



MEETING MINUTES October 13, 2021

Members Present: Paul Anderson (Chair), Sarah Miles, Marc Frieden, Vincent Vignaly, Barur Rajeshkumar

Members Absent: None

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 7:05 p.m.

Citizens' Comments – None tonight.

The regular meeting resumed at 8:10 p.m. following the public hearings for 73 West Boylston Street and 2 Goodale Street.

2 Goodale Street – Ms. Miles made a motion that the Planning Board recommend the zoning change at 2 Goodale Street to change it from General Residence District to a Business District as described in Article 15 of the Town Warrant; Mr. Frieden seconded; all voted in favor; motion approved. Mr. Anderson will inform the Selectboard of the board's recommendation of approval.

Old Business:

Westland Circle Subdivision Construction Status – Mr. Ali said as far as the sewer issue, a revised as-built was submitted to the town; he is waiting for the review. Attorney Finkelstein thought that because the subdivision approval had a provision that said the town would not take over the sewer and it would be maintained by the Homeowners Association (HOA), that the board was willing to amend that condition and said there is a way to amend by holding a public hearing. He said it wouldn't affect any particular lots, only the provision of ownership and who would maintain it. Mr. Vignaly said the board is not going to amend the approval if the Sewer Commissioners and the DPW don't think it's a good idea. As part of Mr. Ali's application to the board to amend the Subdivision Approval, documentation needs to be submitted to show that the Sewer Commissioners and DPW are in agreement and there is a Sewer System Operation and Maintenance Plan that the HOA, the homeowners, and the town are ready to accept. The past DPW Director at the time of the subdivision review/approval didn't want to accept the pumps and force main sewers; he only wanted to accept the drainage, water, and utility pipes in the public roadway. The pumps will be maintained by the homeowners since they are not located in the town road layout.

The board also asked about the legalities of the walkway. Mr. Vignaly said the approval and the way it was proposed to the board in the initial application for the subdivision was that the HOA would accept responsibility and maintenance of the walkway in perpetuity. Now there is a question of the HOA existence and whether they will accept the condition. Mr. Anderson said the adjacent property owners are concerned about with liability. Ms. Miles said they also did not realize they had to be part of the

HOA when they purchased their property. Mr. Vignaly said the people who bought the houses are not aware they are in a HOA. Are they in an HOA? And how can Mr. Ali make that all work out? Currently the HOA is Mr. Ali. Attorney Finkelstein said he wasn't aware of the walkway issue. He said there are a number of issues to address. They need to get the information needed from the Sewer Commission. Mr. Vignaly commented that the bigger issue is the HOA. The board will not entertain the 81W to change the sewer until all the legal issues are addressed. The bond will be held until all the work is done and the fence is in place.

Mr. Ali asked who has to approve it, the Sewer Commission or the DPW. They met with the Selectmen and was asked for the details of the plan which he has done. He was told the Selectmen can recommend it but not approve it. Mr. Vignaly said the Selectmen are acting as the Sewer Commissioners; they are responsible for the sewers. The DPW Superintendent makes recommendations to the Sewer Commission. If the Sewer Commissioners and the DPW recommend changes to the Planning Board, then those will be incorporated into an Amended Subdivision Approval. Everyone seems to be going in the right direction. Mr. Rajeshkumar said there is a new DPW Director who needs to be updated, and they are trying to coordinate a meeting.

The resident of 32 Westland Drive asked about the fencing and the pond that is on her property. She is concerned because the fence has not yet been put in. Mr. Vignaly said it is a liability to Mr. Ali. Mr. Ali said the Planning Board is holding the bond for the section that needs to be done. He was told he needs to send in a request for a bond reduction. The prior request to reduce the bond was denied. The fence needs to be installed promptly.

Ms. Leonadro asked who will be in communication with Mr. Ali about the HOA and pump systems and inform the residents. Mr. Vignaly said we need to find out what the process is from the attorneys for it to happen. There is an HOA document in place and it is legal, but it is not in the homeowners' deeds so we are not sure it is legal. The board needs the legal decision of what the conditions are before we can move forward. Attorney Finkelstein will draft something and the board will send it to Town Counsel for review before acting on it.

