



## TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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### MEETING MINUTES

**October 22, 2015**

Chair: Kristina Pedone

Members Present: Kristina Pedone (Chair), David Femia (Clerk) and Barur Rajeshkumar .

Others Present: Daniel Cronin (Associate Member) and Secretary Toby Goldstein.

Members Absent: John Benson (Vice-Chair), Charles Witkus and Paul Hennessey (Associate Member).

At 7:15 p.m., Mrs. Pedone called the meeting to order. She read aloud the names of members present and absent, and read from the agenda the first item which would be discussion regarding the project at 94 North Main Street. Mrs. Pedone instructed those present that the discussion would begin with the peer review done by VHB, followed with comments about the discussion points listed on the agenda, then discussion would be opened for public comment.

#### **Discussion of Peer Review by VHB:**

(Wayne Amico of VHB represented; Iqbal Ali, Developer, and his representative Dean Harrison participated in the discussions). Mr. Amico discussed that VHB was asked to review the aforementioned project for several things. Historically, documents were provided through the Building Inspector to them, reviewed, then the response e-mailed to ZBA. Mrs. Pedone asked Mr. Amico to first read through the review aloud, then she would open it to response. Mr. Amico read the topics as follows (review is on file):

#### **General Engineering Comments:**

Regarding accessible parking signage location, accessible curb ramp location and type on plans, electrical transformer locations on plans; modification of a Cape Cod berm changed to vertical curb type; truncating of the northern sidewalk as it extends into abutting property; the project is subject to the EPA, therefore a SWPPP plan must be submitted prior to land disturbance.

### Grading and Stormwater Comments:

1. Location of infiltration systems and recharge systems
2. Inverts for the roof drains tying into the recharge systems
3. Swale on the west side causing stormwater to run off onto abutters' property, needs to be better directed.
4. Recharge and surface basins on top of slope might cause stormwater breakout, review surficial geology to prevent this and provide documentation.
5. Significant proportion of runoff collected on Main Street; should be added catch basins or grading done to driveway to prevent.
6. Insufficient geological information regarding filtration subsurface; recommend additional test pits dug and evaluated in location of infiltration systems.
7. Consider fencing around all detention ponds; discuss with Building Inspector to assure compliance with regulations.
8. Limited geological information-slope treatment appropriate at rear property line; recommend test pits or soil borings along entire rear slope due to bedrock and evaluation of test results.
9. The above comment regarding geotechnical information is critical in determining what type of slope cut proposed in this area; there are questions regarding MA DOT allowing certain slope paving detail and rock cut detail; these must be compliant to MA DOT. A thorough geotechnical evaluation meets the standards of the industry.

### Utility Comments:

1. Transformer, electrical conduits and hydrant locations should be on all pages and reviewed for conflicts.
2. Angle of utility connections to southernmost building may result in large foundation penetrations; should be reviewed to avoid or minimize.
3. Additional detail needed for utility connection located within North Main Street, such as how made, what size, limits of pavement saw cutting; coordinate with DPW for requirements.
4. Underground electrical-VHB recommends extra manhole and maximum distance between manholes.
5. Additional information on electric connection on North Main Street, and indication of existing electric service.
6. Hydrant locations on Bertin plans to correspond to water line locations on Marchionda plans.
7. Coordinate hydrant locations with Fire Dept.
8. How buildings are to be heated, gas line and meter locations or fuel tank locations.
9. Size of water and fire protection water lines as well as water valve locations indicated.
10. Additional water shutoffs and gate valves included for each building.
11. No telecommunication locations or connections to existing services indicated.
12. Clarify and modify if needed details regarding underdrain proposed on Sheet 17 applying to Slope Paving and Rock Cut details on Sheet 11.

13. Lighting plan-entrance driveway, amount foot-candles-limited to abutters, should be no more than 0.5.

14. Regarding 2/17/15 letter-four foot safety fence at top slope cut or ledge cut-detail for this and location added to plans.

