



ZOOM MEETING MINUTES July 13, 2022

Members Present: Sarah Miles (Chair), Marc Frieden, Vincent Vignaly, Francesco Lopriore

Members Absent: Barur Rajeshkumar

Others Present: Wayne Amico (VHB)

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 Zoom meeting at 7:0 p.m. Pursuant to Chapter 20 of the Acts of 2021, this meeting was conducted via remote means (Zoom). No in-person attendance of members of the public was permitted, and public participation during this meeting was by remote means only.

Citizens' Comments – None tonight.

Old Business:

Nuha Circle Request for Street Acceptance Update – Mr. Ali was not present at the beginning of the discussion. Mr. Vignaly said Mr. Ali requested a punch list; Wayne Amico (VHB) and Kevin Duffy (DPW Director) responded, but Mr. Ali has not responded back. Mr. Amico said over the past 3-4 months several things on Nuha have been requested. Mr. Ali or his attorney submitted a package that was theoretically complete. Mr. Amico reviewed it January 31, 2022; some of it was compliant, some was not. There has been no response from Mr. Ali to the discrepancies. Kevin Duffy did his inspection and provided an email to Mr. Ali and to the board. Brian from VHB met with Mr. Ali and walked through all the issues Mr. Duffy brought up and a memo was issued May 6, 2022 that summarized them and had recommendations of how to resolve the outstanding issues Mr. Duffy had. To date, no response has been received regarding those issues. Mr. Ali did respond with an email on July 11, 2022 saying he had an issue with items #1 and #2 of VHB's May 6, 2022 memo and asked if the board could consider not requiring them. Mr. Amico said from his perspective, those two items he is requesting not be required, are ADA issues. If Mr. Ali feels if he has a reason to not make these specific issues ADA compliant, he can go to the Architectural Access Board (AAB) and request a variance from the board for those specific items.

Mr. Ali joined the meeting at this point. Ms. Miles explained that the board was discussing the specific issues to address ADA requirements and what his reason is not be ADA compliant. Mr. Amico said it's the board's option to discuss those. From his perspective, if there is a sidewalk in a subdivision roadway, it has to be ADA compliant. Mr. Vignaly said our regulations say ADA compliant. It was not requested in the design review to waive it. Now that it's after-the-fact and it was not built ADA compliant, it's being asked to be waived. Mr. Ali will have to go through the process for a variance. Mr. Frieden said there is a newly created Disability Commission in town that Mr. Ali should go before first. Mr. Ali noted we're discussing ADA compliant ramps going to sidewalks. He cannot make ADA compliant complete sidewalks because the grade of the road is almost 8%. Mr. Amico thought the

running slope is exempt from the 5% requirement and said it was the cross pitch that's in question. Mr. Ali said the problem is where the aprons are getting into from Prescott Street up to the cul-de-sac. If that is the situation, he can fix that part, but he cannot fix the whole sidewalk. He wants clarification that the grade of the sidewalk will be ADA compliant if the road is 8%. Mr. Amico thought that was the case and he should check with his engineer/attorney. Mr. Amico said they were not talking about the running slope or the sidewalk itself, they are talking about the cross slope of the sidewalk perpendicular to the roadway; it needs to be 2% or less. Mr. Amio told Mr. Ali that Mr. Duffy had been asked to review the site and had certain questions and comments he wanted addressed. VHB reps met with him to talk about those specific comments and that's what we are talking about. Ms. Miles said either they be corrected or he can begin by consulting with the ADA people by contacting the Selectboard's assistant so he can raise the variance issue with the new town Disability Commission.

Ms. Miles noted the concerns from the residents about the proposed solutions of a clear cut across the driveway and then regrading it. Mr. Ali said the driveway aprons are because of the steepness of the driveways; it doesn't have the 2% where the driveway is. Ms. Miles said it's the proposed solution to do a saw cut that some of the residents had concerns with. Mr. Amico said the only solution is to rip up a section of the sidewalk that doesn't have the appropriate cross pitch, repave it, and then a section of the driveway would have to be saw cut and that section of the driveway would have to be repaved. Ms. Miles said it should be ADA compliant for all residents now and in the future. Mr. Frieden said at the last town meeting when they created the ADA board, there was a strong support for it. Mr. Ali said the new pavement on 92 North Main Street didn't have any saw cuts on any driveways; it was never done right.

Mr. Ali asked about the Homeowners Association; he needs to consult with his attorney; he said it has to be transferred to the homeowners. He said he sent a letter to the homeowners for a meeting but no one showed. Ms. Miles said his attorney should be able to advise him on the procedures. She said the board would be happy to have an agenda item and invite the homeowners and suggested that his attorney come to a meeting with all the information; the residents may attend to find out exactly what will happen next. Mr. Ali asked what happened in the past if the HOA was not transferred. Mr. Vignaly said it had never happened in the past. The builder usually has it organized more quickly. They are members of the HOA because it is in their deed; it's a legal issue; the board doesn't know the specifics of how the management works. The HOA is supposed to take responsibility. Mr. Ali is responsible to maintain the road and utilities until then. Mr. Ali said his attorney will look into it and get back to the board at the next meeting. He does not disagree with most of the list; he will look into sidewalk compliance. Mr. Vignaly said his attorney came to our November meeting and said he was coming back and never did. Mr. Ali told him not to come in because he was working on other issues and wanted everything to be finalized. Ms. Miles said the longer he waits, more things may be added to the punch list because things break.

