



Town of West Boylston

140 Worcester Street, West Boylston, Massachusetts 01583

Conservation Commission Meeting Minutes

Date / Time / Location of Meeting

Monday, 3/6/2023 6:00p.m./ MEETINGS TAKING PLACE AT WEST BOYLSTON TOWN HALL, LAND USE MEETING ROOM

Members Present

William Chase (Chair), David Mercurio (Vice-Chair), Emily Eaton, Carl Haarmann and Clerk Toby Goldstein.

Members NOT Present

Colin Cahill and Jeffrey Perkins (Associate Member)

Invited Guests

N/A

Welcome – Call to Order

Time: 6:00 p.m.

Approval of Previous Minutes

Minutes of 2/6/23 Meeting

Motion Originator Emily Eaton

Motion Seconded Carl Haarmann

Treasurer – Financial Report

Mr. Chase reviewed the report prior to the meeting; he briefly discussed with board this evening.

Motion to Accept N/A

Seconded N/A

At 6:00 pm, Mr. Chase called the meeting to order. Ms. Eaton made a motion to open the meeting. Mr. Mercurio seconded. All in favor.

Continuation of Review of Municipal Stormwater Bylaws and Proposed Changes:

(Kevin Duffy of DPW represented). This was a follow-up discussion from the February 6, 2023 meeting. Mr. Duffy explained that he hoped to obtain feedback on material emailed to the board after the last meeting; he and Jaurice Schwartz of Weston and Sampson highlighted areas to show specific permit requirements and comments on the previously discussed stormwater bylaw Rules and Regulations, along with a separate document to address additional requests from the Commission regarding other MS4 communities. Mr. Duffy added that he did not hear back from the board with comments, which he would present to the Selectboard. Mr. Chase

commented that the board did not see any positives of this, but sees the minus of a \$1,000 fee. He also asked if they were going to be exempting 1, 2 and 3-family residences? Mr. Duffy replied that they are just taking any comments from the board right now, and they will provide them to the Selectboard when they present all comments to the Selectboard. He reiterated that he never heard back after sending follow-up material to the board and suggested that the board email comments to them. In response to Ms. Eaton and Mr. Mercurio, Mr. Duffy replied that a number of areas were out of compliance so they were highlighted and summarized; because of being out of compliance in areas, it would not be possible to leave the document as it is now. Mr. Chase reiterated that the board did not approve of the \$1,000 fee, and suggested that they exempt one, two and three-family residences, asserting that there is not much building being done due to lack of buildable lots; he noted that commercial properties have a different process. In response to Mr. Mercurio, Mr. Duffy replied that the aforementioned fee is not an uncommon figure and there are other aspects and fees that are involved with this process, but they just inserted this number for discussion.

Mr. Mercurio commented that West Boylston is a small town where people want to build and thought that \$1,000 on top of the building permit fee would be excessive. He also questioned the need to change the bylaw and why they could not leave it as is? Mr. Duffy replied to Ms. Eaton that, if the Town is audited by EPA, they could be fined for not making progress, and he is letting EPA know that they are working on the process. (There was then some discussion regarding a question from Mr. Mercurio regarding the original stormwater bylaw).

In response to Barur Rajeshkumar who was in the audience (member of Selectboard, Planning Board and Zoning Board of Appeals), Mr. Mercurio replied that what the board votes on for a fee must be voted in by the residents of the Town, and the boards can make recommendations at Town Meeting, but if they are too stringent they will not pass. Mr. Mercurio and Mr. Chase reiterated the opinion that one, two and three-family residences should be exempt. In response to Ms. Eaton, Mr. Duffy reiterated that he did not receive feedback from the board on the highlighted paperwork. He asked for recommendations from the board that he could pass along to the Selectboard. He replied to Mr. Mercurio that it would be fine with him if the board wanted to lower the fee, and they should look at other towns' documents regarding other items.