After Mr. Amico concluded reading the review, Mrs. Pedone asked the board for any questions that they might have. Mr. Amico summarized that the documents reviewed, in summary, included the ZBA's original decision, the amended decision, the 18-page Marchionda plans from 4/09, with revisions in Oct. 2010, supplemental layout and landscape plans, dated 5/28/15 plans, geotechnical investigation report, dated 12/3/04, with two plan sheets to supplement these, photometric plans from 9/21/15, 10/10, and site plan by Bertin Engineering, dated 5/28/15 with revisions through 8/24/15. Mr. Femia asked if the Marchionda plans were based upon 96 units? Mrs. Pedone responded that VHB reviewed what the Town had so far; she then asked Mr. Harrison if he had any comments? Mr. Harrison replied that they had addressed most of the items in the report. They are ready to submit a response but it is not completely ready and they want additional time for the engineers to meet to resolve outstanding issues. He asked if the board wanted to wait to go through the items? He would give an official response tonight. Mr. Ali added that (4) of the items requested by VHB have not been added, especially regarding the grading of the back; regarding the utilities, he has no answer yet; the transformer locations can be given by West Boylston Electric; and water connections given by the Water Dept. Mr. Harrison responded that they have updated plans and will have their engineer here to discuss them. Mrs. Pedone said that the board would want to go through some of the items for dates that they can get them to the board; they have a few additional items to discuss further. She recommended a small working session (and asked Town Counsel Carolyn Murray, who was present, what she thought of having a session including herself, the engineers and Mr. Harrison to work on some of the items? Ms. Murray replied that it would be productive, especially working with the 2009 plans with 96 units, and it could spare the board some of that time. Mrs. Pedone thought that review of the draft restated/amended decision should be saved for the working session. Ms. Murray added that there have to be definite dates to get the information. Mrs. Pedone continued that, of 5 items, 3 were approved at the meeting, 2 being the number of parking spaces to 172, and the building elevation, extended? Mr. Harrison suggested extending to the the next meeting and meanwhile meeting with the engineers. Mrs. Pedone asked if they could have a 30-day extension on both? Mr. Harrison said they could. Mrs. Pedone responded that this will be on the agenda for the next meeting, and meanwhile the working session will take place.

Mr. Harrison then said that he had housekeeping items to discuss from the last meeting, to keep the binders up to date, including a revised Table of Contents and additional items. In response to a question from Mrs. Pedone, he said that he does not have new documents to be

added, just the following items: Clerk of the Works letter, Executive proposal, Bertin letter, and add in a letter with the set of drawings. Also, he added, the dates of submission and status are updated as part of the Table of Contents. Mrs. Pedone suggested to Mr. Ali that he and Mr. Harrison have, prior to the working session, final documents so that everyone will have what they need.

Next, Mrs. Pedone opened the meeting to public comment, and instructed those present to give their name and address before they speak, and that they will only be discussing the peer review now. First Marc Frieden of Planning Board, who was present, asked Mr. Amico if he found that most of the drawings were there? Mr. Amico replied that they were mostly complete except for some questions (which were outlined above) and said that they were basically a complete set of plans , professionally prepared except for a few details.

Next to speak was John Owanisian. He wanted to clarify a few questions: first, regarding the geotechnical data, given the nature of the slope, what amount of blasting will be done or will it be cut and fill work? Second, he asserted that there was no reference to sewer connection. And, he asked if it was unusual to have this dense a project in a fairly rural area? Mr. Amico replied that he sees developments like this all the time in all areas. Regarding blasting, he would defer to the developer, but a ledge cut does not involve very invasive blasting, and a survey would be done first which may show that blasting may not be necessary. Mr. Ali added that some test holes were made, about three-feet deep, and hammer, not blasting, was used.

Mr. Amico asked Mr. Ali about the sewer question, and Mr. Harrison replied that there is the correct hookup to sewerage as part of the engineering review, and added that the original permit had to be specific to certain items. Mr. Ali added that the Sewer Dept. prepared a report, and determined that the project has enough sewer capacity.

