



TOWN OF WEST BOYLSTON PLANNING BOARD planningboard@westboylston-ma.gov
140 Worcester Street ** West Boylston MA 01583 ** Phone 774-261-4073

ZOOM MEETING MINUTES

September 14, 2022

Members Present: Sarah Miles (Chair), Marc Frieden, Vincent Vignaly, Francesco Lopriore, Barur Rajeshkumar

Members Absent: None

Others Present: Igbal Ali, Jacquelin Leonardo, Jeff Turgeon (Worcester Sports Foundation), George Tignor, Jennifer Warre-Dyment

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 Zoom meeting at 7:00 p.m. and announced that pursuant with Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law July 16, 2022, the West Boylston Planning Board is being conducted remotely. Members of the public who wish to view the live stream of this meeting can do so via the link listed on the agenda.

Members Present: Frank Lopriore, Vincent Vignaly, Barur Rajeshkumar, Marc Frieden, Sarah Miles

Citizens' Comments – None tonight.

Ms. Miles welcomed the new Town Administrator, Jennifer Warren-Dyment, to West Boylston and for attending our meeting tonight.

Old Business:

Nuha Circle Request for Street Acceptance Update – Mr. Ali talked to his attorney and said he can finish the punch list and can resign as a trustee if the homeowners don't want to be trustees. He said he is on the drainage trust and every house in the property had their drainage trust recorded before they bought their house. If no one wants to be involved in the drainage trust, he will resign as trustee and wants assurance that the Planning Board won't have any problems with it. Mr. Vignaly said that would be difficult because someone has to manage the HOA for stormwater maintenance; but there is snow plowing and the lights have to stay on; the road has to be operatable. Mr. Ali said he is going to resign as a trustee. He was told he is still the owner of the road and is still responsible for the utilities and everything in his road. Mr. Ali said he will finish the road per VHB and go for acceptance. If the town won't accept the road, he won't plow it and said he will get a waiver. It's being held in a company, not his personal name, so he can leave the bond. He wants some assurance from the Planning Board that if he finishes the road work and there is no trustee, that the Planning Board will accept the road on the agenda. Ms. Miles said the board cannot give that guarantee, it has to go to town meeting.

Mr. Rajeshkumar asked what his position was on the HOA and was told he is the only trustee. Ms. Miles said the deadline by which it needed to be transferred to them has passed and the homeowners don't have to do anything. Ms. Leonardi said in Mr. Ali's documents, the HOA was supposed to pass to them by February 20, 2020. In the HOA they signed originally, all it stated was the drainage and basin; there was no mention of road or electrical. The homeowners don't want to form an HOA or sign any document because they will be responsible for the maintenance of the road and everything else because it hasn't been completed. They are questioning the validity of the document that is in place currently and not willing to sign anything until more is done, agreed on, and promised to them; there was never an agreement for road maintenance, plowing or street lights. Mr. Rajeshkumar said they are talking about two different things: the HOA and the acceptance of the road. The HOA is there but has only one person on it. Mr. Ali has been trying to get the homeowners to take it over. #1 and #2 Nuha Circle are not part of it. Mr. Rajeshkumar explained that Mr. Ali has to ask the town to take over the road; when that happens, the town will plow it. He is talking about walking away from the HOA, not the road. The town won't accept it unless it meets the criteria for road standards; the townspeople have to accept it. As far as extensions, he said the board has given extensions and the approval is still valid. Ms. Leonardo said the subdivision agreement was extended to June 30, 2021. Mr. Vignaly said it should be discussed with Town Counsel.

Mr. Frieden commented that this is why we bond projects. Mr. Vignaly said the bond is in place for the work to get completed; the paperwork was to be in place at the time of approval or before the building permits were issued. Mr. Frieden encouraged Mr. Ali to finish the work instead of going to the bond. Ms. Leonardo said the catch basins haven't been cleaned and questioned the condition they are in. Ms. Miles said we need to get to completion and hopes the homeowners will agree to take on the HOA so we can move to the street acceptance. Ms. Leonardo has seen the punch list but no bank account information; it's been over three years since Mr. Ali has been there; they would like to see some good faith from him. She asked what happens if it isn't accepted at town meeting and was told it goes back to the developer. Ms. Miles said it is in his best interest to complete it and move on since he has other projects in town. Ms. Leonardo suggested before transferring the HOA that they meet with the board and Mr. Ali at a separate time to ensure that everything is done accordingly; the board agreed. Ms. Miles said we will need the documents for the transfer. Mr. Ali said they are prepared.

