



## TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

140 Worcester Street \* West Boylston MA 01583 \* [zba@westboylston-ma.gov](mailto:zba@westboylston-ma.gov)

### MEETING MINUTES

**December 15, 2016**

Chair: David Femia

Members Present: David Femia (Chair), Barur Rajeshkumar (Clerk), Christopher Olson, Nathaniel Orciani and Charles Witkus.

Others Present: Secretary Toby Goldstein.

Members Absent: John Benson (Associate Member) and Daniel Cronin (Associate Member).

Mr. Femia called the meeting to order at 7:00 p.m. this evening. He stated that all members were present. (All full members were present).

**Vote to Accept Address Change of 94 North Main Street (Sajda Gardens) Project to 92 A, B and C North Main Street as a Minor Modification to the Comprehensive Permit and All Documents Related To It:**

Mr. Femia announced this first item on the agenda; he explained that there were issues with the public understanding the change (discussed at the November 17, 2016 meeting), as the project was always known as 94 North Main Street. He explained the background of this change; about one to one and one-half years ago, Iqbal Ali (developer) brought the ANR plan of the project to the board, which separated the house and land on which the house was located from the back of the property, which was where the project would be developed, and these areas were two separate entities (Mr. Olson explained the ANR plan as streamlining the process of splitting a lot, and it is primarily used in situations where a formal subdivision review is not needed). Mr. Femia continued that the Building Inspector is responsible for assigning address numbers, and he gave the number 92 (buildings A, B and C) to the development property. Mr. Femia asked for a motion to vote on this change as being a minor modification; Mr. Rajeshkumar asked that the change should apply to all legal documents. Mr. Femia instructed that the board will vote, and send a certified letter to Dean Harrison (Mr. Ali's representative), Middlesex Savings Bank (the loan provider), and Mass. Housing Partnership, informing them that the board voted, and that, going forward, the project will be referred to as 92 North Main Street. He added that the letter to Mr. Harrison/Mr. Ali must be taken to the Registry of Deeds,

and the deed to the property changed to the correct address, and the letter must be stamped, and given to the ZBA. Mr. Femia also stated that all need to know that the correct address for Town Hall is 140 Worcester Street and no longer 127 Hartwell Street. Mr. Olson then addressed the need to decide if this is a substantial or unsubstantial change; he asserted that the standard would be if the change would have affected the board's original decision to issue the Comprehensive Permit, and concluded that the change would have nothing to do with that decision. Mr. Femia continued, that Town Counsel recommended that the ZBA approve the change as a minor modification of the Comprehensive Permit, and have this recorded at the Registry of Deeds.

With no further discussion taking place, Mr. Rajeshkumar made a motion to approve as a minor modification: 1. The change of the official street address from 94 North Main Street to 92 North Main Street, and 2. The change as necessary of the official address of the Town of West Boylston to read 140 Worcester Street, West Boylston, MA, 01583. Mr. Olson seconded. All in favor. The vote was as follows:

Mr. Rajeshkumar: "yes"

Mr. Olson: "yes"

Mr. Femia: "yes"

Mr. Orciani: "yes"

Mr. Witkus: "yes"

Mr. Femia continued that the Town also had the opportunity to have local preference for the 20 affordable units of the project. Criteria for preference could be that the tenants be residents of West Boylston, employees of the Town, and business owners in West Boylston, all placed in a lottery system. There would be a preferred pool and general pool. The regulation, though, is that not more than 70% of the affordable units (14) could be given according to this preference. He continued that the Town's housing specialist did not recommend 70%, but 50% (10 units), and current Town residents, employees and business owners would have preference. Mr. Femia said that MHP granted the ZBA an extension because they were working on the Affirmative Fair Housing Market plan for Orchard Knoll, until the second week of February, but this evening the board needs to vote that they would like the Town to have local preference. Then, once the housing study results come in, the ZBA, Affordable Housing Trust, affordable housing specialist, and Town Administrator will meet and send the information to MHP; he explained that the Town Administrator is a representative for the Town and will meet with the Board of Selectmen). Mr. Femia added that he contacted the Affordable Housing Chair to see if she could provide some funds for the specialist to help the board with this process. So, he summarized that, this evening, the board will vote that the Town wants local preference regarding occupancy at Sajda Gardens; he asked if there were any questions?

