



Town of West Boylston
140 Worcester Street, West Boylston, Massachusetts 01583

[Zoning Board of Appeals] Meeting Minutes

Date / Time / Location of Meeting	Thursday, June 17, 2021/7:00 p.m./ <u>NOTE: THIS MEETING WAS HELD AT THE WEST BOYLSTON SENIOR CENTER, 120 PRESCOTT STREET, DUE TO CHANGES BY GOVERNOR BAKER IN COVID-19 REGULATIONS FOR PUBLIC HEARING VENUES DUE TO BE MADE ON JUNE 15, 2021.</u>
Members Present	Christopher Olson (Chair), Barur Rajeshkumar (Vice-Chair), Nathaniel Orciani, Andrew Feland (Associate Member), Mark Wyatt (Associate Member) and Secretary Toby Goldstein
Members NOT Present	David Femia (Clerk) and John Benson
Invited Guests	N/A

Welcome – Call to Order **Time: 7:00 p.m. (by Mr.Olson)**

Approval of Previous Minutes **Minutes of March 18, 2021**

Motion Originator: **Mr. Rajeshkumar**

Motion Seconded: **Mr. Feland**

Treasurer – Financial Report **N/A**

Motion to Accept **N/A**

Seconded **N/A**

At 7:02 p.m., Mr. Olson called the meeting to order.

Minutes of March 18, 2021 Meeting:

After review of the draft minutes by the board, Mr. Rajeshkumar made a motion to accept the minutes as written. Mr. Feland seconded. Mr. Olson announced that the vote was 5 in favor, 0 opposed, therefore the motion carried and the minutes were approved as drafted.

Public Hearing, Neel Patel, on behalf of Ganesh Wellness, Inc., (Campfire Cannabis), 65-67 West Boylston Street, West Boylston, MA, for Variance from Section 5.6.C.2 of the Zoning Bylaws:

(Mr. Olson read aloud the public hearing notice). (Neel, Anand and Nehar Patel represented). Mr. Olson informed all present of the public hearing procedure; the applicant will present his request, the board will ask questions, the Building Inspector (George Tignor) will make comments, the public will make comments or ask questions, then the board will make a decision or continue the public hearing. Neel Patel began by stating that they were presenting a petition for variance to have two standing signs on the property at 67 West Boylston Street (Campfire Cannabis). He explained that, presently, the property owner has a "West Boylston Square" sign for the plaza, and a second sign was already constructed by the variance applicants. He continued that they met with Planning Board for Site Plan Review, then were granted a temporary certificate of occupancy. Mr. Patel noted that they contracted with Connor Sign to develop the second standing sign, for which he asserted that the Building Inspector granted a permit. He continued that, at a later date, they had some outstanding issues with Planning Board including that Planning Board believed that the second standing sign did not meet variance requirements because they asserted that the variance previously granted to Il Forno (the former occupants of Campfire Cannabis' building) for a second standing sign lapsed after one year, so the applicants were told to come to the ZBA. Mr. Patel believed that Ganesh Wellness, Inc. should be granted the variance as the previous tenants had one (McDonald's and Il Forno). In response to a question from Mr. Olson regarding the Planning Board's issues with the applicants, Mr. Patel replied that Planning Board had other issues with the property such as trees to be planted and removed so they had to go back to Planning Board, but regarding the sign, they thought that it was not allowed because of the lapse of over one year, and he noted that they received a Zoning Interpretation Form from Mr. Tignor. Anand Patel explained that, when they originally constructed their sign, they thought that the variance was still in force, and they are asking for the same variance that Il Forno had. Mr. Olson responded that, before now, the Il Forno sign was removed so there was only one standing sign, perhaps for over a year, and asked for details about this. Anand Patel was not sure of the date that their sign was removed; Neel Patel said that he believed their sign was installed about a month and a half prior to opening in October, 2020. Mr. Tignor continued that nothing had changed from before, explaining that there is a foundation for posts there, along with electrical connections and footings in the ground, so the applicant only needs to put a sign back together to advertise their business. He explained that the address of the plaza is 67 West Boylston Street and there is a sign identifying the plaza, but Campfire Cannabis is 65 West Boylston St. and separate and this second sign would identify their property; he opined that a sign on the road for the plaza and a sign for the business do not really constitute two signs from a bylaw perspective.

