



**MEETING MINUTES**  
**July 13, 2016**

Chairman: Christopher Olson

Members Present: Marc Frieden, Cheryl Carlson, Barur Rajeshkumar

Members Absent: Vincent Vignaly

Others Present: See Attached Sign-In Sheet

**All documents referenced in these Minutes are stored and available for public inspection in the Planning Board Office located at 140 Worcester Street.**

The Chair opened the meeting at 7:00 p.m.

99 Hartwell Street (Discharge Pipe) – Adam Last (Corporate Environmental Advisors) attended on behalf of D&S Realty (owner of 101 Hartwell Street). He visited the property and looked at the area of concern. He said previously there was an overflow pipe that discharged to the retention basin which was the point of contention between the two parties. According to Waste Management, they have a Multi-Sector General Permit (issued by the EPA) and it is not allowed; it is a facility specific permit. When the drainage system at 99 Hartwell was modified and the overflow pipe was installed, it was a violation of Waste Management's Permit. Within the last few weeks, the overflow pipe has been eliminated and the pre-existing conditions have been restored. Mr. Last provided and explained photos of the basin that were taken earlier in the day. He did not have confirmation on the as-built characteristics as to whether they capped or eliminated the pipe or whether any overflow now exits the top of the catch basin. He has reached out to the engineer at 99 Hartwell Street. Mr. Olson contacted Mr. Diverdi and made him aware of the meeting and was told that they were working with their engineer to resolve the problem. He will contact them to get additional information and asked Mr. Last that he or Mr. Migridichian provide information to the board that the recent work is adequate from both sides' viewpoint. Mr. Last said once he receives confirmation from the engineer for 99 Hartwell, he will reach out to Waste Management and confirm with D&S Realty to see that it is satisfactory from their viewpoint. Based on what he saw today, it is his conclusion that the conditions were restored to the pre-existing conditions.

Wachusett Plaza SPR (new site work across from Cumberland Farms) – Andy and Anthony Surabian were present. Andy Surabian said the only change from the plan that was approved in 2009 was the parking and driveway access location because Cumberland Farms (CF) changed their exit location. He said CF received approval from the Planning Board to move it. Mr. Frieden said CF was told during our meetings with them that they had to inform Mr. Surabian that it is invalidating the existing Site Plan Approval and would require Site Plan Review. Mr. Surabian said he was never told. He said there was no change to the infrastructure and the drainage was already completed; the infrastructure for both pads was done in 2010-2011. Mr. Frieden said there was a drain line that goes under the road. Mr. Surabian said CF needed to move the system and in the process they forgot to connect his pipe to the system. Mr. Frieden

said engineering review was needed. Mr. Olson said all calculations for CF were reviewed by our engineer and their part of the site was good to go. Mr. Surabian said that review now included his part of the drainage and the only part that may need review is the parking. Patrick Healy said the original approval was for a 2,900 square foot building; it has been reduced to 2,758 square feet. No changes were made to the drainage. The only digging done was to remove the old dirt. They did change the parking layout; there are still 12 parking spaces but it is now directly opposite the entrance/exit of CF. The Building Inspector has issued a Building Permit.

Mr. Frieden said we would want VHB to inspect the construction. Mr. Surabian said VHB did inspect it and except for the new way out of the drive, it was approved; he was only waiting to build a building. Mr. Frieden said there were some changes and it would be best to have them do a construction inspection and report back to the board. Mr. Olson said we will want record of the changes from the plan, and the later we wait and give it to VHB, the greater the risk to Mr. Surabian that they will find something wrong. Mr. Olson read the July 8, 2009 Certificate of Final Site Plan Approval letter in which #5 states that “construction shall conform to the Approved Site Plans; and shall not be changed, amended or modified without prior approval of the Planning Board”. Mr. Healy will contact VHB and go over the checklist with him. The building is in the same place it was approved for, there were no changes to the drainage, and the digging was for the footing for the foundation. Mr. Olson wants to be sure that the Site Plan is updated appropriately. If it is an insignificant change, it can be incorporated on the as-built plan. Mr. Healy will send the original site plan and modifications to VHB.

Brian Falk (Informational Presentation – 0 East Mountain Street/100 Century Drive) – Attorney Falk (Mirick O’Connell) on behalf of Worcester Behavioral Innovations (WBI) and Patrick Healy (Thompson-Liston) were present. Atty. Falk said WBI is looking to acquire the property located at 100 Century Drive. The property is divided between Worcester and West Boylston. The building is located in Worcester; West Boylston contains the parking and some landscaping. They will be applying for Site Plan Approval for the change in use which affects more than 15 parking spaces. All of the use is from offices to mental health services. There are 66,000 square feet for hospital services and 15,000 square feet for outpatient services. There are no changes to the exterior of the building, only the interior. Mr. Healy said there is adequate parking. Mr. Olson said he would like to know how busy the traffic is in those spaces currently, and how might that change as to the parking itself. Ms. Carlson felt the traffic flow would impact Worcester. Atty. Falk said there are at most 200 employees and it is a 24-hour facility. They do not want the use to be challenged. Site Plan Review would be minimal. Mr. Falk was told to submit an existing conditions plan for the Site Plan Review and include a letter of the requested waivers.

Old Business/Outstanding Issues/Follow-Ups:

1. Village Zoning Initiative with CMRPC –The draft letter was updated. Mr. Olson will forward it to various departments/committees with comments (both positive and negative) requested back by August 10<sup>th</sup>.
2. Angell Brook Village (Status Report) – The O&M is continuing to be updated. Work is progressing.