John Hadley of the Board of Selectmen, who was present, then asked Mrs. Pedone, if Mr. Amico will have a final set of plans for all to review before the board signs off on them? Mrs. Pedone replied that the final set will be approved by the board before any work can begin, Mr. Amico will review them during the working session, and he will sign off on them before the ZBA reviews them.

Next, Mrs. Pedone closed the discussion to public comment, and next the board was going to address the VHB review; she wanted deadlines for the information requested to be received, and said that the board will be the conduit and will receive the information and forward it to Mr. Amico. The first item discussed was on p. 2, item 6, and she asked the applicant if the SWPPP was done? Mr. Ali replied that it was done. Mrs. Pedone asked if it was submitted to the board, and Mr. Harrison responded, referring to the Table of Contents, item #30, which was the engineer's stormwater management report and ADA letter. Mr. Amico added, if the board

did not get it, the applicant will provide it. Mrs. Pedone asked them if they could send it before the next meeting, and they replied that they would, and could add it to the Dropbox also.

The next item that she asked about was on p. 2-3, #4, regarding proposed recharge and surface and the significant slope. Mr. Harrison wanted to add that as part of the working meeting to get Mr. Amico comfortable and provide documentation. Mr. Amico said that, if the applicant needs input from the board, he may ask before the working session. Mr. Harrison added that they could come to the board to modify if they can't agree.

The next item of question was on p. 3, item 6. Mr. Harrison said that they would try to work that out as best as possible, and if they cannot, at the next meeting, will request a modification. Mrs. Pedone asked Mr. Amico if he needs the documentation prior to the working meeting? Mr. Amico replied that he received the letter this afternoon, so it is partially complete; they will finalize as best as they can, with revised plans, give a week to review, then the meeting. Mr. Ali asked, if he has the information next week, could he have comments in a few days? Mr. Amico responded that subsequent reviews will be quicker. Mrs. Pedone said to Mr. Ali that he should, by the end of next week, schedule the review by the end of the following week; so, by the 30<sup>th</sup> of October, can they have the working session the first week in November? Mr. Amico replied that that would not give them a lot of time to review; they really need at least a week. Mrs. Pedone then asked if they could have the working session the second week of November, send the final documents to the board, who would then give them to Mr. Amico, and asked them if they could set up a date? She added that the board wants to know how that stands, then they can set up the agenda for the November ZBA meeting.

Next, Mr. Femia referred to the Bertin report, regarding the hydrants, and said that he thought that the Fire Dept. chief gave his approval. Mr. Ali responded that the Fire Dept. chief and Water Dept. both signed off on that.

Mrs. Pedone then asked about the MHP project eligibility letter. Mr. Harrison replied that they are working with them on an updated commitment, and said that he would probably not have that prior to the working meeting. They still need an updated letter from Rockland Trust also. Mrs. Pedone asked if the MHP letter is final? Mr. Harrison replied that it is the same as the commitment letter.

(Mr. Harrison then handed out updates). Mrs. Pedone asked Town Counsel if anything else needed to be added for the draft amended and restated decision? Ms. Murray replied that she shared a copy with Ali, and is taking all of the original permit, amended decision, stipulation and putting them together into one document, but there is a problem in that the original permit was for 96 units, so they need new plans to modify for 80 units. Also, the board has to approve the modifications. So, at the working session, the applicant must fill in the missing information

and bring everything up to date. She thought that the changes that need to be acted upon will be insubstantial.

(Mr. Harrison commented that Town Counsel did an excellent job on bringing the documents together). He said that he spoke to Ed yesterday, and the housekeeping questions can be addressed in the working session, so at the next meeting the board can act on the changes. Mrs. Pedone clarified that the next meeting will discuss mainly clarifications, not act upon changes. Mr. Harrison added that they would provide, if there are any modifications, the official modification in letters.