Mr. Chase suggested to Mr. Mercurio that the 10,000 square foot threshold is the only other item that he wants to change. Mr. Mercurio commented that he looked at 22 other stormwater bylaws in central MA, there are a lot of 30- and 40,000 square foot thresholds, and he would like to see West Boylston's increase to 40,000 square feet as the State has in theirs; he believed that this should be one of any changes that are made. Mr. Duffy asked the board for an email or memo stating this, for clarity. The board had no problem with that.

In response to Mr. Haarmann, Mr. Duffy replied that often this fee is a combination of other fees and West Boylston may have fees that other communities may not have; he noted that it was highlighted for discussion and comment, not recommendation. He gave examples of what some of these other fees could be for, such as administration and reviews. He responded to Mr. Mercurio that he did not know the fees for other towns.

David Femia, Clerk for the Zoning Board of Appeals (who was also in the audience), asked if the fee is different for multi-family properties, such as 40 units? Mr. Chase replied that no fee would be fine for under three units and that commercial properties have different permitting anyway which he asserted is picked up in their permitting. He opined that no one will vote in favor of a \$1,000 fee at Town Meeting (Mr. Mercurio agreed), and also opined that there is little land left for that kind of building. Mr. Femia commented that this was brought up in the past by predecessors to this Commission board but then was not heard of again, and wondered if the Town is significantly noncompliant? Mr. Chase opined that rulings on the federal level by EPA may be on hold, but that Mr. Duffy has to get this work done. Mr. Femia suggested fixing 7 or 8 items and taking down the fee. Mr. Chase suggested that they could add a fee to the building permit fee as a one-time charge. Mr. Mercurio noted that the building permit fee is a percentage of the house's value.

Mr. Chase asked Mr. Duffy to let the board know how they are not in compliance and said that they can discuss it. Mr. Duffy reiterated that he will give comments to the Selectboard. He noted that the Town has been out of compliance for a long time and that they are aiming at having this together for the October Town Meeting.

Mr. Femia opined that they need to consider the Townspeople with whatever changes need to be made; Mr. Mercurio added that the board can recommend but the Townspeople have the final say. Mr. Chase opined that the fee and exemptions are most of what needs to be changed. (Mr. Rajeshkumar then discussed the Town Meeting process with Mr. Mercurio). Mr. Femia opined that, when the proposals go to Town Meeting, the board wants to be sure that they will be voted in. Mr. Chase told Mr. Duffy that he will get to him this week or next with the feedback. Mr. Duffy added that he will go to Planning Board and the Selectboard with the comments and put those comments with the other comments. Mr. Rajeshkumar agreed that it would be best to target the October Town Meeting rather than the May meeting. He noted that Planning Board has some other public hearings coming up. Ms. Eaton commented that October should be fine so long as the Town shows that they are working on the process and is making progress. Mr. Chase replied to Mr. Mercurio that Mr. Duffy will have comments from the other boards by the next Concomm meeting (April 3), but noted that the other boards have other concerns. In response to Mr. Mercurio, Mr. Duffy replied that he did not know of the State capping any permit fees. Mr. Chase re-stated his opinion that residential properties should be exempted, but commercial properties are different. Mr. Mercurio asserted that commercial buildings pay 7-digit figures, and Mr. Chase responded that they involve more complex work. In response to Ms. Eaton, Mr. Duffy replied that they would have to recommend as a board the separation of fees, with residential different than commercial.

Mr. Duffy then explained that he would not be meeting individually with the Concomm again; he wanted the board's comments this week so he can take them to the Selectboard. Mr. Femia noted that Planning Board had the stormwater bylaw on their agenda for this Wednesday's meeting. Mr. Chase said that he would get the information to Mr. Duffy before that.

Minutes of February 6, 2023 Meeting:

After review of the draft minutes by the board members, Ms. Eaton made a motion to accept the minutes as written. Mr. Haarmann seconded. All in favor.

