



**TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS**  
127 Hartwell Street \* West Boylston MA 01583 \* [zba@westboylston-ma.gov](mailto:zba@westboylston-ma.gov)

**MEETING MINUTES**  
**December 15, 2011**

Chairman: Linda Isgro

Members Present: Matthew Colangelo, Charles Witkus, Philippe Chevalier

Members Absent: Paul Hennessey, Paul Trippi (Associate Members), Barbara Deschenes

Others Present: Stephen Hart (Associate Member), Sign-In Sheet

The meeting was called to order at 7:08 p.m.

Ms. Isgro informed the members that the new business will be discussed after the Wong hearing.

With time permitting before the 7:15 hearing time, Ms. Isgro told the members that a letter was received from CHAPA (Citizens' Housing and Planning Association) regarding Afra that was sent to the attorney for foreclosure. Correspondence was also received from Leon Gaumond requesting a joint meeting with the ZBA on February 13, 2012. It is scheduled for 7:00 p.m.

Another issue that warrants revisiting is Wal-Mart's special permit. On Black Friday, it came to the board's attention that they opened at 10:30 p.m. and remained open. It was advertised in the paper, but the hours advertised differed from the special permit they were granted. Ms. Isgro asked for the members' input if time allows at the end of the agenda.

Minutes will be approved at 7:45 p.m.

The ZBA was sent an email regarding the February 13<sup>th</sup> meeting concerning the sign bylaw that needs to be revisited. After several business tours, one of the biggest issues that keeps coming up is concerns with our sign bylaws (the subject for the joint meeting). It will be co-chaired with the Economic Development Task Force. Mr. Colangelo asked if it was the Economic Development Task Force who wanted to make changes to the bylaw. Ms. Isgro said it appeared that Mr. Gaumond commented on several business tours that it was communicated to him that the main issue was the sign bylaw. He was asked by the Selectmen to convene the group meeting. The Planning Board, Economic Development Task Force, and Zoning Board were all invited to attend the Selectmen's meeting.

**Public Hearing – Deanna & Bill Wong (6 Jennings Road, Westborough MA) – Special Permit Application (for 354 West Boylston Street)** – The hearing notice was read by the Chair. Ms. Isgro introduced the members to Mr. Wong. Mr. Wong stated it is an educational use petition. The facility is located on the second floor and is 700 square feet. They teach music to children ages 4-8 years old. It is a 3 ½ year curriculum (36 week per year schedule). They do not specialize in any one instrument. It is a total encompassing music theory program. It is a parent participation program as well. Parents must accompany the children at all times, even escorting them to the restrooms. There is a maximum of ten

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children per class, with typical enrollment approximately 7-8 students. Mr. Witkus asked who informed them they could not rent the space. Mr. Wong said when they went to get the initial permit and inspection, they were told they needed a special permit because of the educational use. Mark Israel (potential landlord) stated that Mr. Wong came to him and wanted to approach the town first to make sure they were not violating any bylaws because originally Mr. Wong was refused to build his business in the town of Westborough because of local town ordinances. Ms. Isgro asked if there was only stairs to reach the second floor and was told there are elevators. There will be twenty-one people in the space at once (10 students; 10 parents; 1 teacher). Mr. Israel stated that he conducted a building code review and it does meet the code. User Group E states 1 person per 20 square feet. Ms. Isgro said that a copy of the notice and petition was sent to Mark Brodeur (Building Inspector) and he responded on November 23 stating that he has no objection to this proposal. She further said that the board does not require a letter of denial from the Building Inspector because it is straight forward and the applicant must come before this board for any educational use as outlined in our bylaws. Ms. Isgro made a motion to close the Public Hearing; Mr. Chevalier seconded; all agreed; none opposed.

