



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

127 Hartwell Street * West Boylston MA 01583 * zba@westboylston-ma.gov

MEETING MINUTES

June 17, 2013

Chairman: John Benson

Members Present: John Meindersma (Vice-Chair) and Charles Witkus

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

Members Absent: Francis Cahill (Clerk), Kristina Pedone and Paul Hennessey (Associate Member).

The meeting was called to order at 7:11 p.m. by Mr. Benson. The ZBA joined the Affordable Housing Trust meeting that was also taking place in Conference Room 1.

Mr. Benson proceeded to read to the Board members names of those members present and those absent. Referring to Section 6.2A of the Town's Zoning Bylaws, Mr. Benson designated Mr. Femia to replace Ms. Pedone on the board; Mr. Cahill was not being replaced. Therefore, there was a quorum present to conduct a meeting.

40 B Consultant Dick Heaton With Presentation:

Mr. Heaton informed those present that the Affordable Housing Trust voted to accept the Planning Board's plan (on file) and submit it to the Dept. of Housing and Community Development, which, if accepted, states that the Town has a one year safe harbor regarding 40 B requirements based on the 10% rule, where 10% of Town housing is affordable. On July 10, it will be recommended to the Selectmen to accept the premise that the Town has met the 10%, and the ZBA can make use of this information when deciding whether or not to grant permits for new 40B's.

Mr. Heaton then presented a slideshow titled, "West Boylston Land Area Minimum," which is also on file. In summary are discussions during the slideshow:

The 40B rule states that a town must have 10% of its housing as affordable housing, or 1.5% of the general land area as a minimum requirement. The DHCD does not certify if a community is

in compliance with this rule or not. The Affordable Housing Trust, Planning Board and Town Administrator have driven this proposal, that West Boylston has met these requirements. In West Boylston, the total acres of affordable housing needed would be 55.4, and the Town actually has 60.2 acres, which amounts to 1.63% of land area, and exceeds the 1.5% minimum. (Land area owned by the federal government, community, a political subdivision or the MDC or another public authority is exempt. Other land not counted is land owned by DCR, Worcester County, conservation lands, open water or flood plains. Roadways are also excluded.) The assessors must certify how much land is owned by the Town.

Questions for Mr. Heaton and discussion came from those present:

Pat Halpin of the Affordable Housing Trust asked if there was a difference in calculation between condominiums and rental units. Mr. Benson added that the permit indicates which it can be. Mr. Heaton replied, if the units are used as condominiums, 7 acres of affordable property would be taken off. Mr. Heaton added that the affordable housing at 78 Maple Street, which is a group home, is not included. Lancaster Commons has rental and owned property, and the owned is used for calculations. Mr. Benson mentioned the Oakdale affordable housing (there are 2 separate, valid Comprehensive Permits), where the units are considered rental. Mr. Meindersma supposed that this reduces the total number of countable units.

Mr. Heaton discussed what needed to be done if the ZBA considered denial of a Comprehensive Permit request. First, the applicant must be notified within 15 days of the opening of the hearing. If the applicant challenges this, they have 15 days to give written notice to the DHCD. The burden of proof is on the Town to make their case. The DHCD must provide a decision within 30 days. If they fail to issue a timely decision, however, this is favorable to the Town. Meanwhile, the process stops while the challenge takes place, with no financial penalty to the Town. Mr. Benson asked about the cost to challenge if the ZBA denies by the 1.5% rule, and Mr. Heaton said that it could be done for between \$3,000.00 and \$5,000.00. Mr. Femia asked if Town Counsel needs to be involved, to which Mr. Heaton responded that they do not need to be involved. Mr. Benson added that the Town Administrator or Selectmen could decide on that.

Ms. Halpin then referred to the July 10 meeting when Mr. Heaton will present this all to the Selectmen and Planning Board, and asked if the ZBA could move to endorse this proposal. Bob Barrell of the Affordable Housing Trust asked if the ZBA needs to accept it. Mr. Benson replied that they do not really have to accept it, but it is more informational and they have the option to invoke it. Others would certify it, and if a 40B project comes before the ZBA, they could assert it. Mr. Heaton added that the ZBA would support the Selectmen and Planning Board decision and could implement it. Ms. Halpin opined that, if a developer were to see this on the

Town website, he/she might decide to go elsewhere to develop his project. Mr. Heaton reiterated that, as the Zoning Board, the board will have support to deny a permit.

Marc Frieden of the Affordable Housing Trust commented that the 10% is a short-term amount, and that the Town needs 14 units/year to retain that amount. Mr. Benson added that they have a one-year safe harbor, and when the Oakdale permit expires, they would be under the required amount.

Ms. Halpin then requested a copy of Mr. Heaton's presentation, and invited the ZBA to the July 10 meeting.

Sunshine Sign Co. Petition for Variance:

Mr. Meindersma moved to continue the public hearing to the July meeting. Mr. Femia seconded. All in favor.

Changes to Comprehensive Permit Rules and Regulations:

Mr. Meindersma e-mailed a redlined version of the rules and regulations adopted by the ZBA on May 23 with proposed changes. He reviewed and explained all proposed changes. They included changes of language, wording, and inconsistencies. On page 5, the escrow fees were specified as follows:

Up to 24 units: \$20,000.00

25-49 units: add \$20,000 fee

Greater than 49 units: there shall be an additional fee of \$10,000.00 for each 50 units in excess of 49 units, which fee shall not be prorated, such that the fee for 50-99 units would be \$50,000.00, the fee for 100-149 units would be \$60,000, and so on.

Mr. Femia moved to adopt the changes in the rules and regulations. Mr. Meindersma seconded. All in favor. Mr. Benson asked Mr. Meindersma to make the final changes and make note that the new document will supercede any existing ones. (The board members signed a vote sheet, and the secretary was instructed to have the vote sheet stamped by the Town Clerk when the document was finalized).

Meystre and Olson:

There was a document request regarding the above public hearing directed to ZBA, and all information was obtained and sent to the person requesting it by the Town Clerk and Building Inspector. (Leon Gaumond considered this to be a standard public records request).

Date of Next ZBA Meeting:

The board members present decided on July 22 for the next meeting, as Mr. Benson would not be present on July 15, the date of the next scheduled meeting. The secretary was instructed to notify the ZBA members not present tonight of this change.

Minutes of 5/23/13 Meeting:

After reviewing of the minutes by the board members, Mr. Femia moved to approve the minutes as submitted. Mr. Meindersma seconded. All in favor.

Minutes of 5/28/13 Meeting:

After reviewing, Mr. Femia moved to approved the minutes as submitted. Mr. Meindersma seconded. All in favor.

At 9:08 pm, Mr. Benson moved to adjourn the meeting. Mr. Femia seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____

