Mr. Vignaly agreed that there are some safety issues. He has spoken with the Building Inspector and will try to find the list that the Planning Board has put together in the past to document a list of zoning violations that need to be enforced.

339 West Boylston Street (Gerardo's Bakery) – Informational discussion to change parking – Julian Votruba (New England Environmental Design), Gerardo Sarli, and Mr. Sampson. Mr. Votruba explained where the approved paved parking lot ends and the gravel Fairchild Avenue and Magnolia Way, which they and the apartments are both using. They also have to work with the DCR and Conservation Commission in the back. He would like to connect the existing parking area to both the proposed spaces to the south and the proposed loading area/employee parking north of the building to improve circulation. He and Gerardo noted that there have been many fender-benders in the lot due to the congestion. They could alleviate that by making a loop. They would be adding a small area (55'), connecting it and grading it. Mr. Frieden asked what the condition of Magnolia Avenue is. Mr. Votruba said it is asphalt and gravel. Minimal grading is needed, but they need to go to Conservation Commission. It is out of the DCR zone. The catch basin will catch everything in the existing catch basin and be treated in the existing basin system. Mr. Votruba said Magnolia Avenue and Fairchild Avenue are paper streets and that each abutter owns half. Mr. Vignaly said the board needs documentation showing that you have a right to utilize it. Currently he is utilizing the area in violation of zoning, and the new Building Inspector will be enforcing it. The conditions that existed when the plan was approved

was that these areas were all grass except for the driveway, so a drainage analysis needs to be completed with the resubmittal. The parking change will be more than 15 parking spaces, so it will need a Site Plan Review.

Mr. Vignaly said they will need to show drainage, include the correct number of parking spaces, meet all zoning requirements unless they want to apply for a variance, and show they have an agreement to use the access on Magnolia Avenue and Fairchild Avenue. Town records list these properties as “unknown owner”. Mr. Vignaly asked the Assessors back in 2004 or so and again in 2008 to do a tax taking because the town doesn’t get any taxes, then put the properties up for auction. He was willing to bid the amount the town paid to do the paperwork to get them to auction. If the abutting owners did not want to pay enough for the town to cover their costs, he would keep them and block their access. The Assessors did not want to go through the trouble. Many times over the last ten years the owners of West Boylston Seafood and Gerardo’s have committed to determine ownership and try to acquire the properties, but nothing has been done. The board needs some documentation from a reasonable source saying that the proponent has the right to use the property and who the assessors should assess taxes against. Mr. Votruba met with Nancy McGrath (DCR) and she said it is an insignificant impact to the brook. Mr. Vignaly said he was hoping this can be corrected because Gerardo’s is doing a good job and has a good business, but we have been getting promises for years that this was going to happen. To accelerate the approval process, Mr. Vignaly said since our approval usually takes sixty days, if they are substantially into the court process of determining ownership, the board can make the Site Plan Approval conditional on documentation that the proponent has the right to use the property.

Email regarding SJC Rules Lots Created under the So-Called “Existing Structures Exemption” – Mr. Femia asked for an explanation of what it means and how it will affect our town. Mr. Vignaly said it clarified the fact that the Zoning Act and these properties are applying two separate laws and both laws need to be met. He does not feel it will affect the town because there are so few lots that can meet the “Existing Structures Exemption” standard. The board’s ANR plan approval requires a note be added to the plan that “no decision relative to zoning compliance is made by the endorsement of this plan”. There is no presumption that the lots we are signing are buildable. Mr. Femia said the article says “a plan falling within this existing structures exemption is entitled to an ANR endorsement...even though the lots may not have the required frontage under local zoning as is required for all other plans.” Mr. Femia asked if that meant that an ANR plan does not have to follow the frontage requirements. Mr. Vignaly said his understanding is that a lot meeting the “Existing Structures Exemption” can have as little as 50’ frontage. Mr. Vignaly said what the law references is only for situations where there are two or more existing structures that have been there since before the subdivision control law went into effect. Because they are two existing structures that are grandfathered, they are allowed to break the property into two separate lots. Mr. Vignaly also said the decision does NOT allow the new lots to be built on in violation to other zoning requirements. He noted that each case is individual and welcomes the chance to work with the ZBA and Town Counsel if this situation is anticipated.

