



# 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

**February 25, 2013**

Chairman: John Benson

Members Present: Jon Meindersma (Vice-Chair), Francis Cahill (Clerk), Kristina Pedone, and Charles Witkus

Others Present: David Femia (Associate Member), Aaron Goodale, III (Associate Member), and Secretary Toby Goldstein

Members Absent: Paul Hennessy (Associate Member)

The meeting was called to order at 7:14 p.m. by Mr. Benson.

### **Minutes of 1/17/2013 Meeting:**

After review of the draft minutes by the Board members, Ms. Pedone motioned to accept the minutes as submitted. Mr. Meindersma seconded. All in favor.

Mr. Benson then read the names of the members present to those attending the meeting in the audience.

### **Public Hearing, Petition for Special Permit, Applicant Jose L. Vega, 24 William Street, Worcester, MA, For Auto Detail and Small Auto Work at H.O. Wire Company, 215 Shrewsbury Street, West Boylston, MA:**

Mr. Benson read the petition, which was received by the Town Clerk and stamped 11/14/2012. He also listed to those present materials that were submitted with the petition, and included the fact that Mr. Vega did not submit the proper amounts of stamped, addressed envelopes for the abutters' mailings and would have to reimburse the Town for postage. The Clerk prepared and handed to Mr. Vega a letter that addressed this matter. Otherwise, the petition was in order.

Mr. Benson then stated the threshold issue, that of the parcel of land involved being located in an industrial district. According to the Zoning Bylaws, auto repair and fuel use are only allowed

in a business district, not an industrial district. The Planning Board issued a letter stating this. Also, Mr. Benson discussed a letter from the Mr. and Mrs. James Desimone of 120 Angell Brook Drive, abutters who were in disagreement with the petition but were not able to attend the meeting.

Mr. Benson then motioned to open the hearing for public comment. Mr. Meindersma seconded. All in favor. He invited Mr. Vega to come forward, and then proceeded to swear him in. Mr. Vega had no initial comments, so the Board then proceeded to ask him questions.

Mr. Meindersma asked Mr. Vega if he was aware of the industrial zoning situation of the property, and he replied that he was aware of that. He also asked Mr. Vega if there would be any gasoline or fuel at his business, and he replied no, that there would only be auto detailing. Mr. Meindersma also reiterated that the Board's authority comes from the Zoning Bylaws, and Mr. Vega replied that he was aware of that.

Mr. Benson then asked for clarification of the statement on the petition application stating the intended work to be "auto detail and small auto work." Mr. Vega replied that it would include brakes, struts and small jobs. Mr. Benson asked about washing of cars, and Mr. Vega said that it would. Mr. Benson asked what materials would be used to do this, and Mr. Vega replied that he would be using water, tools, buffers, and machines for the cleaning. When asked by Mr. Benson if he would be using public water, Mr. Vega replied that he would. Mr. Benson then asked him if there would be a system to address water runoff, and Mr. Vega replied that the owner was on vacation and he could not talk to him much. Mr. Benson then asked how many cars Mr. Vega would be washing, to which he replied, maybe two per day, or eight per week. Mr. Benson then asked if there would be any dust produced, to which Mr. Vega replied no, or if there would be any chemicals used. Mr. Vega replied that he would use special soap, which would not be hazardous and could even be safe on grass. He also replied that it would be in concentrated form and diluted on the premises. To further questions by Mr. Benson about the strength of the soap and spillage, Mr. Vega replied that the strength would be reduced with water and that there has not been any spillage yet. Mr. Vega also replied to facilities questions that there would be no lift, only a jack, and no oil changes. When asked by Mr. Benson about noise, Mr. Vega replied that there would not be a lot, only from an air gun. When asked about parking, Mr. Vega replied that there would be less than five spaces on the premises, and there would be parking overnight. Mr. Benson then asked Mr. Vega about visibility of his business from the road and the land surrounding it. Mr. Vega replied that it is visible from the road, and there is not a fence around the property. There are woods in back of the property, and a printer is located next door. Mr. Benson then asked if Mr. Vega has seen the letters from the abutter and Planning Board, to which he replied that he did, but he needed copies (which Mr. Benson gave to him). When asked by Mr. Benson questions about operation of the business,

Mr. Vega replied that he would be the only employee; his hours of operation would probably be from 9 a.m. to 1 or 2 p.m. because he works at night at another job, and he would only be able to process 2 cars/day. He reiterated that he really could not speak much with the property owner regarding handling water runoff, as the owner was on vacation. When asked by Mr. Benson to describe what the location would be like, Mr. Vega replied that there is a storage shop inside of the current building where he would do his work, and he would wash cars outside. He also replied to a question about the land, that it is flat. Mr. Benson then told Mr. Vega that the Zoning Board has the authority to grant a Special Permit for automotive and fuel services and repair in a business district, and that the Zoning Board does not appear to have jurisdiction over this matter, and asked Mr. Vega for his thoughts on this, to which he replied that he thought that the Board would have more knowledge of this than he would.

