



TOWN OF WEST BOYLSTON PLANNING BOARD planningboard@westboylston-ma.gov
140 Worcester Street ** West Boylston MA 01583 ** Phone 774-261-4073

ZOOM MEETING MINUTES

October 12, 2022

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

Members Absent: None

Others Present: Vanessa Kuzmanovski, Gabriella Hyppolite, Tim Whitaker, Josiah Sansone, Nicholas Grote

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 7:00 p.m. and announced that pursuant with Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law July 16, 2022, the West Boylston Planning Board is being conducted remotely. Members of the public who wish to view the live stream of this meeting can do so via the link listed on the agenda.

Members Present: Frank Lopriore, Vincent Vignaly, Barur Rajeshkumar, Marc Frieden, Sarah Miles

Citizens' Comments – None tonight.

Old Business:

Nuha Circle Request for Street Acceptance Update – Mr. Ali emailed this evening that he would not be attending but attached a document for the Trustees to take over and a document for him to resign as Trustee of the Homeowner's Association (HOA). The board sent Town Counsel questions about the remaining items and documents Mr. Ali had provided the residents and the board for review and comment.

Town Counsel made minor revisions to the appointment of Trustees. The new Trustees have to sign an Acceptance of Appointment because in order to make the transfer, there has to be a recorded Trustee Resignation, the appointment of the Trustees, and the Acceptance of Appointment. The Acceptance of Appointment is missing. Vanessa Kuzmanovski (6 Nuha Circle) said there were two members that are no longer going to be a part of the HOA; they have to meet again to appoint new members. She also said #1 and #2 Nuha Circle have paid into it; and #9 and #10 are not included but are in the cul-de-sac. She felt it should be redrafted. Mr. Vignaly said anything that was in the subdivision becomes part of the HOA. Because #1 and #2 were lots created with frontage on Prescott Street, they are not part of the subdivision. As far as the Board's interests are concerned, they could join, but until they are added, they're not part of it. Mr. Ali has not wanted to spend money on an attorney to make that happen, he is leaving the original lots in the subdivision as part of the HOA. Ms. Kuzmanovski said they are not ready to sign it until all the houses, with the exception of #1 and #2, are included.

Tim Whitaker (3 Nuha Circle) said there are eight houses in the original plan. Josiah Sansome (2 Nuha Circle) said Mr. Ali sent an email to several people with a list of those who paid into the HOA, which included #1 and #2. It was on their deed that they were part of the HOA. In the original closing documents, there was a map of the subdivision which included #1 and #2 and did not include the additional lots at the end of the circle which was originally one large lot that was split into three. Mr. Vignaly said we need a list of what is needed from Mr. Ali, the lots and property numbers of the property owners that are included in the HOA, and what they paid. He said Mr. Ali could not have created new lots without getting Planning Board to sign off on an ANR plan. Mr. Frieden didn't think the original plan had changed. Mr. Tignor said he didn't come on board until the very last house on the circle; he will check to see what he has in his office. Ms. Miles said there are still a lot of questions. The town wants to help them and get it settled, but this part is outside of the Board's scope. New paperwork is needed. We need to ask Mr. Ali to clarify what lots are in the HOA, and the ones that are on Prescott Street, are they included or not included, and if they paid a fee, do they get that fee back.

Ms. Miles asked Town Counsel if the homeowners took over the HOA now would they be responsible for the off-street drainage as is noted in the HOA document. Town Counsel response was that it is the responsibility of the HOA until the town accepts the roadway as a public way. She asked Town Counsel to clarify would they be responsible for the road maintenance, plowing, lighting, and such, but has not gotten an answer yet. Ms. Kuzmanovski suggested that six months from the date they all sign before that there should be an inspection on Mr. Ali's part to make sure everything is up and running. Ms. Miles said we asked about the terms of the Performance Agreement and asked about the funds and the work that remains uncomplete; she has not heard back yet from Mr. Ali. Ms. Miles said what we say in the street acceptance guidelines specifically is that there is documentation that the HOA exists. It's not clear to her whether it needs to be transferred to the residents before the street is accepted if it already exists. Mr. Vignaly said when they drafted the street acceptance procedure, the idea was that an HOA needed to be established so that the stormwater utilities that are outside the right-of-way of the roadway were going to be maintained in the future. It needed to be established, not assigned to certain properties or anyone in particular, so if there is a problem in the future moving forward, the town would have some group to say they are legally responsible for maintenance of the structure or system of structures and they need to do the maintenance. Mr. Frieden didn't think they ever switched over or the original developer didn't back out until it was accepted just because if it's not accepted, they have more work to do. Mr. Vignaly agreed and said typically the developer was trying to get everything completed before town meeting and the Planning Board reviews it and thinks everything is completed and then go to town meeting. It hasn't happened yet that the Board's warrant article requesting acceptance of a town road under a Subdivision Regulated Street has been turned down. Everything should be clean and complete for acceptance at town meeting. The transfer of the HOA is shortly after town meeting.