Mr. Amico then asked if the applicant has chosen a Clerk of the Works yet? Mr. Harrison replied that they have the letter regarding who Mr. Ali hired, and MHP and Rockland Trust have their own, and he said that he would give Mr. Amico the information. Mr. Femia asked what the Clerk of the Works does? Mr. Harrison explained that he acts as the owner's representative, oversees construction from Mr. Ali's perspective; the Clerk of the Works for the bank protects the bank's interests-he makes sure that the money requested by the applicant is in line with what is supposed to be done.

Mrs. Pedone then said that follow-up items to the board should be in by the end of next week; during the week of November 9, the working session should take place; those items and the restated/amended decision will be on the agenda for the November meeting. She instructed that anything outstanding from the review or any modifications need to be submitted to the board before the meeting.

(With no further questions or comments from the board, Mrs. Pedone then opened the discussion to public comment). Mr. Frieden asked if there was going to be any technical review besides from Mr. Amico, such as from the Building Inspector? Mr. Amico responded that he originally coordinated with the Building Inspector, who provided him with all the documents, and the work is done through the ZBA.

Next Bob Bowen asked if the binder contains all old plans, and have they been updated and accepted by the board? Mrs. Pedone replied that the goal of the peer review was to review all the documents that the Town had, then any modifications would come to the board.

Mr. Bowen then referred to plans that were old, and asked if the board has accepted them as they are, have they been updated, or have there been no changes?

Mr. Harrison explained that he has provided a list of drawings and documents and any amendment dates; if a document is updated it will have the date amended on it; he also explained that the old set of plans is included because they refer to the original permit. Mrs.

Pedone suggested having on the list an indication of “not modified” if an item stayed the same; Mr. Harrison said that it would have “executed in 2015” listed.

Next, Mr. Owanisian, stating that there have been many revisions over many years for this project, asked if the revisions would have to go back to the court in Boston? Ms. Murray replied that revisions do not have to go back to the court, only if someone appeals it. She explained that insubstantial modifications are decided by the ZBA; if they decide that they are substantial, there must be a public hearing, with abutters notified, and a new decision written, but there is an opportunity for an appeal to be filed. Mr. Owanisian asked if there is only an appeal if the change is deemed substantial? Ms. Murray replied that anytime a decision is issued, there is the right to appeal it, but HAC would look at whether or not it was substantial. (With no further questions or comments, Mrs. Pedone closed the discussion to public comment).

#### **Review of 53(g) Fund Status by David Femia, Clerk:**

(Mrs. Pedone then asked Mr. Cronin to join the board to sit in on Mr. Femia’s review, and to vote on the minutes of 7/16, 8/20 and 9/17, which followed on the agenda).

Mr. Femia reviewed the most recent Departmental Expenditure Report with the board, reading the different accounts for the ZBA and their balances, in particular the escrow account for VHB. He read that the only payment from the ZBA made has been to the former 40B Consultant, Richard Heaton, for his services.

#### **Minutes of 7/16, 8/20 and 9/17 Meetings:**

7/16/15: After review of the minutes by the board members, Mr. Femia moved to accept the minutes as submitted. Mr. Rajeshkumar seconded. All in favor.

Mrs. Pedone then asked the board to postpone voting on the August and September minutes until the November meeting, as several members who attended those meetings were absent this evening.

#### **Other Business:**

Mr. Femia asked Mrs. Pedone, regarding an email about an upcoming Cumberland Farms project from their attorney, if the attorney expected a response from the board because the board has not heard anything further from him. Mrs. Pedone replied that the applicant needs to file first.

Mr. Femia informed the board that he attended a 40B conference on October 2, and Ed Marchant, the Town's 40B Consultant, was a speaker; he also briefly discussed the lectures that took place.

With no further business to discuss, Mr. Femia moved to adjourn the meeting at 8:26 p.m. Mr. Rajeshkumar seconded. All in favor.

Respectfully submitted,

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Toby S. Goldstein, Secretary

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