Ms. Miles said the residents would like to see some of the work being done before signing off on it. The documents have to be in place and transferred before the board can recommend accepting the road. The best thing is for Mr. Ali to take some action and complete some of the things. She is willing to call a meeting and organize it, but will not do that until she receives a report that some of the work on the punch list is being done. Mr. Ali said that's not acceptable to him. He was asked what his alternative is. He said it looks like the board doesn't have faith that he will complete the project. He said he sent registered letters to the neighbors and they didn't show up, now they show up, and now we want to have a meeting, come to an understanding, then we start working. If the board is not ready to accept their part, it is his good faith to come to the meeting, take care of it and accept punch list, he is going to do it. Ms. Miles suggested he start some work, he has the punch list, to please start the work and we will hold the meeting. Mr. Ali said no, he wants to give the bond, the town doesn't have trust in him finishing the work on Nuha Circle; let the town finish it.

Mr. Vignaly said we have two parallel things; they don't have to go one after the other. Mr. Ali needs to build the road to get the road accepted to not be responsible for plowing and paying for the light bill. If we can get the HOA established, they are not accepting responsibility for all these things, only whatever the specifications are in the HOA. They are not taking responsibility for substandard

pavement, filled in catch basins, until the road has been accepted by the town. Mr. Vignaly thinks we can work them in parallel and get them done. Town Counsel is needed to find out if there is appropriate wording in the HOA; the original document was approved by Town Counsel years ago. We need to see how wording is interpreted or what Town Counsel believes will occur with these conditions, that the HOA hasn't been established, there are no trustees other than the developer, and what does Town Counsel believe the next step is to be taken and how can we make it understandable for the homeowners before meeting with the developer to establish what is going to happen with the HOA. We need a response from Town Counsel before we set up a meeting for the HOA so we have answers and know how to proceed. Mr. Ali will send a copy of the most recent HOA and transfer documents to the board. Ms. Miles said we will set up a meeting with the residents and Mr. Ali at Town Hall; the date will be set when we hear from Town Counsel.

Westland Circle Outstanding Issues (Fencing, HOA and Pathway) – Mr. Ali has worked with the homeowners on the HOA; it had not been finalized because they were waiting for the sewer issue to be resolved; they have agreed to accept it. Mr. Ali started working on the detention pond today; he is putting the fence in; he is trying to finish everything so it will be on the spring town meeting. Samantha Coons (29 Westland Circle) asked if the sewer was accepted by the town and was told it has not been accepted but there is a commitment by the Sewer Commission to accept it. Mr. Frieden said the change has been to put it as part of the road acceptance. A resident asked since the HOA was not brought up when they bought their house, how does that work and what does it entail from them. Mr. Ali said his attorney hasn't gotten back to him about the drainage part; he is working with the homeowners to see if they will accept it. Mr. Vignaly didn't think it was on their deeds; it's on the property deed before it was divided. He suggested that Mr. Ali send the draft wording to the homeowners and explain to them what is involved.

Diane Bashaw (32 Westland Circle) said most of them were not aware of any association when they purchased their property; there was nothing on their deeds. She said there was a problem with the walking path; she didn't think anyone would want to take on the responsibility and liability. They would also like everything be divided between 9 homes, not 8. Mr. Ali said in regards to the 9th house, it was an ANR lot that was subdivided and not on the plan. All the others were approved by the Planning Board; it was the only document recorded. They can be asked if they want to join the HOA. With regard to the walking path, the homeowners are currently responsible for it. If there are other issues between the homeowners and Mr. Ali that we want to get addressed by Town Counsel we should have a list; submit it to the board and the board will consider what we can answer and what will be sent to Town Counsel. Mr. Ali will set up a meeting with the homeowners, make a list of their concerns and send it to the board. Mr. Frieden wanted to know if he understood it correctly that the permit the board approved was for 8 houses of the 9 that are on the street. The board permit requires, for street acceptance, an HOA. There is a disconnect that the original sale didn't include anything about it. This should have been picked up before Certificates of Occupancy were issued. Mr. Ali has to make it beneficial for the homeowners to join after-the-fact. Mr. Frieden didn't know if we could accept the road without someone maintaining the drainage, which would be the HOA. There would be a disconnect that as the Planning Board, we can't go to the town and say it's all set without an HOA; this is a legal issue. It can be formed, but the requirements on the deed need to be in place.