Mr. Gaumond came into the meeting. Mr. Vignaly told him the Open Space Implementation Committee asked that this section not be submitted for updating of the Master Plan because the

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Goodale Park Master Plan and the Open Space and Recreation plan update should be completed within the next year.

Mr. Vignaly asked if anyone actually reviewed the Housing Chapter and the Population Chapter that CMRPC completed. Mr. Gaumond said the Town Wide Planning Committee read it. Mr. Vignaly questioned that because the first goal in the Housing Section was to meet the 10% affordable housing stipulation, which was clearly not included in the Housing Production Plan. Mr. Gaumond asked was that part of the Housing Production Plan? Mr. Vignaly said the Housing Production Plan's goal was to maintain compliance with the 1.5% Land Area Standard and work to provide the one-half percent per year to the Affordable Housing stock. The HPP notes that we met the 1 ½%. Mr. Vignaly said from the housing aspect we don't want to stop all housing, so the other goal was to develop it slowly; the stepped approach is in the Housing Production Plan; it was never by 2020 to get to the 10% affordable. Mr. Gaumond will check with CMRPC.

Mr. Vignaly asked Mr. Gaumond about the board's request to use Town Counsel for Olde Century Farm. Town Counsel is a budget item and not to be used for private citizens, but there is a town road that has stormwater basins that have to be maintained. The basins were never accepted by the town and it was to be the responsibility of the Homeowners Association (HA) to maintain them, but it was never created because the owner went bankrupt. No one knows the process to take. The residents did the work that needed to be done. They are interested in creating the association, but don't know what they need to do or if they now even have to do it, which is why we asked for Town Counsel's advice and direction on how to get the Homeowners Association established. Mr. Gaumond said it is a difficult situation because he is not allowed to use town resources on what could be perceived to be private issues so theoretically the right answer should be that the residents should hire an attorney to come out and develop the covenants necessary to take those steps. Mr. Vignaly said the Subdivision Regulations have a model of the document, but if the owners decide not to create a HA, then the town will be stuck with doing the maintenance since it will impact the roadways that were accepted.

OSIC Meeting Minutes Posting – Because the Open Space Implementation Committee Meeting Minutes have not been posted in a timely manner, Karen Pare gave Melanie access to the OSIC webpage for posting. The board had no issues with this.

**Reports from Other Boards** – Ms. Carlson said Community Preservation Committee will not meet again until the end of April, and the Earth Removal Board has not met recently.

**Citizens' Comments** – None tonight.

Ms. Carlson said she heard that Sue Meola and some Malden Street residents are trying to form a group against Wayne's Weaponry because of the noise level of the semi-automatic rifles and explosives being used. She said the group found that there are no regulations for those facilities in MA, but Mr. Frieden thought there was a law on how far away they can be from a residence. Mr. Vignaly said noise falls under the Board of Health as a nuisance and they only have authority when it reaches a certain volume; AND there is a special stipulation that existing gun and shooting ranges are exempt from this standard.

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Nuha Circle Construction Report/Email – A drainage pipe was put on the ledge per Jack Lydon's 3/17/15 Construction Report. Mr. Vignaly sent Wayne Amico an email reminding him that this is the beginning of the project and the town needs to be assured that the work complies with the appropriate standards before it is considered to be accepted as a town way. Mr. Frieden will send an email asking Mr. Amico how the town can be assured that Nuha Circle is being constructed correctly.

Ms. Carlson made a motion to approve the draft Meeting Minutes of March 11, 2015; Mr. Vignaly seconded the motion; all voted in favor; motion approved.

A motion was made by Ms. Carlson to adjourn. Mr. Vignaly seconded the motion; 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