



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

140 Worcester Street * West Boylston MA 01583 * zba@westboylston-ma.gov

MEETING MINUTES

May 18, 2017

Chair: David Femia

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

Others Present: Secretary Toby Goldstein.

Members Absent: Nathaniel Orciani; John Benson and Daniel Cronin (Associate Members).

Mr. Femia called the meeting to order at 7:10 p.m. this evening. He announced that all full members were present except for Mr. Orciani.

Other Business:

Update by Building Inspector, Bentley Herget, Regarding Construction at 92 North Main Street:

Mr. Femia announced that Mr. Herget brought a video with him for the board to watch on laptop, and he called Mr. Herget forward. Mr. Herget clarified that Iqbal Ali's (the developer's) daughter e-mailed a video taken by drone scanning of the entire property and sent it to him and Sheryl Keddy. He discussed the progress of the buildings in the development. He mentioned that the foundation and underground plumbing in Bldg. A were installed, and the siding will be done. Regarding Building B, it is all framed and is being sided now and the roof is on (Mr. Herget pointed out on the video the parking areas, new driveway for 92 North Main and Building C). (Mr. Witkus opined that the developer should have been allowed to cut through the "mountain"; Mr. Femia responded that he did do some blasting because of the steepness). Mr. Femia asked Mr. Herget if the developer was going to send something periodically to him? Mr. Herget responded that, two weeks ago, he and the Fire Dept. Chief inspected the work, and commented that Building C was quite long and asked if there could be a sprinkler standpipe in the hallway for safety reasons? Mr. Ali agreed to doing that in Bldgs. C and B.

In response to a question from Mr. Femia, Mr. Herget said that people will be able to move into Building C in September. He mentioned that there are 60 people per day working on the site. But, he also replied that all the buildings will not be completed by then, but commented that the work is being done at a rapid pace. Regarding the parking, as Mr. Femia wanted to know about that as people were going to be moving into Building C, Mr. Herget replied that there is enough parking completed for Building C. Mr. Herget described the cabinets and flooring in the units, asserting that they were of high grade. In response to questions from Mr. Femia, Mr. Herget discussed the number of rooms that would be in the one-, two- and three-bedroom apartments. He discussed the heating system, which will not be visible, and asserted that the construction was going very well with no issues.

In response to a question from Mr. Witkus, Mr. Herget said that tree planting will be done in the fall. Mr. Femia added that it will be done around Halloween, and the abutters will be able to go on the property and ask questions. Mr. Femia instructed Mr. Herget to notify the ZBA if any issues come up. In response to a question from Mr. Rajeshkumar, Mr. Herget replied that there are no issues in general, and asserted that all is going as planned and at a good pace.

Continued Public Hearing, Phillippe and Judith Chevalier, 250 Maple Street, Petition for Special Permit:

(Philippe Chevalier and Attorney Donald O'Neil represented). Mr. Femia reminded all present that the hearing was continued from the April 20, 2017 meeting, pending opinion responses from the Board of Health and Conservation Commission regarding the project. He reported that the Board of Health had no issues with the project, and there was no response from the Conservation Commission, so that the ZBA assumed that Concomm had no issues either. Mr. Femia also informed everyone that one of the full board members, Mr. Orciani, was not present; for a special permit vote, a supermajority is needed to grant the permit, therefore, with four board members, they would need to unanimously vote "yes" to grant the request. (Mr. Femia had notified Mr. Chevalier of Mr. Orciani's absence in advance, but Mr. Chevalier chose to go ahead with the continued public hearing). Mr. Femia said that he did not see any issues himself with the permit request, as Board of Health and Concomm had 35 days to reply with issues and they had none; also, frontage and lot size criteria were met.

Mr. Olson had one question for Mr. Chevalier. He asked him if he would agree to the condition to limit the use of the land to residential if it's going to be developed? Mr. Chevalier replied that he had no problem with that condition. Mr. Femia then asked the audience if they had any issues to discuss-they did not. He asked for a motion to close the public hearing; Mr. Rajeshkumar made the motion, Mr. Witkus seconded. (Now the discussion was open to deliberation by the board).

