



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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MEETING MINUTES

June 15, 2017

Chair: David Femia

Members Present: David Femia (Chair), Barur Rajeshkumar (Clerk), Christopher Olson and Nathaniel Orciani (arrived at 7:10).

Others Present: Secretary Toby Goldstein.

Members Absent: Charles Witkus; John Benson and Daniel Cronin (Associate Members).

Mr. Femia called the meeting to order at 7:00 p.m. this evening. He announced that all full members were present except for Mr. Witkus, and Mr. Orciani would be late.

Other Business:

Update by Building Inspector, Bentley Herget, Regarding Construction at 92 North Main Street and Possible Update on 363 Prospect Street (Dr. Tashjian):

Mr. Femia announced that the Building Inspector (Bentley Herget) would give his monthly report regarding the above property, which he agreed to do. Mr. Herget said that he went to the development today to inspect B Building. He informed the board and all present what was being done and what had been completed at each building since the May 18 meeting. He informed Mr. Femia that there had been no problems regarding the construction, and that it was actually ahead of schedule. In response to a question by Mr. Femia, Mr. Herget replied that Building C will be ready for occupancy by September or October. (There were no other questions or comments regarding this subject). Regarding 363 Prospect Street, Mr. Herget told all present that a violation notice was delivered today to Dr. Tashjian by Constable, due to the presence of unregistered vehicles on both 363 Prospect and 77 Lee Street properties; it was agreed previously that Dr. Tashjian would have 90 days to remove the unregistered vehicles from his property.

Discussion of West Boylston Municipal Lighting Plant (WBMLP) Possible Project:

(Jonathan Fitch represented). The ZBA had received several emails regarding this previously. The proposed work would involve the addition of (3) new distributed generation (DG) systems to an already-existing solar system, for which they obtained a special permit in 2009. Mr. Femia informed Mr. Fitch that he asked Chris Olson of ZBA to review the emails regarding the project and response emails from Town Counsel regarding the project, discussing whether or not they believed that the WBMLP needed a new special permit for this proposed project. Mr. Femia did not understand why the WBMLP would need a special permit from ZBA for adding on to the existing system, rather than only a building permit from the Building Inspector. Mr. Olson responded that he was at first inclined to defer to the Building Inspector's opinion, but the board did not receive that from him as yet. Mr. Olson did mention, however, a section of the bylaws discussing special permits required for public utilities. And, he questioned that a different type of generator was being proposed to be added there.

Mr. Fitch responded, that they had asked about this process earlier because their grant application was due on June 2 and they wanted to submit the special permit with the grant application, but that did not happen, so they now had the time to go through the special permit process. (He showed the board the outline for the proposed work and the original site plan with "as-built"). On the first page, there was the existing solar system. They want to add flywheel-based power storage. They will extend the fence line, and come off of existing equipment. Mr. Fitch added that the flywheels will be buried, so that not much will be above ground.

Mr. Olson responded that the board appreciated the applicant's willingness to file, but questioned if it was necessary. He referred to the bylaws, in which it appeared to deal with the use of public utility facilities. He opined that, on the proposed plans, it did not appear as if the use was changing, and that there would be no substantial change from what was currently there. Mr. Olson continued that, in the original 2009 special permit, no time limits were given or instruction that only solar panels could be used; it appeared that there was broad approval for this kind of use, so he deferred to the Building Inspector.

Mr. Rajeshkumar continued, that he thought the permit was for a solar field and questioned if storage of energy there was different use? He also questioned if the special permit would be helpful to clear up any doubts? But he also agreed to defer to the Building Inspector.

Mr. Fitch responded that the special permit would give all the abutters, as well as the residents across from the property at Angell Brook, a chance to be involved in the situation in case someone wanted to question it.

Mr. Femia responded that he thought that, as there was only going to be an increase in power already existing, he did not see the need for another special permit as the last special permit

did not have any cutoff for amount of power, but he wanted to hear from the Building Inspector as the Zoning Enforcement Officer. Mr. Femia asked Mr. Fitch if the special permit had anything to do with the grant process? Mr. Fitch responded that he took any mention of application for the special permit out of the grant application and only said that they would go through the Town's permitting process.

Mr. Herget responded that the setback was greater than 100 feet, and there will be no direct abutters; also there will be no noise from these units, so he did not see any detriment to the neighbors from the addition of the storage units. He did not think the special permit was necessary.

Mr. Rajeshkumar still questioned if storage of the energy would be a different use? Mr. Fitch agreed that the 2009 special permit was for "solar." Mr. Fitch reiterated, in response to a question from Mr. Orciani, that a special permit would give the abutters a chance for input, as well as residents of Angell Brook, so he decided to follow the special permit process. (In response to another question from Mr. Orciani, Mr. Fitch said that the storage systems will not cause noise, but they will be visible; Mr. Orciani asked Mr. Fitch to bring a pamphlet). Mr. Femia said to Mr. Rajeshkumar that Town Counsel did not see any concerns indicating that this project would need another special permit, based upon all the emails that she received from the ZBA about this.