Mr. Rajeshkumar noted that there are three buildings, A, B, and C, with a combination of one, two and three bedrooms, and if they vote for local preference to be 50%, that would amount to 10 units, but he questioned voting for 70% and asked who would decide? Mr. Femia replied that MHP would decide. Mr. Rajeshkumar asked why they should not ask for 70%? Mr. Orciani agreed. Mr. Femia asked Bob Barrell of the Affordable Housing Trust to give his input. Mr. Barrell responded that, personally, he thought that market analysis would give a better sense of what to do, but he would ask for the maximum of 70% and see if they get that.

Mr. Femia then broke down the building units: building A had 14 units, 3 of which are affordable, one two-bedroom and two three-bedroom, building B has 28 units, 7 affordable, all two-bedroom, and building C has 38 units, 10 affordable, (3) one-bedroom and (7) two-bedroom. Only building A has three-bedroom units. Mr. Femia continued that they (the Town) do want local preference as it would be to its advantage, and said that the board will try for the maximum percentage of units if that's what the board wants and will decide on that in February when they have all the information. He asked for a motion from the board that the Town should have local preference. Mr. Olson made a motion that the board supports pursuing a local preference option regarding the 92 North Main Street development, Buildings A, B and C. Mr. Rajeshkumar seconded. All in favor. (The vote was 4 "yes", 0 "no", as Mr. Witkus had stepped out prior to the vote). The vote was as follows:

Mr. Rajeshkumar – "yes"

Mr. Olson – "yes"

Mr. Femia – "yes"

Mr. Orciani – "yes"

Mr. Femia opined that this would benefit the Town, especially when the results for Orchard Knoll come in and they will know what is available.

(Mr. Femia announced that the board would recess, at 7:20 p.m., until 7:30 when the public hearing for 264 Prospect Street was scheduled to take place).

**Public Hearing, David W. Brossi, 264 Prospect Street, Petition for Special Permit:**

(Mr. Femia called the meeting back into session at 7:30 p.m.). (Prior to opening the public hearing, Mr. Femia asked Stephen O'Connell, representative for the petitioner, if he still wanted to open the public hearing this evening, as the board gave Mr. O'Connell new information this evening, and Mr. O'Connell was going to discuss some possible wetland issues at the next Conservation Commission meeting which was not going to be until December 19, 2016; Mr. O'Connell replied that he still wanted to open the hearing this evening).

Mr. Femia then read aloud the notice for the public hearing. He announced that the board would give the petitioner time to talk and lay out his plan, then the board would have a chance

to ask questions and give comments, and then the hearing would be opened to public comment. Mr. Femia then informed all present that the board handed Mr. O'Connell information this evening which included letters from the Water Dept., Planning Board, and information related to botulism e-mailed to the board by Dr. Tashjian. He also said that Mr. O'Connell was going to meet with Concomm on December 19 at 7:00 p.m. to discuss possible wetland issues.

Mr. O'Connell began his presentation by explaining why he was before the board. He explained that the petitioner, who owns the property at 264 Prospect Street, wants to create (6) single-family dwelling lots in a single-residence zone. The property lies within an aquifer protection overlay district (APD) which poses some specific density and dimensional regulations, where minimum frontage increases from 120 feet to 150 feet and increases area requirements to 50,000 square feet. Mr. O'Connell stated that a reduction in frontage and area within an aquifer protected overlay area is provided for in the bylaws by a special permit from the ZBA; the frontage can be no less than 100 feet. In the proposed situation, five of six lots would have 120 feet (greater than 100 ft., but less than the 150 ft. needed in the aquifer protection area), and all lots would exceed the 50,000 square foot area required. Mr. Brossi and the Building Inspector agreed that equal frontage (the total divided equally) would be the most favorable situation. Mr. O'Connell gave as an example that two lots could have 150 feet frontage, and the rest would have greater than 100 feet, but, consulting with the Building Inspector, they thought that an equal 120 feet for five of the six would be reasonable, so the petitioner took that approach in his proposal. Mr. O'Connell continued that the property has Town sewer and water, and there are no private wells. He added that the property does not come close to the maximum allowed impervious of 15%. He said that the petitioner thinks that his proposal is reasonable and fair and it is satisfactory to him.