3. CMRPC Email (Assistance with Updating Sign Bylaws) – Mr. Olson contacted Jayne Armington. She is working with the Town of Sutton and will share with us the results and information by the end of the summer.
4. Beaman Memorial Public Library (Funding Sources) – Ms. Carlson spoke with Anna Shaw (Library Director). She is meeting with Jamie Hoag from Holy Cross to discuss the Library and the significance it has in the town. She also spoke with the Town Administrator who will be meeting with the Board of Selectmen to prioritize ideas.
5. Senior Center as part of Senior Housing – Ms. Carlson checked with the Senior Center in Westborough. The Senior Center is not associated with the Senior Housing, but they are on the property. It is very popular and well used by the town; a practical possibility; no negative impact to the town.
6. ZBA Update (Shrine Avenue, Lot 1R – Adding 8 Residential Units) – The application is before the ZBA. Dave Femia said it was originally approved in 2006 for 4 units; they now want to add 8 additional units, increasing the total number of units to 12. Because of the increase in the number of units, it no longer needs to go before the ZBA; it is a Planning Board issue and requires a Special Permit. Mr. Olson will email the ZBA Chair and inform her.
7. ZBA Update (101 Goodale Street – Request for Variance/Special Permit) – The Building Inspector said their plan is to create an accessory apartment above the garage for his parents to stay seasonally. He plans to move there and tear down the existing house. The original Petition was for a Special Permit from the ZBA, but is now a Variance. Section 6.2.F of the Zoning Bylaws says that the ZBA must find that "owing to the circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structure, but not affecting the general zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise." Mr. Olson will send a letter to the ZBA Chair informing her that based on the limited evidence of record, it is not clear to the Planning Board how this intentionally high standard has been met by the applicant's Petition.
8. ZBA Update (90 Sterling Street – 24 Unit Condo) – It is not clear whether the current use and structures meet the definition that they are lawful, pre-existing nonconforming structures and uses. There are questions around the density requirement as well. There were 40 bedrooms in the motel which far exceeded the number of residential units given the square footage of the lot. This is a ZBA issue, not a Planning Board issue, and thus, the Planning Board's role is merely advisory.

Mr. Frieden said they are proposing to alter a nonconforming structure, which is the basis for a Special Permit from ZBA. Currently the density requirements are not conforming. They are asking that they not conform because it is already not conforming and they would not be making it worse. The proposed use is a conforming use (multi-family, more than 4 units) with a Special Permit from the Planning Board under the town's schedule of use bylaw. Thus, the question is whether what is currently there was a legal nonconforming structure, because if it was, the ZBA can decide whether the proposed structures are not more detrimental to the neighborhood, under Section 1.4.B. It should be the burden of the

petitioner to prove that the current nonconforming structure is legal, and thus, capable of being the basis for alteration to another nonconforming structure.

Mr. Frieden said he did not believe the nonconforming use of a motel was abandoned and was active until less than a year before this application. He would like to ask the ZBA to impose an increased parking requirement of three parking spaces per unit and four parking spaces for three bedroom units. The PB can only enforce zoning, and zoning allows two spaces per unit. Mr. Olson said we can only reject an application for Site Plan Review for very few reasons. He said because they are asking the ZBA for an extension of the nonconformities, the ZBA has the power to limit what that new nonconformities will be. The petitioner is basing their case on what is currently there, not on zoning. Mr. Olson will send a detailed letter to the ZBA Chair with the board's comments. Mr. Frieden will send his letter with his personal opinion regarding the parking issue to the ZBA Chair.

### **New Business/Review of Correspondence/Emails Received:**

1. CMRPC (Appoint Planning Board Delegate) – Chris Olson agreed to be the delegate.
2. Flagg RV Site Work – Bentley Herget (Building Inspector) did not realize it may have required Site Plan Review since they are not increasing floor space by more than 25%. They removed the metal building and will be replacing it with a larger one. The canopy will be removed as well. Representatives from Flagg RV noted there is only one business established on site. They received approval from the Conservation Commission. The Building Inspector said the foundation hole is dug in the same footprint and because it is not 25% more than what they originally had, he did not think it needed to come to the Planning Board. No trigger for Site Plan Review was established.
3. Cumberland Farms Change of Signs – It appears based on discussions and considering what was approved by the Planning Board, it is not a significant change to the plan. It will need to be incorporated on the as-built plans.
4. The Complete Streets Policy was approved by MassDOT.
5. 2017-2021 STIP Draft – It is now available for public comment according to the email that was received.
6. Complaints were received that construction at Holy Cross (1000 Goodale Street) is starting before 7AM. Mr. Olson will email John Lapomardo and copy the Building Inspector. The Subdivision Regulations state that “construction activities are to occur only during the hours of 7 am through 7 pm., Monday through Saturday”. This statement will be added to all construction letters going forward.

Reports from Other Boards – Mr. Rajeshkumar said there will be a Special Town Meeting on August 8<sup>th</sup> regarding TIF (Tax Increment Financing) for 70 Hartwell Street.

Mr. Frieden said the Affordable Housing Trust met. The public hearing for the proposed housing behind Orchard Knoll went well.

**Citizens' Comments** – None tonight.

**Review/Approve Payment of Invoices and Review Draft June 22, 2016 Regular Meeting Minutes** – Invoices were approved. Mr. Frieden made a motion to approve the June 22, 2016 Regular Meeting Minutes; Mr. Rajeshkumar seconded; all voted in favor; motion approved.

A motion was made by Mr. Frieden to adjourn; Mr. Rajeshkumar seconded the motion; all voted in favor; motion approved. The meeting adjourned at 11:01 p.m.

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

By: \_\_\_\_\_  
Vincent Vignaly, Clerk

Submitted by: \_\_\_\_\_  
Melanie Rich