Mr. Fitch informed the board that they will not know about the grant before October, and would not begin work until next spring so it will be ready for June, 2018. He informed the board that he would be attending a webinar regarding the process for training purposes; the installation to be shown on the video took place in California. He mentioned that the technology, although older, can store energy for four hours and be run when needed.

In response to a question from Mr. Femia, Mr. Fitch said that they probably cannot do something similar with the solar farm on Temple Street, because the Temple St. farm is quite large compared to the aforementioned farm, and the Temple St. site was built on top of a landfill cap and they would have to penetrate the cap for the storage units if they wanted to do the same thing there. He also said that, regarding the Temple St. project, they were almost done except for finishing cleanup and DEP inspection.

With no further comments or questions, Mr. Femia asked Mr. Fitch to send an email to the ZBA and Mr. Herget with his thoughts after the webinar which he mentioned previously; Mr. Femia asked him to obtain the video for the board and the Building Inspector, if possible. Mr. Fitch informed the board that this will be the first town on the East Coast to have such work done.

Minutes of May 18, 2017 Meeting:

After review of the draft minutes by the ZBA members, Mr. Olson announced that he found an error, an address written as “393” Prospect St. instead of “363”; otherwise there were no comments. Mr. Olson made a motion to accept the minutes as amended. Mr. Rajeshkumar seconded. All in favor.

Update by Chair Regarding 40B Binders:

Mr. Femia informed the board members and those present in the audience that he was creating binders with various topics of Chapter 40B information, as it was suggested at training that he had in March, 2017, that in the new 40B Handbook, that all members should have that type of binder, and he is providing them also for various Town boards. He explained that he took what he thought was necessary to put together into one binder, and passed around a paper explaining what was to be stated on the eight tabs of categories that will be in the binder.

Discussion of Possible Filing Fee Increase:

Mr. Femia explained that he spoke with other boards about this subject. He reminded the board that, at one time, there was a list of other towns to be invited to 40B training in West Boylston and he suggested that the board contact these towns to find out what fees they charge for filings, and he could compile the information for comparison. His thought at this time was to raise the fees each by \$50.00. Mr. Rajeshkumar asked if the board needed a public hearing to make those changes? Mr. Femia said that he was waiting for Town Counsel to inform him as to whether or not he needed to submit the proposed fee changes to the Board of Selectmen before making those changes.

Informal Discussion with Dr. Robert Tashjian Regarding 363 Prospect Street Requests for Removal of Unregistered Vehicles:

(This was not on the agenda; the only related topic was the update by the Building Inspector regarding violations at 363 Prospect Street. However, Dr. Tashjian approached the board, requesting to speak. He was invited to attend the May 18 meeting but did not do so). Mr. Femia asked Dr. Tashjian to come forward, and asked him why he did not come to the May meeting? Dr. Tashjian suggested that a “cover up” was taking place, and that he did not know that he was on the agenda for this evening (June 15). He asserted that he did not receive notification that he was on the agenda to speak at the last meeting May 18 (Ms. Goldstein had called him and left a phone message, and e-mailed him). Mr. Femia pointed out that only an update from the Building Inspector regarding the violations on this property was on the agenda, not a meeting with Dr. Tashjian. Mr. Femia continued that the matter of the unregistered vehicles and storage on that property had nothing to do with the ZBA anymore, as there were still vehicles on the property (and vehicles moved to 77 Lee Street also), so the matter was

turned over to the Building Inspector and Dr. Tashjian should speak with him about it. Dr. Tashjian asserted that, according to the Building Inspector, there was “criminal involvement” here; he called the Town Administrator (Anita Scheipers), who told him that he was on the agenda for this evening. Mr. Femia responded that he spoke with Ms. Scheipers also, told her that only an update from the Building Inspector was on the agenda, and told Dr. Tashjian that, if they intended to speak with him, they would have invited him to attend. Mr. Rajeshkumar commented that the decision was made at the May 18 meeting, and nothing would change from that. Dr. Tashjian responded that he was going to request a meeting with the Board of Selectmen, but he wanted it to be on the record that “it did not look good what they (the board) just did”, that he was trying to give the board information that he opined they should know, and that there was “criminal involvement” and he asserted that the board was trying to cover it up. Dr. Tashjian claimed that, in meeting with the Town Administrator, the Town wanted to meet with him in Executive Session, not publically, and he claimed that there was an attempt to cover up, and that there is criminal involvement in his situation. Mr. Femia accounted the history of the matter, explaining that, in February, the ZBA gave him three months to remove the unregistered vehicles from his property; the Building Inspector agreed to wait to fine him. The three months had passed, and some vehicles were moved to a different location, so now they are in two places. Mr. Femia stated that, as the Zoning Enforcement Officer, the situation is in the Building Inspector’s hands now, and reiterated that an update from the Building Inspector was all that was on the agenda, and Dr. Tashjian would need to speak with him about this. Regarding talking with the Town Administrator and Board of Selectmen, he suggested that Dr. Tashjian should talk to the Town Administrator and tell her that he wants to talk with the Board of Selectmen. Mr. Rajeshkumar continued to Dr. Tashjian, that, at the last ZBA meeting, it was on the agenda that the Building Inspector would attend and discuss the issue; the board voted and the matter was closed with the ZBA; the Building Inspector then sent a violation letter to him, and the matter could not be reopened this evening. (Mr. Femia instructed Ms. Goldstein to send a copy of the minutes from the last meeting to Dr. Tashjian, highlighting page three where the discussion of Dr. Tashjian took place, so that he will have a record; he added that the meeting was televised and asserted that there was no cover-up).