A resident commented that as far as the walkway is concerned she recalled the original plans for the whole development stated and thought it was discussed at other meetings, that the town would be responsible for the walkway. Mr. Vignaly didn't know where it was discussed that way because it is clearly stated in the approval letter that the HOA will be responsible for it in perpetuity. Mr. Vignaly explained there is an easement on the pathway as well as on the drainage system so that if the HOA does not do the required maintenance, the town can do it and charge the HOA. Joe Agnelli (33 Westland Circle) commented that if the board followed the approval, which states that Building Permits would not be issued until the recorded HOA was submitted to the town, they wouldn't be talking about it now; there would not have been issues with the permits. He said legally if the HOA is not on record, they can't be forced to join it. Attorney Finkelstein said if they are drafting a new HOA, they will have to be in contact with all the neighbors. When asked if information could be ready for the November meeting, Attorney Finkelstein doesn't know Mr. Ali's progress with the Sewer Commission and with the HOA thought it was a little ambitious to have everything done by November. At the earliest it would be December and he will notify the board ahead of that meeting if they are prepared.

Nuha Circle Road Acceptance Status – Attorney Finkelstein said he is looking for guidance from the board or permission to talk to Town Counsel about the procedure. Mr. Vignaly said there is a street acceptance procedure, and he would need approval to talk with Town Counsel. Mr. Anderson told him

to forward his questions to the board. The performance guarantee is going to expire. Attorney Finkelstein will request an extension before it expires. He may have to do an 81W for the subdivision approval as well. Ms. Leonardo commented that it is the third extension on the bond; everything was supposed to be completed by February 2020. Mr. Vignaly explained that if the board does not grant the extension, the town would have to execute the bond and the town completes the work. He also explained to the attorney the situation with the HOA is that the frontage lots next to the subdivision were not included in the original HOA; the driveways were changed from coming off Prescott Street and now coming off the subdivision road; they have numbers on Nuha Circle. They are now willing to be part of the HOA. The board needs that documentation. Attorney Finkelstein said that will happen before the December meeting.

New Business/Review of Correspondence/Emails:

67 West Boylston Street (Campfire Cannabis) Amend Special Permit – Accept application and schedule a public hearing date – The application was accepted and a public hearing scheduled for November 10, 2021 at 8:45 p.m.

Review Town Meeting Warrant Articles – Ms. Miles made a motion that the Planning Board recommend approval of Article 16 to change the reference to the Zoning Map in the Zoning Bylaws; Mr. Frieden seconded; all voted in favor; motion approved. Mr. Anderson will send a letter of recommendation to the Selectboard.

Reports from Other Boards:

Invoices were approved for payment. Ms. Miles made a motion to approve signing them after the paperwork is prepared; Mr. Rajeshkumar seconded; all voted in favor; motion approved.

Ms. Miles made a motion to approve the September 8, 2021 Meeting Minutes and Public Hearing Meeting Minutes for 20 Holt Street and the September 22, 2021 Meeting Minutes and Public Hearing Meeting Minutes for 699 Thomas Street; Mr. Rajeshkumar seconded; all voted in favor; motion approved.

Ms. Miles made a motion to approve the September 8, 2021 and September 22, 2021 Public Hearing Meeting Minutes for Bethlehem Bible Church; Mr. Rajeshkumar seconded; Miles-yes; Frieden-yes; Rajeshkumar-yes; Anderson-yes; (Vignaly was recused); motion approved.

November 10, 2021 at 7:00 p.m. was confirmed as the next regular meeting date and time which will be held at the Town Hall Board Meeting Room 1, First Floor.

Mr. Rajeshkumar made a motion to adjourn; Mr. Frieden seconded; all voted in favor; motion approved.

The meeting was adjourned at 8:50 p.m.

Date Accepted: _____

By: _____

Vincent P. Vignaly, Clerk

Submitted by: _____

Melanie Rich