Mr. Witkus then asked if the land was grandfathered by the State as farmland, and if the Town had an option to purchase it? Mr. O'Connell replied that it was not grandfathered as farmland, and does not have any Chapter 61 status protection. Having been owned by Mr. Brossi for 15 to 16 years, that protection was never on the property. In response to a question from Mr. Rajeshkumar, Mr. O'Connell replied that the total acreage of the property is 7.57 acres. Mr. Rajeshkumar asked how far the property was from a well, and Mr. O'Connell provided to the board maps from the GIS system, which showed this information. Mr. O'Connell asserted that many other residential lots have less frontage and area, and although some of the lots were in existence when the APD was established, many were not. Also, on the resource protection map, he pointed out that there are no wetlands on the property, and no other environmental or conservation issues. He pointed out property owned by DCR.

Mr. Femia then read aloud letters with input from the Water Dept. and Planning Board; Mr. Femia said that he reached out to the Water Dept. because of the location of the Lee Street well, and they urged compliance with the Aquifer Protection bylaw as the property is a direct abutter to land owned by the West Boylston Water District which includes the Lee Street well, which supplies public drinking water. (Mr. Femia explained that the ZBA reaches out to the other Town boards for their input on potential projects).

Mr. Femia then read aloud the letter from Planning Board. The letter discussed what the developer proposed to do, and discussed the differences in frontage and area in the Aquifer Protection District. It stated that the petitioner was proposing (5) lots with 120 feet of frontage, and one lot with 108+ feet, and the ZBA authorized a reduced frontage of no less than 100 feet. The letter continued that the Aquifer Protection District was established in 1986 by Town Meeting to protect the Town's water supply and the Lee Street well and, over the years, there has no benefit found of reducing the minimum allowed frontage or lot area by DEP. Also, Section 2.6.F.2Q prohibits the development of a lot with greater than 15% rendered impervious, and the petitioner needs a detailed site development plan for each lot to verify this. And, under Section 2.6.F.3a, Planning Board may have to grant a special permit required under aquifer bylaw for certain desired uses and activities. In addition, the letter discussed OSAC (Open Space Advisory Committee) minutes from 10/20/2005 that discussed botulism spores at this site, and any development would have to include assessment of potential risk on this property and any building permit should first assess health and safety before an occupancy permit is issued. The letter also stated that, by right, (4) residential house lots are allowed on the property, but if the applicant obtains a special permit from ZBA, they should be required to obtain an appropriate special permit from Planning Board.

Mr. Femia asserted that both letters were adamant that there should be 150-foot frontage and 50,000 square feet per lot. He opined that the petitioner needs time to review the aforementioned letters, and to review the e-mail from Dr. Tashjian about botulism, which included information from Dr. Robert H. Whitlock, a botulism expert. Mr. Rajeshkumar suggested that the applicant send soil samples to Dr. Whitlock's lab, as it is a specialized lab for neurotoxins such as botulism-they will test for it, and for the amount if it is present. He asserted that it is the applicant's responsibility to prove that botulism is not present.

Mr. Femia then said to Mr. O'Connell that a decision will be continued to the January, 2017 meeting so that the petitioner has time to go through the information and to meet with the Conservation Commission, and suggested reaching out to John Scannell of DCR, as DCR property abuts the property in question and perhaps Mr. Scannell has seen the property and has an opinion about the situation.