Update on 0 Bowen Street:

Mr. Chase discussed that he met with the Building Inspector (George Tignor), and it appears that this is not a buildable lot, being under 40,000 square feet in area as one reason. Mr. Mercurio asked if they could seek a variance? Mr. Chase replied that they could do that. Mr. Chase then replied to Mr. Menendez, an abutter, that MA DEP had overridden the Concomm and issued a Superseding Order of Conditions. Mr. Chase added that the Building Inspector told him that the property was not grandfathered. He mentioned as an example a house on Prospect Street that someone wanted to buy but they could not obtain a building permit; someone could do that with the 0 Bowen property and might not be able to obtain a building permit. Mr. Chase also responded to Mr. Rajeshkumar that another house abutting is illegally built also; he explained that, under State law, there are three years to change the contract but if it is not done within that time, there will really be a problem. In response to Mr. Menendez, Mr. Chase replied that the Town has not opted to purchase the property as they are involved in other matters. Mr. Femia and Mr. Chase then discussed the problems with water on the property. In response to Mr. Menendez' question regarding the property owner knowing about the buildability of the lot, Mr. Chase suggested to him that he talk to the Building Inspector before doing test pits because of marshland on the property and he thinks that he will not be able to obtain a building permit to build a house there. In response to Mr. Femia, Mr. Rajeshkumar opined that the owner did not legally have to disclose the buildability of the lot to a potential buyer; Mr. Menendez disagreed. Mr. Chase opined that it is not the Concomm's obligation. (Mr. Chase, Mr. Rajeshkumar and Mr. Mercurio discussed other examples of this). Mr. Menendez and Mr. Femia asked Mr. Chase if the lot could be split? Mr. Chase replied that this could be done, but noted that the house next door is illegally built so that would not work; the board and those present then discussed lots and houses, illegal houses and taking back of land. In response to a question from Mr. Mercurio regarding possible CPC purchase of the land, Mr. Chase replied that there is a legal issue as to whether the lot must be sold as one whole piece or divided up, but he opined that solving the problem will be dictated by expense and he asserted that the Conservation Commission had done their due diligence regarding the permits requested on this property.

Update on 256 Worcester Street (Meola):

This matter was discussed at previous meetings; Mr. Chase explained to Mr. Mercurio and Mr. Femia that there were complaints from neighbors about trees being cut down and he resolved it. An agreement was written up between the neighbors and Mark Meola, owner of the property, and signed by them. Mr. Chase noted that Mr. Meola will put up some trees to take the place of the ones cut down so that the neighbors will not have to see the Meola's Wayside Ice Cream's business, and will also take down some trees. Mr. Chase noted that he met with DCR and DEP about this.

Update of Prospect Street:

Mr. Chase explained to Mr. Rajeshkumar that this is the property with dumpsters placed there by Dr. Tashjian years ago. He described that there are three lots there. Mr. Chase noted that they already took Dr. Tashjian to court about it. Mr. Chase proposed a deal to buy two lots, and pay taxes back to the Town for each lot. As it will be greater than three years, the bank cannot get it back (Mr. Chase explained what happened and the plans). He added that Sondak Realty technically owns it and had plans to clean up the property; the bank wants to get paid for the land but doesn't own it and has to negotiate with them. In response to Mr. Menendez, he replied that the Building Inspector does not know who actually owns the property, therefore he does not know to whom he should issue a fine for violations; Mr. Chase explained the fining process to the board members.

Informal Discussion on NOLA Cajun Kitchen Restaurant:

Mr. Chase explained that they are meeting with DCR; he described that trees were removed and there are drainage issues; he wants to give the owner permission to hook the drainage from Meadowbrook Plaza to a pipe, put it into a tank and run it across the road.

Treasurer's/Financial Report: Mr. Chase reviewed the most recent report at the meeting and discussed it briefly with the board.

Miscellaneous Mail and Paperwork: Mr. Chase had reviewed any mail prior to the meeting and noted that there was nothing to report.

NEXT SCHEDULED MEETING – MONDAY, APRIL 3, 2023, AT WEST BOYLSTON TOWN HALL.

With no further questions or comments, Mr. Mercurio made a motion to adjourn the meeting at 6:51 p.m. Mr. Haarmann seconded. All in favor.

Submitted by: _____

Reviewed by: _____

Date submitted: _____

