



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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MEETING MINUTES

July 29, 2014

Chairman: John Benson

Members Present: John Benson (Chairman), Francis Cahill (Clerk), Kristina Pedone and Charles Witkus

Others Present: David Femia (Associate Member) and Secretary Toby Goldstein

Members Absent: Jon Meindersma (Vice-Chair) and Paul Hennessey (Associate Member).

The meeting was called to order at 7:19 p.m. by Mr. Benson.

Mr. Benson then read aloud the names of the members of the board who were present and absent. Next, he stated that the board was continuing the public hearing from the June 16 meeting, that of Donald and Kathleen Dill et al, Petition for Administrative Appeal Regarding 94 North Main Street. Mr. Benson stated that it was his understanding that the Dills were not present, and that their legal representative was still Mark Bobrowski and that he also was not present. Mr. Benson next addressed a letter dated 7/29/14, presented to the board prior to this evening's meeting by Linda Isgro of 70 Prospect Street and signed by her, stating that the petitioners would like to extend to the board the time required to file their decision regarding the Administrative Appeal with the Town Clerk for a period of sixty days, which would be until November 1, 2014. Mr. Benson commented that, as far as he was aware, she was not previously a representative to the petitioners, and asked her to come forward to address the letter.

Ms. Isgro began by stating that, at the June 16 meeting, Mr. Ali's attorney's request for an extension was granted in order to produce documents. Mr. Benson next asked about Ms. Isgro's filing of the aforementioned letter and whether or not she was a representative of the petitioners? She replied that she filed the letter as a citizen, not as a representative of any party. She had spoken with Mr. Bobrowski, who had requested that she do that on his behalf,

as he could not attend the meeting that evening. He had just spoken with Mr. Ali's new attorney, Mr. Haverty, and both agreed to the extension. Ms. Isgro said that they were aware of Ms. Isgro presenting the letter and wanted her to do so. She added that the Dills and Ben Hebert were not present this evening.

Mr. Benson asked Ms. Isgro, for the purpose of granting the extension, if she was asserting that she was the agent of Mr. Bobrowski or the petitioners, or was she acting as only a resident, in which case he did not see what standing she would have? She replied that she asked Mr. Bobrowski about this and he replied that she could present the letter. Mr. Benson noted that it was submitted under her signature, and she responded that it was under Mr. Bobrowski's request.

Mr. Benson continued that Ms. Isgro also submitted a portion of an e-mail to Mr. Bobrowski from herself, which included the wording, "Mark, The letter is attached. I am not sure if you wanted me to leave the letterheading blank and signature blank. Linda." Mr. Bobrowski responded, "Linda - you sign it as your own. Mark Bobrowski."

Next to speak was Paul Haverty, new attorney to Mr. Ali and representative for Crescent Builders. He opined that, if the petitioners agree to the extension tonight, perhaps they can resolve the petitioners' concerns, and suggested that whatever petitioners are present this evening could sign the letter. Mr. Benson read the names of the petitioners on the original petition (on file) and asked them to respond if they were present. He then asked the petitioners, if they agreed that there has been a request for an extension to say "yes" and anyone disagreeing to say "no" (all said "yes", none said "no"). He then asked if they all agreed that this was a request for a 60-day extension (the board would have until 11/1/14 to make a decision, as requested in the letter), and they all agreed.

Mr. Benson then spoke to Mr. Haverty, mentioning that, at the June 16 meeting, the attorney for Crescent Builders was going to obtain documents regarding the transfer of the Comprehensive Permit and had not as yet submitted them to the board, and asked Mr. Haverty if he had obtained the documents. Mr. Haverty replied that, if the documents were those regarding transfer of the permit that were required from the subsidizing agency, the process is ongoing and he will have them. He continued that they also need to continue tonight, as the petition requested that the Building Inspector rescind the building permit to Crescent Builders, and it had already been rescinded pending his receipt of information, and once the information is received, the building permit will be reinstated.

Mr. Benson continued that Mr. Bobrowski asserted that the board did not have the power to extend the permit last year when it did so as it had lapsed. Mr. Haverty responded that this was not the claim of the original appeal; the response by his client was that the permit was

extended by the board, there was no appeal, and it could have been appealed. Mr. Benson suggested that Mr. Haverty focus on the extension request at this time. Mr. Haverty asserted that the right of his client to receive the building permit will be obtained by approval of the subsidizing agency that they are the rightful owners, and before this appeal can move forward, they need to provide to the building inspector proof from the subsidizing agency that they are the rightful owners.

Mr. Benson then asked the petitioners present if they were prepared to sign the aforementioned letter, stating that they are requesting an extension until 11/1/14 and the board has until then to make a decision, regardless of the amount of time within which the board is required to make a decision? They all responded "yes."