Mr. Meindersma added that the situation seems like one of business use, under the category of fuel, services and repair, and asked Mr. Vega if there would be any better description, to which he replied that this was a good description.

Mr. Witkus then asked if Mr. Vega would be working by himself, to which he replied that he would be the only employee, and that he would have kids to help him. Mr. Witkus then asked Mr. Vega, if he is only working on 1 or 2 vehicles per day, why did he go through the Town when he probably could do this work without anyone's knowledge. To that question, Ms. Pedone stated that Mr. Vega is currently doing business, and the Building Inspector asked him to stop under Section 3.2 of the Zoning Bylaws. She continued that classification of the property is the issue, and that the Zoning Board cannot grant the permit because of the zoning of the property. Mr. Vega would need to work through the Planning Board to try to reclassify the property as a business zone, and then return to the Zoning Board.

With no further questions from the Board members, and Mr. Vega having no further comments, Mr. Meindersma motioned to open the hearing to public comment. Mr. Cahill seconded. All in favor.

First to speak was abutter Walter Brown, 108 Angell Brook Drive. He was sworn in by Mr. Benson. Mr. Brown commented on the large size of the building, and questioned whether or not Mr. Vega wanted to lease it. Mr. Benson replied that Mr. Vega does not own the property. Mr. Brown then opined that with the size of the building, there would be room for 5 cars inside, if allowed. Ms. Pedone added that there is an area in the building where Mr. Vega will do his work, with the detailing being done outside. Mr. Benson asked Mr. Brown if he is concerned about the size of the building and if Mr. Vega would expand his work, to which Mr. Brown replied that the building seems large for the amount of work that Mr. Vega said he would do, and he was concerned about the work being expanded. Also he is concerned about noise, such as banging and hammering, because of Angell Brook Village (where he lives) being located

approximately 200 yards from the work property. At this point, he has not heard noise, but has seen cars, and is also concerned about people loitering in the area who may have come into West Boylston from Worcester.

After asking the Board if they had any more questions for Mr. Brown, the next person to speak was abutter Robert Mercier of 22 Angell Brook Drive, who was sworn in by Mr. Benson. He commented on the large size of the H.O. Wire Co. building. He mentioned trailers at the far end of the property being used to unload. He is concerned about the property becoming a used car lot; he is concerned about the noise of the air gun, unless it is used inside; he also does not want the property to become a “hangout” or eyesore, as he has seen 10 or 12 people out there before. Mr. Mercier is also concerned about runoff.

Mr. Benson then asked Mr. Mercier to describe his own property. He replied that there are 3 condominiums in each building. There is conservation land between them and the road. Railroad is across the street. There is not much to block the house from noise and people. It is an over-55 community. Mr. Mercier also questioned why Mr. Vega wants to have his business there and not in Worcester where he lives.

After asking the Board if they had any other questions for Mr. Mercier, the next person to speak was abutter Lynda Williams of 3 Angell Brook Drive, who was sworn in by Mr. Benson. Her concerns were, first of all, that Mr. Vega’s operation hours were vague, and with wetlands in the area, she was concerned that Mr. Vega would branch out his business after setting up where he presently wants to work.

With no further questions for Ms. Williams, Mr. Benson swore in abutter Robert Morgan of 62 Angell Brook Drive. Mr. Morgan mentioned being a retired equipment specialist for the federal government. Mr. Morgan had concerns about signage for the business, and also about cleaning solutions that would be needed for brake work. Mr. Benson asked him to elaborate, and he discussed that brake fluid cleaner would be needed, and this would be a degreasing agent that could remove petroleum. Mr. Morgan was also concerned about what type of trash would be produced, and the fact that, when he moved here, it was an industrial community, not a business community. Mr. Benson replied that the Zoning Board has no influence on Planning Board decisions.