Mr. Olson then addressed Mr. O'Connell, asserting that there was a question as to whether or not the ZBA had the authority to grant a special permit because, according to the bylaws, the board can reduce minimum frontage, but he was not sure if it was allowed in the aquifer protected district in Section 4.2C and he wanted input from the board about this. Mr. Rajeshkumar asked, if this is not stated in the bylaw, did they need to consult with the State? Mr. Olson responded that it would be under the Town's purview, and if the Town does not grant the board permission to do that, then they do not have authority to grant a special permit for this, and reiterated that it was not clear to him. Mr. O'Connell responded that it was his interpretation that it would apply to all districts. Mr. Olson disagreed with that. Mr. O'Connell asserted that the paragraph did not specify any districts. Mr. Olson responded that the reduction of minimum residential lots requirements is the focus; also, aquifer protection in the bylaws states that there is protection additional to a regular district and more limited applications, and he suggested that this is something to consider at the January meeting.

Mr. Femia then asked Mr. O'Connell if Mr. Brossi would consider dropping the sixth lot and take 108 feet frontage and combine that lot with the others, or drop the last two lots such that four lots would have 177 feet for frontage? Mr. O'Connell replied that he did not have an answer for that. Mr. Femia added that they would meet the frontage requirements and the 50,000 square feet per lot requirement for the four lots. (Mr. Olson added, in response to a question from Mr. Femia, that site plan review would not automatically be required for the property). Mr. Femia continued, that if Mr. Brossi wants six lots, it is his decision, but the board wants input from the Conservation Commission and DCR, because of the aquifer protected district and the Lee Street well in the vicinity, which accounts for 40% of the Town's drinking water. Mr. Femia added that he reached out to the other Town boards for their input, and he would share the information with Mr. O'Connell.

Mr. O'Connell then commented that he did not know why the well was placed in the vicinity of an area with botulism, and asserted that the zones of influence to that well do not come onto their property.

Mr. O'Connell continued, that, if five lots were created, there would be slightly short frontage but the area required per lot would exceed what's required by 10,000 square feet. Also, if four houses were built, no specific permit would be needed according to the bylaws, so the Town would lose the opportunity to impose specific conditions, such as for fertilizing, pest control, etc. He added that Mr. Brossi had site eligibility from a subsidizing agency for a 40B project in 2002 on that property, with 150 units, and that he now wants six lots.

Mr. Femia responded that he would like to discuss this matter with Mr. Brossi at the meeting in January, as the application is his and he has to make the final decisions on how to proceed and the board can direct their questions directly to him. He would also like to see the property

tested for botulism, find out the level if it is present, and if it is within normal limits; he would also want to find out if it can contaminate the water (Mr. Rajeshkumar added that it can be airborne, also).

In response to questions from Mr. Rajeshkumar regarding the previous testing of the soil, Mr. O'Connell replied that Phase I and II assessment was done in 2000; more specifically, ASTM 21E site assessment, and explained that Phase I records and visually observes, and the soil analysis results are part of Phase II. He said that Mr. Brossi would submit those records in advance of the next meeting. Mr. Rajeshkumar cited a Boston Globe article dated 1/19/1986 discussing the suspicion of botulism toxin, but there is no definite answer and he said that it would be helpful to have the results. Mr. O'Connell responded that he would send those results to Ms. Goldstein the next day, with Mr. Brossi's permission. Mr. Rajeshkumar added that they should see what transpires at the Concomm meeting, and Mr. Femia reiterated that he would like to have Mr. Brossi at the January meeting.

(Next, Mr. Femia opened the discussion to public comment, instructing those present to rise and give name and address). First to speak was Bernie Dow of 307 Prospect Street. He asserted that this is a sensitive area. He described that behind his property is 60 acres, and that it is not even as close to the Town wells as Mr. Brossi's property; in 1986, MDC took that property by Eminent Domain, and because of its sensitivity regarding Malden Brook and the Town wells, it is undeveloped. Mr. Dow said that, regarding Mr. Brossi's land, he is concerned with possible effects on Wachusett Reservoir and the tributaries in the area. He suggested that the Town do its own testing of the property, as the other studies are 16 years old and he wanted to be sure everything has been done, and also commented that the citizens of the Town pay taxes and he did not want to rely on the petitioner's studies.