Dr. Tashjian then spoke about meeting with the Town Administrator and Nancy Lucier, requesting that the Building Inspector and Sheryl Keddy be there also; they had an initial meeting and he said that “facts” started to come out; he asserted that then Ms. Lucier said to “put the minutes into Executive Session” and the Town Administrator then excused the Building Inspector and Sheryl and she said they would continue from there, and after they spoke she said that she would present this information; he spoke with the Town Administrator today and said that he would go to the meeting this evening because, he asserted, the Building Inspector had “placed him in a criminal complaint”.

Dr. Tashjian then addressed Mr. Rajeshkumar, requesting that, as a member of the Board of Selectmen, Planning Board and Town television station, he allow Dr. Tashjian to present to the Board of Selectmen openly facts that were not allowed at this meeting, asserting that an Executive Session is a cover-up. Mr. Rajeshkumar suggested that he go to the Chair of the Board of Selectmen or Nancy Lucier and request to be on their meeting agenda.

Mr. Olson agreed with Mr. Rajeshkumar that this was no longer a ZBA matter, asserting that the board did not want to cause Dr. Tashjian trouble, but they should move on. (The board decided, as there was only an address error on the minutes to be corrected, to give Dr. Tashjian a copy of the minutes at that point so that he would have it).

Miscellaneous Mail and Paperwork:

The board members signed the Accounting Department's signature form, required each new fiscal year, which authorizes the ZBA members to sign timesheets and invoices.

Chair Update Regarding Subsidized Housing Inventory Update: Mr. Femia notified the board that DHCD sent out their SHI update; he informed them that Sajda Gardens was not counted in the inventory. However, Mr. Femia had a packet of information to be sent to DHCD, with a letter (worked on with the Affordable Housing Specialist for the Town), building permits for all three buildings at Sajda Gardens, and a copy of the restated Amended Comprehensive Permit; Ms. Goldstein will process the letter with edits by Mr. Femia, and send out the entire packet by Certified Mail, Return Receipt requested.

Update on Afra Terrace: Mr. Femia notified the board that Mr. Ali turned over the property to the management company; the West Boylston Conservation Commission had received a stamped engineer's letter from Bertin Engineering, stating that the new "as-built" was official, Concomm received proof that this was signed by the engineer, and the Concomm will review the letter at their next meeting and may issue a Certificate of Compliance to the Afra Terrace project. Mr. Femia will then send a copy of the engineer's letter, Certificate of Compliance, and "as-built" to the management company.

Any Reports from ZBA: Mr. Rajeshkumar discussed what took place at the FISP meeting the previous evening concerning the new Senior Center. Mr. Femia discussed the costs of affordable units at Sajda Gardens, the management company (Peabody Management) who is working with Mr. Ali and Dean Harrison, the lottery to take place (probably next month), and the fact that Building C will be ready for occupancy in the fall.

Next Scheduled ZBA Meeting Date:

Mr. Femia announced that the next meeting is scheduled for Thursday, July 20, 2017.

Reorganization of the ZBA:

Mr. Femia stated that he was willing to stay on for another year as Chair unless someone else wants to become Chair. Mr. Rajeshkumar made a motion to nominate Mr. Olson for Chair and wanted to hear from him about that. There was discussion of perhaps Mr. Femia being Vice-Chair but there were questions as to how much he could contribute of things he had previously done in the role of Chair. It was decided by the board to wait until the July 20 meeting to decide on the reorganization, so that these questions could be answered. Mr. Rajeshkumar made a motion to withdraw his original motion; Mr. Olson seconded. All in favor.

Discussion of Simplification of Filing Forms:

The board members decided that they would look the forms over, and decide if they wanted to make any changes.

With no further comments or issues to discuss, Mr. Rajeshkumar made a motion to adjourn the meeting at 8:16 p.m. Mr. Orciani seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____