Mr. Olson said that he was in favor of granting the special permit as requested and according to the plan submitted with conditions; if they grant the reduction in frontage, when the two additional lots are developed, they could only be residential. Mr. Olson then made a

motion to approve the special permit request for 250 Maple Street, with the condition stated above. Mr. Rajeshkumar seconded. All in favor. The vote was as follows:

Mr. Rajeshkumar – “yes”

Mr. Olson – “yes”

Mr. Femia – “yes”

Mr. Witkus – “yes”

The motion passed; the special permit was granted. Mr. Femia reminded Mr. Chevalier that he needed to appear before Planning Board for the ANR plan; Mr. Rajeshkumar suggested that he attend the Planning Board meeting coming up for information as to what he needs to get together.

Other Business, Continued:

Mr. Herget and Sheryl Keddy Regarding Dr. Tashjian, 363 Prospect Street:

Mr. Femia informed everyone that he reached out to Dr. Tashjian regarding attending this evening’s meeting, but he did not respond. Mr. Femia then summarized that at the February ZBA meeting, the board voted down the request for variance and appeal of the Building Inspector’s decision by Dr. Tashjian, and suggested that he be given 90 days to remove the unregistered vehicles from his property and 180 days to remove containers (the Building Inspector agreed with those suggestions). Mr. Femia informed everyone that the 90 days for the vehicles had arrived, and Dr. Tashjian had moved some of the vehicles to his property at 77 Lee Street, so he now had violations on both properties. According to the bylaws, fining for the violations is the decision of the Zoning Enforcement Officer, who is the Building Inspector, and Mr. Femia asked Mr. Herget if he had gone back to see the site, what he would charge to fine and when the fines would begin? Mr. Herget replied that he had no conversations with Dr. Tashjian. He said that Ms. Keddy made a timeline of the violations starting in 2011 with multiple unregistered vehicles at 363 and 405 Prospect Street, and Dr. Tashjian was ticketed at that time, delivered by a police officer. Letters notifying Dr. Tashjian of this were received by Helen and Robert Tashjian at that time. Over time, Mr. Herget said that the vehicles were moved from one property to another, 29 Prospect, 363 Prospect and 77 Lee Street. Ms. Keddy continued that, in 2011, previous complaints about the unregistered vehicles were mentioned in letters so it must have started prior to that, and that Dr. Tashjian never paid any tickets, asserting that they were farm vehicles; he was told that he could not simply move the vehicles from one property to another and that there could be no more than one unregistered vehicle on a property according to the bylaws. Mr. Herget clarified that the zoning bylaws allow three farm vehicles to be stored on property. Mr. Herget responded to Mr. Femia that a violator is given 30 days to pay a fine or appeal the ticket, or Mr. Herget can go to court.

Mr. Rajeshkumar next asked Mr. Herget if Dr. Tashjian moved some of the vehicles from 363 Prospect to 77 Lee Street? Mr. Herget responded that two vehicles are left on Prospect Street. In response to a question from Mr. Rajeshkumar, the vehicles at 77 Lee St. can be seen from the street, commenting that a large unregistered Army truck was one of the vehicles. Mr. Rajeshkumar suggested that perhaps a fence could be built as it was at 363 Prospect Street, but Ms. Keddy noted that the fence did not alleviate the problem at 363. Mr. Herget noted that only on commercial properties, not residential, is fencing allowed and if the items are not

visible, then that would be alright (he did not realize previously that this only applied to commercial properties, even though the bylaw does not specify that).

Mr. Olson then cited Section 5.3C, regarding Unregistered Vehicles, suggesting that Dr. Tashjian could obtain permission for a second one, but Section D refers to “screening” which talks about storage of outdoor materials and trash. Ms. Keddy responded that they did not have clarification that it only applied to commercial properties previously. She commented that Dr. Tashjian opined to her that the Town did not understand how important the vehicles were.

Mr. Femia reiterated what was just discussed, and expressed upset at having given Dr. Tashjian a time extension to remove the vehicles, but the problem was not solved, and explained that the bylaws have to apply to everyone. (Mr. Rajeshkumar then had a discussion regarding how to respond; Mr. Femia questioned if the fines would be retroactive, as this had been going on for six years, and Mr. Rajeshkumar opined that they would not want to charge them retroactively due to financial considerations and would want a reason from Dr. Tashjian as to why he did not come to this evening’s meeting). Ms. Keddy noted that tow trucks were seen at 363 Prospect, but no one followed where they went. Mr. Olson commented that there was no acknowledgement of the deadline. Mr. Rajeshkumar reiterated the Dr.’s financial concerns, but Ms. Keddy reiterated that this has been going on for six years, and compared the property to a “junkyard.” Mr. Rajeshkumar commented that these are personal belongings of Dr. Tashjian, but Ms. Keddy responded that the bylaws state that someone cannot store unregistered vehicles in their yard, and the bylaws need to be changed if there is disagreement with that.