Next to speak was Bob Barrell, Chair of the Board of Health. He agreed with what Mr. Dow just said, voicing his concern with preserving the Town's drinking water and the health and safety of the public.

Mr. Rajeshkumar next noted that the documents in the board's possession do not include lab test results, and asserted that the applicant is responsible to prove to the board that he did the testing; if there is botulism present, the board can make the decision if further studies are needed. Mr. Orciani asked Mr. O'Connell the distance of the property from the aquifer? Mr. O'Connell said he could estimate on the map, but would have the specific distance for the next meeting. Mr. Olson agreed that the Town doing an independent study was a good idea to him, but the ZBA itself did not have the financial resources for that. Mr. Rajeshkumar responded that the Board of Selectmen would take care of that, but there must be a reasonable reason for the Town to do that, meaning a health concern; but he reiterated that the applicant's responsibility is to prove that the botulism is not there.

Next, Mr. Dow asked if there is golfing activity off of this property? Mr. O'Connell replied that there are no existing service drops now. He added that there has been a lot of cleanup done on this property of material from the previous owner and present use, such as parts of distressed buildings, debris and litter of various kinds. Mr. Femia requested that Mr. Brossi provide to the board documentation of what has been done to the property, and because of the sensitivity of the property, it would be better to have more than less information.

Next to speak was Elaine Jardine of 8 Applewood Road. She asked if Mr. Brossi owned the property? (Mr. Femia replied that he did). Mr. O'Connell clarified to Ms. Jardine that he did not say that the "science doesn't matter" as she asserted but said that an aquifer protected district is a zoning matter. She commented that the applicant cannot "mess up" the water, as it is "gold." Mr. O'Connell responded that, regarding a well, there is a zone of influence (or zones), and asserted that the zones from which this water is drawn do not extend to this property and are far from the property, following the stream channel. Ms. Jardine continued that she was concerned about botulism and noted that there are many children in the area. (Mr. Rajeshkumar added that the concern is also for people who do not live there yet). Mr. Femia responded that this was why the board requested all of this information. Ms. Jardine asserted that the botulism expert (Dr. Whitlock) would be needed to read whatever tests are done. (Mr. Rajeshkumar said to her that the board is not making any plans yet, just proposing). Mr. Orciani added that, for four lots, the matter would not even have to come before the board. Mr. Rajeshkumar responded that there are health concerns, and asserted that the Building Inspector would not issue a building permit until the problem is cleared up.

Mr. Dow then referred to a statement that botulism spores were found in 2005, which was four to five years after the study that Mr. O'Connell discussed. Mr. Dow also said that there were rumors of botulism on the parcel when the Antinarellas owned the farm with cows. Mr. Dow also asked Mr. O'Connell why Mr. Brossi owned this land for so long but did nothing on the property? Mr. O'Connell replied that Mr. Brossi owns many properties in central MA and could only do so much development at one time.

Mr. Femia commented that, in 2005, there was a lengthy discussion of botulism, but no record, and Mr. Rajeshkumar added that the Open Space Advisory Committee also discussed it at their meeting that year. Ms. Jardine added that her father was living in the house that she now lives in, and shortly after he moved in, somehow he knew about there being botulism spores across the street.

Mr. Dow then continued, that MDC bought the land adjacent to hole #4 at the golf course, and Town well was in one area; he asked why MDC would buy one parcel and not take the other, further away from the wells? He suggested that maybe studies were done by MDC that showed that one parcel was in a dangerous zone.