After board discussion, Mr. Hart made a motion that the board grant Deanna & Bill Wong of 6 Jennings Road, Westborough MA, a Special Permit under West Boylston's Zoning Bylaws, Section 3.2.D.5 "Schedule of Use Regulations" to use the premises for music instruction upon the property located at 354 West Boylston Street, West Boylston MA, located in the Business Zoning District. The record title stands in the name of Meadowbrook Development Corporation. Mr. Witkus seconded. The vote was as follows: Matthew Colangelo – yes; Charles Witkus – yes; Linda Isgro – yes; Philippe Chevalier – yes.

### **Old Business**

**SHI** – Ms. Isgro told the members that the documents were submitted for the SHI (Subsidized Housing Inventory) that were filed with DHDC. She said it was a joint effort with herself, Leon Gaumond and Karen Pare.

### **New Business/Reports from Boards** – No other topics at this time.

**Afra Notice** – The foreclosure date is set for January 6, 2012 at 3:00 p.m. for Unit 10. It states that the universal deed rider that is attached will survive foreclosure and also the guidelines that will be used. CHAPA will see that they get enforced. Ms. Isgro said it is good for our SHIs because we do not have to monitor it; once the universal deed riders are put on, it automatically triggers CHAPA to do that for us and notify us.

**Wal-Mart** – Ms. Isgro had a copy of the special permit dated October 26, 2006 – October 30, 2006. Mr. Chevalier stated that they came back a second time and the board gave them a permit indefinitely. Ms. Isgro said the second meeting with Wal-Mart was February 14, 2008. It said that Ms. Isgro motioned to grant a special permit to Wal-Mart to open at 5AM on Black Friday, and that was what they were granted. She said that the hours are critical. The permit that was granted previously allowed Wal-Mart to stock shelves between 2:00 p.m. and 6:00 p.m. The petitioner was then issued a permit to open at 5AM on the Friday after Thanksgiving each year. What they were actually opened conflicted with that because they opened the day before and were open at 12:00 a.m., not 5:00 a.m. It was suggested a memo be written to the Zoning Enforcement Agent (Mark Brodeur) letting him know they were in violation. It is a \$100/day fine if they do not address it. Mr. Chevalier said we can only issue the special permit and that it would be Mr. Brodeur's job to enforce it. Ms. Isgro will FYI an email to Mark Brodeur.

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Mr. Colangelo made a motion to accept the November 17, 2011 Meeting Minutes; Mr. Hart seconded. The vote was as follows: Matthew Colangelo – yes; Charles Witkus – yes; Linda Isgro – yes; Philippe Chevalier – yes.

Invoices were paid.

Ms. Isgro asked if any of the previous Franklin Street bills were eligible to have the applicant pay Kopleman & Paige. She said there is \$420.25 that should be returned to the applicant. She was unsure if all Kopleman & Paige bills were paid by the applicant or whether it was ZBA money that should be returned for the review of the Comprehensive Permit. Mr. Chevalier stated that the account was balanced with the accountant to the point where Ms. Isgro took over. He further said there was nothing encumbered. All encumbered funds were paid and he has the letters stating they were paid in full. He explained the only reason funds are encumbered is because a contract is signed with a vendor who gives you an estimate, you collect a check from the applicant for that amount; they encumber that amount to go to the person you sign a contract with because the money has to be delegated to them because a contract was signed. If they spend less than the amount encumbered, that money now becomes unencumbered once a notice is received from the vendor stating they are paid in full. He said the accountant has all the information showing they were paid in full and the contract was satisfied as of the date he left. Ms. Isgro was not questioning the contract, she was asking if Kopleman & Paige was paid for their expenses that we incurred in 2007 and in 2008 during the review. Mr. Chevalier said those bills were paid. Ms. Isgro asked where the money came from to pay the bills. Mr. Chevalier replied “the applicant”. The \$420.25 will be returned to the applicant.

The next meeting will be scheduled for Monday, February 13, 2012. Mr. Chevalier said he would be at the meeting but will be representing business, not the ZBA. Ms. Isgro will post the meeting for 6:30 p.m.

Mr. Chevalier made a motion to adjourn; Mr. Hart seconded; all in favor. The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

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Melanie Rich, Secretary

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

By: \_\_\_\_\_