In response to Mr. Olson, Mr. Tignor replied that there is one lot there but with two address numbers in it. Mr. Rajeshkumar noted that, according to the bylaws, there can be only one standing sign in the business center. Mr. Tignor responded that Il Forno was a restaurant and there was a sign there, allowed by variance, and thought that it should go with the next owner of that property. He opined that the applicant was there to either change the name on the previous variance or rewrite the original variance to make it more general, or renew the

variance based on what was there in the past. Mr. Feland opined that the reason was still valid. Mr. Rajeshkumar asserted that once the business was gone, the variance would be gone. Mr. Olson said that his impression was that the variance runs with the land, not with the owner. He mentioned another situation from before, that of the former Friendly's restaurant which had a standing sign and one on the roof; the bank that occupied the building after Friendly's needed a sign variance for the roof, as a second sign was not allowed. Mr. Rajeshkumar responded, asking that if a variance goes with the land, does the landlord or business need to ask for it? Mr. Olson opined that it could be either. (Mr. Feland agreed). In response to a question from Mr. Rajeshkumar regarding setback, Mr. Tignor replied that a 10-foot setback would be good because when the variance was given before, they were looking at whether or not it was 10 feet from the road, and it is now greater than 10 feet from the road. Mr. Olson continued, regarding Planning Board's opinion, that first the ZBA board needs to decide if the previous variance is still good; he asserted that, even though the previous sign was removed, according to Mr. Tignor everything else needed for the sign is still there. He thought that, if the board thinks that the variance has not lapsed, they need to go through the conditions of the Il Forno variance and be sure that they are still being met. Mr. Olson then mentioned the setback issue brought up by Planning Board, and suggested that the sign may be less than 10 feet from the property line. Mr. Tignor responded that it is greater than 10 feet from the road, and a lot of people thought that was the way to do setbacks then. Mr. Tignor and Mr. Rajeshkumar noted that this was not mentioned in the original variance for Il Forno.

Mr. Olson stated that first the sign must be between the restaurant and the street, as was shown on the application. He noted that he did not have Il Forno's original application so he did not know what was asked for, but assumed that what was approved was originally built. Mr. Tignor responded that this is also what he assumed. He noted that, before the sign was installed this time, he walked the area and determined that installing it was just a matter of adapting their sign to that spot. In response to a question from Mr. Olson, Mr. Tignor verified that the new sign could be inches from where it was but is basically in the same place.

Mr. Olson stated another condition, that the petitioner shall meet all Town and State regulations and comply with all zoning other than what was granted in that variance originally. Mr. Tignor clarified that this meant such things as lettering, size of the lettering and coverage of the lettering.

In response to Mr. Rajeshkumar, Mr. Tignor replied that the present sign is greater than 10 feet from the road, and Neel Patel replied that it is 15 to 16 feet from the curb on the road. Mr. Tignor commented that he did not know exactly where the property line was.

Mr. Olson asked if there were any other comments? Anand Patel replied that, the way that the building is situated, the sign is below the roadway and therefore hard for customers to see, opining that without the sign there would really be an impact on their business. He claimed that most customers say they drive by and then see the sign, and he believed that this was the reason why Il forno was granted a variance. Mr. Olson added that probably people coming from the direction of Worcester would drive by it (Neel Patel showed the board a photo of the property and road).

Mr. Tignor commented that he had no objections to this variance request. Mr. Olson read aloud opinions from other Town boards (Planning Board, Board of Health and Conservation Commission were asked for their opinions of the filing). He first discussed the Planning Board opinion letter; he did not see the question of expiration of the variance in the letter so he said that he did not know how concerned they were with that. He explained to Mr. Rajeshkumar that the one-year expiration question mentioned before is a provision that may apply to certain kinds of variances where it expires if the work is not done within a period of time and the person needs to re-apply. Mr. Tignor opined that it may involve abandonment of the sign or foundation of the sign, or lack of maintenance of it, or abandonment of the building. He believed that the applicant can build on that foundation as long as the footprint is not changed, but the period of time might be in question. Next, Mr. Orciani read aloud the Conservation Commission opinion; Neel Patel replied to Mr. Olson that there will not be any further drilling, digging or moving on the property for the sign, which were the only concerns of the Commission; it will be

basically where it was previously. Mr. Rajeshkumar then informed everyone that Board of Health had no issues with the proposed work.