Next to speak was Jim Jardine of 8 Applewood Rd. Speaking to Mr. O'Connell, he said that he wanted to reiterate what his wife (Elaine) said regarding the well water, and called the Lee St. well a "treasure" to preserve, asserting that it's quality was higher than that of bottled spring water. Mr. Jardine added that he was a civil engineer and asserted that the zone of influence of the wells would be about 2,000 feet, unless studies showed otherwise. Mr. O'Connell responded that there are primary and secondary zones of influence, and until there is a study, up to 2,000 feet is the zone of influence. Mr. Jardine responded that he wanted to have read into the record the geological study that Mr. O'Connell was referring to. Mr. O'Connell responded that he was only assuming that there was a study, and asserted that there is rigorous testing for the public water supply, and the State would have done the studies. Mr. Femia asked if the Water Dept. would have results of studies, and he asked Mr. O'Connell if he could put something in it so the board will ask them? Mr. Jardine continued, asking if the property would be a candidate for Eminent Domain to preserve the wells? Mr. Dow responded that he suggested that. Mr. Jardine suggested that perhaps the Town would consider some alternate use for it? Mr. Olson responded that it would be more of a Board of Selectmen issue than ZBA. Mr. Femia asked Mr. O'Connell if Mr. Brossi had been approached by DCR or others to purchase the property? Mr. O'Connell did not know, but replied that it was a good question.

Next to speak was Anthony Duvarney. He reiterated that a 2005 study confirmed botulism, but he asked who did the study and what levels of botulism were found? He mentioned that botulism does occur naturally, but were there unacceptable levels? He explained that he wanted to see the public protected, but he commented that there is a lot of undeveloped space in Town. Mr. Duvarney asserted that, probably before the proposed 40B on the property, Mr. Brossi was interested in building five houses on that parcel, and he thought that he had 738 feet of frontage, and wanted to buy 12 feet from him (Mr. Duvarney). An engineer drew plans and gave Mr. Duvarney the drawings, which showed a line down his (Mr. Duvarney's) greenhouse. Mr. Duvarney said that the Assessors' map showed 738 feet frontage, but the deed showed 708', and explained that Mr. Brossi was trying to obtain 750 feet of frontage.

Mr. Duvarney continued that, in 1986, aquifer restrictions took place, and lots had to be made larger to protect the wells from septic runoff; since then, sewers were brought in. His thought was that five lots would be a better fit, so instead of there being six non-conforming lots, with five lots there would be four conforming lots, and the fifth lot could be furthest away from the well. He thought it would be easier for the board to approve only one non-conforming lot. Mr. Duvarney opined that houses would not affect the property negatively, and did not expect Mr. Brossi to build houses that would not be nice, and added that they need more studies of the botulism, who did them and what they found.

In response to a question from Mr. Duvarney, Mr. Rajeshkumar replied that there was a farm on the property previously. Mrs. Commented that there was also discarded debris on the property. Mr. Duvarney discussed what he thought caused the contamination-cattle crossing the stream, drinking from the water, and leaving their waste. He did not think that five houses would affect the water quality, but they need more soil quality information. In response to a comment from someone in the audience (did not give her name), Mr. Duvarney responded that, if Mr. Bossi only makes four lots, the board has no control over it, but if they need to give a special permit, for five lots for example, they have the right to place conditions over the work. Mr. Rajeshkumar commented that there is still a botulism issue, and the Building Inspector will not give a building permit if there is a concern. Mr. Duvarney responded that, with five lots, the board will have the right to put protective conditions on the work. In response to a question from Mr. Femia, Mr. Duvarney replied that there would be four lots at 150 feet frontage each, with one non-conforming lot with 108 feet frontage, but conforming in square footage, and he said that he would want a larger lot next to his property. Mr. Femia and Mr. Olson opined that the board could not make restrictions if there are four conforming lots.

Mr. Femia commented that Mr. Bossi can give the board the information so that they and the Board of Health can look it over, stating that, in 2000, there was no botulism found, but there was in 2005, and he wanted to know how it got there, how long it had been there and what kind of cleanup was done on the property. Regarding cleanup, Mr. Dow replied that the materials removed were old farm equipment, rubble and old debris of various kinds, and said that there was no ground work done, just in the foundation area. Regarding the board not having control over four conforming lots, he suggested five equally-divided lots. Mr. O'Connell responded that this would perhaps be a compromise that everyone could be happy with.