Also, Mr. Benson asked Town Counsel Carolyn Murray, who was present, for her opinion as to whether or not the petitioners present have authority to make the request. Ms. Murray responded that, in her opinion, the petitioners present, if they sign the request or a similar request, have the authority to request the extension, and the board can grant the request or ask for a different time frame. Mr. Benson then asked Mr. Haverty, if the petitioners present can speak for all the petitioners that the extension would be to 11/1/14 for the board to give their decision? Mr. Haverty replied that he is not sure; if they purport to speak for all, then he will accept that. He continued, that since it was said in consultation with Mr. Bobrowski, who represents the group, he is comfortable with that.

Mr. Benson next asked the petitioners that were present, before the board acted on the request for extension, to come up and print and sign their names on the letter from Ms. Isgro so that the board would have a document from the petitioners stating that they request the extension of the public hearing. (They all did so).

Mr. Benson asked one more time if all the petitioners present agreed that they speak for all the petitioners in requesting an extension, and they all replied that they agreed; none disagreed.

Mr. Benson then discussed an issue that he saw, that the request for the extension allows the board extend its decision to 11/1/14, but they are continuing the hearing to receive potentially more evidence and testimony about the argument made in the petition; if the board needs its decision by 11/1, it needs to hold at least one more meeting prior to that. Mr. Benson clarified, the board would not hold a hearing on the same day on which it would need to make its decision, so it will have to hold a hearing prior to November 1.

Mr. Cahill asked why an extension is needed? Mr. Benson asked a representative from the petitioners, or Ms. Isgro, to reply to that question. Mr. Haverty replied that the petition that is before the board is not really in the proper form; enforcement action was requested for the building permit to be rescinded by the Building Inspector, and this was the subject of the

administrative appeal, but the building permit had been rescinded. Mr. Benson interjected that they would not at this time have a discussion regarding whether or not the petition was in the proper form. Mr. Haverty continued that when his client gets all information to the Building Inspector that he requested from him, the building permit can be reinstated, and they will be able to get that information to the board in the proper format; sixty days will give Mr. Ali time to get the materials to the Building Inspector and there would be, in his opinion, a more proper case before the board.

Mrs. Pedone asked the petitioners if they will file another petition? Ms. Isgro responded that Mr. Bobrowski was in favor of continuing the hearing for a meeting or two before the November 1 deadline, but Mr. Bobrowski is out of the country and not available until after August 18. Mr. Benson mentioned that the next meeting would be August 18. Mr. Cahill and Mrs. Pedone asked Mr. Haverty and Mr. Ali how long it would take for them to get their paperwork to the subsidizing agency and obtain the information they needed from them, and Mr. Haverty replied that they hoped to by 8/18 but couldn't guarantee it due to having to obtain information from the State (subsidizing agency).

With no further questions or comments, Mr. Benson asked for a motion to vote on the request to continue the public hearing, with agreement by the petitioners to extend the decision period to November 1, 2014, signed by (12) petitioners. Mrs. Pedone moved to accept the request. Mr. Cahill seconded. All in favor. Mr. Benson announced that the board accepted the request unanimously, and the board now has until November 1, 2014 to make a decision. Mr. Benson discussed with Mr. Haverty the need for notice if they required a further continuance so that the petitioners would not believe that the hearing was going forward if it was not, and Mr. Haverty agreed that he would let the board know a week in advance if they needed to continue.

After discussion among the board members and with Mr. Haverty regarding Mr. Bobrowski's schedule, it was agreed to continue the public hearing until Tuesday, August 26, 7:15 p.m., at 140 Worcester Street (new permanent address of Town Hall). Mr. Benson asked if anyone had anything to address regarding that decision, and Ms. Isgro asked if the board wanted to remove her signature from the extension request letter? Mr. Benson replied that the letter was received with her signature and is part of the record so they would not remove it, and announced that the matter would be continued to August 26, 7:15, at 140 Worcester Street.

(At 7:58 p.m., Mr. Benson called a brief recess).

(Mr. Benson declared the meeting to be back on record at 8:03 p.m.; all members had returned from recess).

Minutes of April 28, May 19 and June 16 Meetings:

First, Mr. Benson read the names of the members present at the April 28 meeting. As Jon Meindersma was not present this evening to vote (he was there on 4/28), Mr. Benson decided to continue voting on the 4/28 minutes. Mr. Cahill asked, since all members had already seen those minutes, shouldn't they have made changes to them already, noted them and sent them back to the Secretary? Mr. Benson replied that, going forward, this can be done, with e-mails with corrections being added to the record, in compliance with the Open Meeting Law. Mr. Cahill continued that, if whoever was at the meeting does not send any corrections, then it would be considered that the member accepted the minutes as submitted. Mrs. Pedone added that the 4/28 and 5/19 minutes should be re-sent to all members and they can send e-mail corrections to the Secretary. Mr. Benson said that he would send an e-mail to the board stating this, and if a member does not send any corrections and is absent from the next meeting, the board will vote in that member's absence.

Next, the board reviewed the minutes of June 16. After discussion and suggestion of changes, Mrs. Pedone moved to accept the minutes as amended. Mr. Cahill seconded. All in favor.

With nothing further on the agenda to discuss, Mrs. Pedone moved to adjourn the meeting at 8:45 p.m. Mr. Cahill seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____