Ms. Bashaw thought because of the sewer issue, a new HOA would have to be written to be considered. Mr. Frieden said he didn't believe it was included any longer, the town will accept responsibility for the sewer once the road is accepted. Mr. Vignaly said they are still dealing with what was the approved plan. We need something submitted to the board to make changes. The homeowners

need to figure out what they don't like and some they will have to deal with. They will have to deal with maintenance of the detention basins and all the stormwater treatment units. The homeowners are also responsible for the walking path. It could be changed like the sewer issue but there is a process; it would have to go to Parks, DPW and the Board of Selectmen. Mr. Ali has been agreeable and continues to work with the town. He will work with neighbors to set up a meeting; he told them to make a list of concerns so he can bring it to the board for any issues that need Town Counsel input.

New Business/Review of Correspondence/Emails:

Jeff Turgeon re 152 Prospect Street to discuss the proposed use and see if the board would support a zoning variance – The Worcester Sports Foundation is in preliminary talks with the seller and wanted to see if it's a fit before moving forward. Mr. Vignaly asked if they looked at the deed to see if there were any restrictions on the property. Mr. Turgeon said they only saw a 61A restriction; the property is made up of 3 different parcels. Mr. Vignaly said when he was drafting the Open Space & Recreation Plan there were discussions about putting a walking path there but was told there was a DCR restriction on the property and it doesn't allow alterations. Mr. Turgeon will do due diligence after this meeting. He gave a power point presentation. It's for Worcester Sports Foundation/Worcester Rugby program.

He wanted to know if the board thought it was worth pursuing or not. Mr. Vignaly said while the presentation of going, he checked the Registry of Deeds, Book 19841 Page 76. The restriction that DCR has on the property states no path, no buildings, no alteration. All the programs are a great idea, but based on the deed restriction doesn't think he will get a permit. The Assessor cards also show that DCR holds a restriction on it; the Seller should be required to disclose that. Mr. Vignaly suggested the property on Prospect Street south of the golf course owned by DCR. Possibly acquire it from them or have a cooperative agreement with a non-profit. He told Mr. Turgeon to read the Open Space and Recreation Plan on the town's website. Mr. Frieden said if it's not open to the public, how do you use it; Mr. Turgeon said they would have a suggested donation. Mr. Frieden recommended meeting with the DCR.

Resident Complaint about Odor from 215 Shrewsbury Street – Ms. Miles said the project has been completed through the Planning Board's jurisdiction, but there is a zoning issue. Mr. Rajeshkumar said the board gave assurance that there should not be any odor from the place. We did approve it, but when the project is completed, it is the Building Inspector who enforces it, not the Planning Board. Mr. Frieden said it does have to go to the Building Inspector but there is additional enforcement possible because it is a state license. Mr. Tignor can talk with the state about enforcement. He went to the site with the nasal ranger; there was very low or not recorded responses which was good. He spoke with the owners who hadn't noticed it. An email from the Assistant Assessor who was out to the site said it did smell; there is an issue and it is specific to the day and time of operation; Mr. Tignor will notify them. Ms. Miles wanted to remind people that it is legal in the state to possess, smoke and grow marijuana in their homes, so it may not be the business; there are a multitude of ways it could be happening. Mr. Rajeshkumar suggested Mr. Tignor visit the site periodically. Mr. Tignor will monitor and contact the complainant to see if there is a certain time it's happening.

Reports from Other Boards: None tonight.

Invoices were approved for payment. Mr. Vignaly made a motion to approve the draft August 10, 2022 Meeting Minutes; Mr. Frieden seconded; roll call vote: Lopriore-yes; Vignaly-yes; Rajeshkumar-yes; Frieden-yes; Miles-yes; motion approved

October 12, 2022 at 7:00 p.m. was confirmed as the next regular meeting date and time. It will be a ZOOM meeting.

Mr. Rajeshkumar made a motion to adjourn; Mr. Frieden seconded; roll call vote: Lopriore-yes; Vignaly-yes; Rajeshkumar-yes; Frieden-yes; Miles-yes; motion approved

The meeting was adjourned at 8:45 p.m.

Date Accepted: _____

By: _____
Marc Frieden, Clerk

Submitted by: _____
Melanie Rich