With no further questions for Mr. Morgan, Mr. Benson swore in abutter Norma Piotrowski of 96 Angell Brook Drive. Ms. Piotrowski stated that noise echoes in her area since she lives up-hill, and she is concerned that noise from any equipment running in Mr. Vega’s shop would echo. For example, the air gun mentioned would need a generator, probably a gas-run generator which would be outside. Ms. Pedone asked her if she has heard any noise within the past year. Ms. Piotrowski responded that she hears noise only when she passes by the building,

specifically later last fall. Some of her other concerns were devaluation of homes in that area, safety if Mr. Vega were to be working alone with a jack, dirt, waste, and effects on wildlife.

With no further questions for Ms. Piotrowski, Mr. Benson swore in abutter Joseph Campos, of 51 Angell Brook Drive. Mr. Campos stated that he had 2 concerns, one being the hours of operation and that the business would add to noise and become a “hangout” and second being that the Zoning Board does not have the authority in this situation. Mr. Benson replied that he would not want to speak for the Planning Board. Mr. Campos questioned whether it would be a precedent to replace industrial zoning with business zoning.

With no additional questions for Mr. Campos, and no additional comments from anyone else attending the hearing, Mr. Meindersma motioned to close the public comment part of the hearing. Mr. Benson seconded. All in favor. At that point, the Board would start deliberation.

Mr. Benson opined that, if the Zoning Board does not have jurisdiction, then the other matters are moot, so the question is if they have jurisdiction over this matter or not.

Mr. Meindersma stated that the Planning Board brought to the Zoning Board’s attention the section in the Zoning Bylaws (3.2F13), stating that this type of business is permissible within a business district; therefore, the Zoning Board cannot grant the permit if the business is not within a business district.

Mr. Benson added that the district in question is an industrial district, and the Zoning Board does not have jurisdiction. Mr. Cahill and Ms. Pedone agreed.

Mr. Benson motioned to vote on the question: does the ZBA have jurisdiction to grant the special permit requested by Jose L. Vega under Zoning Bylaw section 3.2? Mr. Meindersma seconded. All in favor. The vote was:

Yea – none

Nay – unanimous

(Charles Witkus – no; Jonathan Meindersma – no; John Benson – no; Francis J. Cahill – no; and Kristina Pedone – no).

Therefore, the Zoning Board of Appeals, according to Section 3.2F13 of the Zoning Bylaws, does not have jurisdiction, and Mr. Benson stated that a permit cannot be issued. He also informed those present that a written decision will follow stating this.

Mr. Benson then motioned to close the public hearing. Mr. Meindersma seconded. All in favor.

**Televising of ZBA Meetings:**

The members discussed a question that was asked of Ms. Goldstein by Nancy Lucier of the Town Administrator's office, as to whether or not the ZBA would want to have their meetings televised on the Town's public television station. Ms. Pedone mentioned that there were requests that the Town boards be more transparent and to televise their meetings, especially for the elderly, so that everyone can be in-touch with the Town government. Some other concerns, however, were time and money that would be spent televising meetings that would only occur once per month. After the discussion, Mr. Benson instructed the Secretary to let Ms. Lucier know that, absent a reason to do so, the ZBA will not do it.

**Signatures Required for Accounting Office:**

The discussion involved how many signatures of ZBA members and whose signatures were required for processing invoices and Secretary's timesheets. After the discussion, Mr. Meindersma motioned that any member of this board be authorized to sign for the Town Accountant, authorizing payment of invoices, vouchers and payroll. Mr. Benson seconded. All in favor. The Board members then signed a form from the Accounting Office, which the Secretary will submit to them.

**Discussion of 21 Franklin Street Roundtable:**

Mr. Femia attended this meeting, which was attended by members of several Town boards. Leon Gaumond, Town Administrator, emailed minutes of that meeting to those boards, including ZBA. Mr. Femia discussed various concerns voiced about this project, which involves the building of a package store at the above address. The drainage problem on Franklin Street was a major problem discussed. Mr. Femia discussed how the Franklin Street elevation was higher prior to the construction of Freedom Village; now, with the elevation lower, water runs off onto the abutters' properties. Other topics discussed were fire safety questions, delivery questions, and the possibility of needing to have curb cutting done, as Franklin Street is currently one way in that area.

At 9:05 p.m., Mr. Cahill motioned to adjourn the meeting. Mr. Meindersma seconded. All in favor. Meeting adjourned.

Respectfully submitted,

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Toby S. Goldstein, Secretary

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