With no further questions or comments, Mr. Feland made a motion to close the public hearing. Mr. Orciani seconded. All voted in favor, none opposed, the vote was 5 to 0 and the public hearing was closed. Mr. Olson then explained, that based on Mr. Tignor's feedback and the petitioner, he did not think there was enough to suggest that the previous variance was abandoned or that it was not in force. Mr. Olson said that it was his understanding that the variance runs with the property and not a particular owner, and it seemed to him that the same sign equipment is there as was before so the board should respect the former ZBA variance approval of 2010. He noted that he was inclined to vote towards that but wanted to be sure that the conditions are enforced by the current owner. Mr. Olson verified for Mr. Wyatt that the sign is in the same location as before. Mr. Feland thought it is less prominent than the former McDonald's sign. Mr. Olson then discussed the conditions. Mr. Tignor assured Mr. Olson that he had all the information that he needed. Mr. Olson verified with Neel Patel that the ZBA would receive proof that the variance is recorded at the Registry of Deeds, and that any other changes need to conform with the bylaws such as size and location.

With no further questions or comments, Mr. Rajeshkumar made a motion to approve the variance for Ganesh Wellness, Inc., Campfire Cannabis, 65-67 West Boylston Street, according to Zoning Bylaw Sec. 5.2.C.6, to maintain two standing signs on the property, with (3) conditions (1,3 and 4) as stated on the previous variance approval (for Il Forno). Mr. Feland seconded. Mr. Olson announced that five voted in favor, 0 were opposed, therefore the variance was granted pursuant to the previous variance. (Mr. Olson informed the applicant that a decision would be issued within 14 days, followed by a 20-day appeal period, and then the decision and "no-appeal" letter are to be recorded and the ZBA notified as such).

Other Business:

Charlie Witkus: Mr. Olson announced the passing of long-time ZBA member, Charles Witkus, and expressed gratitude to him for his contributions to the ZBA, service to the Town of West Boylston and as a Town resident. His thoughts and condolences were given to the family.

Reorganization of ZBA Board: Mr. Olson asked for comments and suggestions of office holders for the coming year. Mr. Rajeshkumar nominated Christopher Olson as Chair, Barur Rajeshkumar as Vice-Chair and Nathaniel Orciani as Clerk. Mr. Feland seconded. All voted in favor, none opposed, the vote was 5 to 0, therefore the board was reorganized as voted.

Treasurer's/Financial Report: Mr. Olson reviewed the report; it was not discussed at the meeting.

Mail and/or Paperwork: There was none to discuss.

Next ZBA Meeting: Mr. Olson informed the board that July 15 would be the next meeting date. He informed them that Governor Baker signed an extension of the remote meeting regulations (due to COVID-19), allowing this until April, 2022. He said that he was inclined to return back to a remote meeting for the July meeting (most of the board agreed, with Mr. Rajeshkumar stating that he could conduct the meeting either way). In response to a question from Mr. Olson, Mr. Rajeshkumar replied that, at Town Meeting, it was approved that a board member could miss one meeting and still vote on a particular subject or public hearing, but the member must read the minutes of the meeting he/she missed. Mr. Olson said that he preferred Mr. Feland to finish out the meetings but there is flexibility. Mr. Rajeshkumar responded that they cannot adopt that unless the Attorney General approves it.

New ZBA Filing: Mr. Rajeshkumar mentioned a new filing for special permit that was received by the ZBA; the public hearing will be on July 15.

With no further discussion taking place, Mr. Rajeshkumar made a motion to adjourn the meeting at 7:49 p.m. Mr. Orciani seconded. Mr. Olson stated that five voted in favor, 0 were opposed, therefore the meeting was adjourned at 7:49 p.m.

Submitted by: _____

Date submitted: _____

Approved by: _____