Mr. Femia then expressed concern over the botulism, and said that, if Mr. Bossi turns over the 21E report, the board can review it with the Board of Health, but thought that, if they have someone else do a study, then there could be conflict. Mr. Rajeshkumar added that the applicant should bring back the evidence, then the board can make a decision.

Referring to a letter from Dr. Tashjian, which was part of the aforementioned information submitted by him, mentioning Paragraph 6 which gave the history of the property and the fact that DCR drew a boundary line adjacent to the Antinarella barn because it is not their policy to buy buildings when they purchase property, Mr. O'Connell mentioned Dr. Tashjian took soil samples in cooperation with DCR throughout the entire DCR conservation restriction land on Prospect Street, and obtained a lease on the land in order to take further studies, Dr. Tashjian knew that the pigs on the farm were fed raw garbage, and there were abundant botulism spores; he asked if there shouldn't be test results available if Dr. Tashjian was making that accusation? Mr. Rajeshkumar reiterated that the applicant was responsible to provide that.

Mr. O'Connell opined that the allegations made were unfounded, and said that he wanted to see the lab results; he also noted that a lot of the information submitted by Dr. Tashjian did not apply to this property. Mr. Rajeshkumar referred to the Open Space Committee minutes (also in Dr. Tashjian's information) from 2005, which mentioned botulism, said that the board can rely on this information also, and repeated that it was the applicant's responsibility to prove that the botulism is not there. Mr. O'Connell responded that, if the applicant provides soil samples and the abutters do not believe it, why do they believe the allegations when results were not even provided? He added that Dr. Tashjian was Chair of the OSAC at that time. Mr. Rajeshkumar asked, wasn't it better to test it as they have no data on file? Mr. O'Connell responded that he cannot provide Dr. Tashjian's results, but if the doctor discussed it in the record, he should provide it.

Mr. Dow then asked if someone on the board could find out the cost of a study of their own? Mr. Orciani replied that it would be \$170 for the first sample, and \$150 for each additional, referring to information provided to the board by Dr. Tashjian. Mr. Dow opined that \$850 would be well spent by the Town for its water quality, and added that he is in favor of development but wants to be sure it does not affect the wells. He suggested that the board go to DCR and see if they have results. Mr. Orciani responded that he would reach out to DCR, but suggested giving Mr. Brossi a chance to come in and discuss whatever information that he has. (Mr. Dow also expressed concern that the property values will decrease if the water is contaminated).

Mr. Femia asked Mr. O'Connell to talk to Mr. Brossi about releasing the 21E results to the board and the Board of Health, and reiterated that the board would discuss the matter with Mr. Brossi at the January 19, 2017 meeting, and noted that it would be to Mr. Brossi's benefit to give the board all the information and results that he had. Mr. O'Connell responded that, if the Board of Health had any prior testing, they would know about it; Mr. Barrell responded that he found no records of that. Mr. Femia suggested that they reach out to John Scannell of DCR to find out why DCR took one parcel but not the other, and noted that the board would make no decision until they had all the pertinent information.

(There were no other questions or comments from Mr. O'Connell or the audience; Mr. Witkus commented that he would want to see three lots created; then, there were no questions or comments from the board, either). Mr. Rajeshkumar then made a motion to continue until January 19, 2017 at 7:15 p.m. Mr. Olson seconded. All in favor.

**Other Business:**

**a. Minutes of November 17, 2016 Meeting:** The board members reviewed the draft minutes. Mr. Olson had a question, and then suggested a correction. With no further comments, Mr. Olson made a motion to approve the minutes as amended. Mr. Orciani seconded. All in favor.

**b. Complaints Regarding 363 Prospect Street:** Mr. Femia explained that the owner of this property had complaints made against him for storing unregistered vehicles and containers on his property (the ZBA received e-mails about this prior to this evening's meeting). The owner was told by the Building Inspector that he must take care of this matter by 12/31/16, and if the items are not removed by then, he will be fined daily. The citizen making the complaint emailed the board, asking how long the property owner had to appeal the Building Inspector's decision; however, no filing was made with the ZBA yet, therefore no action could be taken by the board until a filing is made. Ms. Goldstein contacted the Building Department with this information.