Mr. Femia said to Mr. Herget that, as the Zoning Enforcement Officer, it would be up to him whether or not to charge Dr. Tashjian for double violations, of up to \$100/day each, but to let the board know whatever he decides, reminding all that Mr. Herget will re-appear in August regarding the container removal deadline. (The board members then discussed possibly reaching out to the Town Administrator about this, and perhaps she will contact Town Counsel regarding the options; they also discussed Mr. Herget talking to Dr. Tashjian before taking any action. Mr. Femia then asked Ms. Goldstein to reach out to Dr. Tashjian, asking him why he moved the vehicles to another property and why he did not respond to the invite to this evening’s meeting, letting him know that, if he does not respond within 30 days, the Building Inspector can go to court).

Mr. Witkus then asked, who made the decision to fine the maximum of \$100? Mr. Femia responded that the fine can be up to \$100, but the Building Inspector can do what he decides, and reiterated that this has been going on for six years. Mr. Herget added that the fine could be \$100 per day per violation, with each vehicle being a separate violation. Ms. Keddy added that, over four years, she had always seen \$100 tickets. She asked the board what to tell Dr. Tashjian if he asks if use of a fence would change the situation? Mr. Olson responded that the only exception given in the bylaws is, if the unregistered vehicle is in a building such as a garage, it would be different; in his opinion, a fence is not the same thing).

Mr. Rajeshkumar asked then if the board could give Dr. Tashjian an extension? Mr. Femia responded “no”, and opined that the board had been fair to him. Mr. Rajeshkumar asserted that there must have been a reason for him not to come to the meeting. Mr. Olson asserted that they owe him the courtesy of making contact. Mr. Femia replied that, if Dr. Tashjian does not answer the board, Mr. Herget can do what he needs to do. (The board and Mr. Herget/Ms. Keddy then discussed how long to give Dr. Tashjian. They agreed to give him until the end of the month to reply, and that the board would let the Building Dept. know. There was discussion of perhaps court and an arrest warrant for Dr. Tashjian, but Mr. Rajeshkumar asked the board and Mr. Herget not to go that far and to try to communicate with him. Mr. Femia agreed that he could be sick, and reiterated to Mr. Herget that they let each other know if they hear from Dr. Tashjian, but asserted that he was given enough leeway).

Discussion of Town Meeting Results:

Mr. Femia announced that \$1.1 million was approved at Town Meeting for a new senior center; he said that Town elections will be held on June 6, with a ballot question regarding obtaining money for it. He also announced that the Town Budget was approved, for \$23 million.

Minutes of April 20, 2017 Meeting:

The board members reviewed the draft minutes prior to the meeting. With no comments or changes proposed, Mr. Olson made a motion to accept the minutes as submitted. Mr. Witkus seconded. All in favor. (The vote was 4 “yes”, 0 “no”).

Request for Photos for Town Website:

Mr. Femia announced (this email was also given to the ZBA members) that Karen Pare of the IT Department asked for photos of West Boylston to share on the Town website.

Dealing with Difficult People Training:

Mr. Femia reminded all present that the training will be on Tuesday, May 23, from 9 to 10:30 a.m. at Town Hall.

Possible Filing by West Boylston Municipal Lighting Plant (WBMLP):

Mr. Femia discussed some emails that were sent previously by WBMLP to ZBA and Building Dept. regarding addition of up to three distributed generation systems to another solar-based system which was previously allowed by special permit. Mr. Femia opined that WBMLP would not need to meet with ZBA, only with Mr. Herget to obtain a building permit, as they would be looking to add on generators to one previously allowed by special permit. Mr. Olson opined that there would not be a change in use. (Mr. Femia instructed Ms. Goldstein to email the Town Administrator and Nancy Lucier, sending them the emails from Jonathan Fitch and asking them if a discussion with Town Counsel would be needed for this. Mr. Femia said that the WBMLP would pay for any needed review).

Memorial Day:

Mr. Femia discussed the Town's exercises planned for Memorial Day, and thanked the veterans for their service.

June ZBA Meeting:

Mr. Femia announced that the next ZBA meeting would be held on Thursday, June 15, 2017.

With no further comments or issues to discuss, Mr. Olson made a motion to adjourn the meeting at 8:09 p.m. Mr. Rajeshkumar seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____