Mr. Ali said he is ready to walk away from the project; he wants to finish the project in good faith, but if the town is trying to push him unnecessarily where the sidewalks don't match other sidewalks in town, just for one person, and other stuff, he is ready to walk away with his bond. Ms. Miles commented that if he completed things sooner; Mr. Ali said it was because of the shed on the easement. Ms. Miles said also that the HOA issue has been going on before she was part of the Planning Board; it has to be done. Waiting has only caused things to happen, e.g., cracks that are there now were not there two years ago. The board wants to work with him. She told him to work with his attorney to get the HOA established. Mr. Ali said he has been waiting for a final punch list since February and just got it this week. Mr. Amico said that was incorrect. VHB sent him a memo on May

6th as a result of Mr. Duffy's comments. Mr. Ali has had it since May 6th, not the other day. Mr. Amico was asked to compile it again and it's the same list from May 6th. Mr. Ali wanted the board to confirm it was a final list. Ms. Miles said he has a final list; separate from the "to do" list is the HOA. Mr. Ali again said he tried to get them to come to meeting and no one showed up. Mr. Vignaly said communication needs to be worked on. Early on, the residents wanted to take it on, but now they are worried about costs associated with the repairs. If he could show that things are getting fixed, they may be ready to take it, but until it's fixed, they are not interested in taking on more liability; he needs to communicate and explain it to them. Mr. Ali said he has tried and until his lawyer can come up with a solution, he is in limbo. Mr. Amico thought there must have been some language at the time of closing or in the deed. Mr. Vignaly said we talked about this since last November. An attorney experienced in these matters would know. Mr. Ali said he will be ready for the next meeting.

Mr. Frieden suggested a joint meeting with the homeowners to discuss different topics to encourage them to come. Ms. Miles said he has the punch list. If he wants to ask that he not meet ADA compliance for the driveway aprons, he has to go to the town's Disability Commission. If they have no objections with it not being ADA compliant, that is something the board can consider. Otherwise, he needs to pursue the appropriate action to fix it, which may not please the residents. Mr. Vignaly commented on the outstanding bills. Mr. Ali was reminded that over the last two months he has been asked to provide construction inspection services fee payment (\$1,000). Mr. Amico recommended that Mr. Ali have his engineer or attorney respond in writing to both the punch list issues and the issues that were submitted as far as the town meeting acceptance package so we have an official document.

Westland Circle Outstanding Issues (Fencing, HOA and Pathway) – Mr. Ali said the sewer issue has been decided. His attorney is preparing a document and will send it to the neighbors explaining how it has to be done because the walkway easement is already on the plan. As for the detention pond, he had agreed to do it and will; he will then do an as built plan. He asked if Mr. Amico could make a final list. Mr. Ali said the finished pavement was done last year. All the detention ponds are done. There is a detention pond that didn't have a fence; the neighbors and board wanted it; it isn't on the plan, but he agreed to do it. Mr. Vignaly said the big issue was the sewer; that has been addressed; the town will accept it within the right-of-way. There is still the issue of the HOA being responsible for the pathway up to Lawrence Street that has to be ADA compliant; there are drainage issues (there was flooding and icing issues); maintenance of the larger stormwater basin (it was not excavated and supposed to be an infiltration basin); check to see if the construction sediment has been removed; the erosion controls need maintenance; the stop sign needs to be changed. Mr. Ali said the stop sign has been put in; agreed that the sedimentation has to be cleaned up; the fence has to be done; and there is the issue with the easement. Mr. Ali said the sign is on Westland Circle, not on Davidson; the plan shows it on Davidson. VHB will review the design plan vs. what was constructed and can develop a list of any items they are concerned with. Mr. Vignaly said if Mr. Ali is going for acceptance of this road, the board needs the as-built plan and the list that is in the street acceptance procedure; he needs to request the board be in the process of accepting the road. Mr. Frieden said if there is any confusing language or ambiguity about the pathway to make sure it is cleared up before it goes to the town meeting. Mr. Vignaly said when the board approved the subdivision, the board put in a condition that the HOA is responsible in perpetuity for that path. Mr. Frieden said the reason for the path was to provide "connectivity" as required in the regulations, and because there was a waterline proposed there. Since the route of the waterline changed during construction, the path became just a path.

New Business/Review of Correspondence/Emails:

Vote and Sign Authorized Signatures for FY23 (any one board member is authorized to sign invoices/payroll) – Mr. Vignaly made a motion that the board authorizes one person to sign bills and payroll; Mr. Frieden seconded; roll call vote: Lopriore-yes; Vignaly-yes; Frieden-yes; Miles-yes; motion approved.

Reports from Other Boards

Invoices were approved for payment. Mr. Frieden made a motion to approve the draft June 8, 2022 Meeting Minutes; Mr. Lopriore seconded; roll call vote: Lopriore-yes; Vignaly-yes; Frieden-yes; Miles-yes; motion approved.

August 10, 2022 at 7:00 p.m. was confirmed as the next regular meeting date and time. It will be a Zoom meeting.

Mr. Vignaly made a motion to adjourn; Mr. Lopriore seconded; roll call vote: Lopriore-yes; Vignaly-yes; Frieden-yes; Miles-yes; motion approved.

The meeting was adjourned at 8:00 p.m.

Date Accepted: _____

By: _____
Marc Frieden, Clerk

Submitted by: _____
Melanie Rich