**c. Licensing Issues:** Mr. Rajeshkumar discussed a matter being handled by the Board of Selectmen for the time being, regarding signs with zoning violations; he said it was discussed at the Selectmen's meeting on Wednesday, December 14.

**d. Field Reports for 92 North Main Street:** Mr. Femia verified that all board members received email copies of the Clerk of the Works' reports for this property, and informed everyone that Ms. Goldstein was saving these reports.

**e. Wayne Amico e-mail:** Mr. Femia explained to all present who Mr. Amico was (engineer from VHB, handling peer review for 92 North Main Street project); Mr. Amico notified the board that his engineer had issues with catch basins which were not resolved by the developer, but the Building Inspector said that it was being worked on. Meanwhile, he continued, Mr. Amico had concerns because the escrow account to pay VHB for this project is close to not having any more money, and he requested that the ZBA assign a representative to contact VHB about these issues. Mr. Femia asked the Building Inspector if he could do this. Mr. Rajeshkumar opined that the Building Inspector could not do this. Mr. Olson asked if the expense for VHB could be cut down by having a Town person monitor the situation? Mr. Femia opined that the Building Inspector could look at some things, but Mr. Rajeshkumar thought that VHB should do that, giving as an example the Cumberland Farms project and discussing that situation. Mr. Femia responded that, instead of spending money to have the engineer do it, they could save cost by having the Building Inspector monitor certain things, and Mr. Femia asked him if he was willing and felt that he could do it and to get back to the board about it. Mr. Rajeshkumar asserted that the developer has to pay for the engineer and the analysis should not have to be cut short, or else they could be blamed if anything goes wrong. (Several board members discussed this issue and agreed/disagreed on how to handle it). Mr. Rajeshkumar continued that the developer's engineer should be responsible to check on the issues and call VHB. Mr.

Olson said that Mr. Amico said that doesn't happen in practice. Mr. Femia asked Mr. Olson to reach out to Mr. Amico for more clarification; Mr. Femia then asked, when the money is gone, how does the board know if the work was done correctly? In response to a question from Mr. Rajeshkumar, Mr. Olson said that he thought that the board previously approved a certain amount for VHB, and there may be something in the Comprehensive Permit requiring the developer to give additional funds. Mr. Rajeshkumar reiterated that it would be the developer's responsibility. Mr. Orciani added that the developer should take the initiative to coordinate this. Mr. Olson asked if there was someone in Town who could do this? Mr. Rajeshkumar replied that it was not the Building Inspector's responsibility to contact VHB. Mr. Femia suggested that, if something is not done, the representative would get back to the ZBA, and they would contact VHB, and that they would only ask the Building Inspector to see if the work was being done and to contact the board-they would contact VHB.

Mr. Femia next commented that VHB was not getting the reports from the Clerk of the Works. Mr. Femia asked Mr. Olson to reach out to Mr. Amico and ask him if he is getting the reports, otherwise the board can provide him with copies. Mr. Femia also asked Ms. Goldstein to send an email to the Clerk of the Works, asking him to be sure that Mr. Amico is getting the reports.

**e. Subsidized Housing Inventory Update:** Mr. Femia informed all present that this was received from DHCD (the 40B inventory for West Boylston). He noted that 92 North Main Street was not listed on there, as the building permit was not yet issued when the inventory was taken.

**f. Water Dept. Letter Regarding 90 Sterling Street:** The Water Dept. emailed the board a letter with comments regarding the proposed project at 90 Sterling Street, and Mr. Femia mentioned that the board received it.

With no further business to discuss, Mr. Rajeshkumar made a motion to adjourn the meeting at 10:00 p.m. Mr. Orciani seconded. All in favor.

Respectfully submitted,

\_\_\_\_\_

Toby S. Goldstein, Secretary

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

By: \_\_\_\_\_