Mr. Rajeshkumar was disappointed and didn't think it was right that Mr. Ali emailed the board shortly before the meeting saying he was not coming; it was on the agenda and many homeowners were present. He suggested if Mr. Ali doesn't show at the next meeting, it not be included on the agenda; let him deal with it the way he would like to. Ms. Kuzmanovski asked what the residents at Nuha can do to override Mr. Ali and have the acceptance of the roadway go to town vote. Mr. Vignaly said they can do a 10-taxpayer petition. He said if the area is bad and not ADA compliant and the 10-taxpayer petition says they want to accept the road, the Planning Board, DPW and the Town Administrator will review it based on that and make a recommendation to town meeting. If it doesn't meet the standard of the town, we would recommend denying or rejecting the acceptance. 10 taxpayers can request acceptance, but it needs to be ready for that; we don't know the cost for fixing the cracks and getting

ADA compliance for the sidewalk. That should have been done as part of the construction. checked and confirmed before occupancy permits were issued. All that is supposed to be done and checked by our ADA person (George Tignor) and whoever was before him. Ms. Kuzmanovski asked what the residents can do to have the bond taken over by the town. Mr. Rajeshkumar said the bond may not be sufficient to fix the road. Ms. Miles said we need a cost estimate for the remainder of the project. We can check with VHB and ask what they propose as a plan to follow up on this.

Mr. Sansone said the town isn't going to take care of the drainage and they can't access the escrow to take care of it, they are dependent on Mr. Ali to plow the road and pay for the lights; he has threatened several times to walk away. He said the responsibility to ensure Mr. Ali did things correctly fell on the town and its inspectors. The onus is on the town as the holders of the bond to ensure that things were built properly. The fact that the bond was reduced to an amount that might not be sufficient to complete the remaining work is the town's fault. Ms. Miles said at the time this was reviewed and the bond was reduced there was very little remaining work. The cracks in the road were not there; it was three years ago. Mr. Vignaly said construction costs have risen; before COVID prices had risen significantly in recent years. \$46K might have been enough back then to do what was needed. Mr. Sansone asked if they would have to take legal action against Mr. Ali. Ms. Kuzmanovski said the buses won't come down the street in the winter because it's a private street. It's not safe to put children on Prescott Street. There is an urgency to get it completed before the next school year.

Nicholas Grote (9 Nuha Circle) said his driveway is one of the non-ADA compliant driveways; the proposed solution isn't adequate. He doesn't want a cut across his driveway. It was explained to be the only solution.

Action Items: The Board will ask VHB for a number to complete the work on the punch list; ask Town Counsel what the options are for Mr. Ali's other bond; email Mr. Ali and ask him to clarify the issues surrounding the HOA, i.e., who is in it specifically and how much has each of them paid.

Westland Circle Outstanding Issues (Fencing, HOA, and Pathway) – Tabled.

New Business/Review of Correspondence/Emails:

215 West Boylston Street (Gabriela Hyppolite) – Informal Discussion for a third business – She is looking to be the third business at 215 West Boylston Street doing IV hydration. She is an emergency trauma nurse and will go to people's homes or offices and deliver medications/vitamins/nutrition they need. Mr. Frieden asked if it was a business center. Mr. Tignor did a zoning interpretation and said it did fit into the bylaw because it turned into three businesses in one building and needs approval as a business center. Mr. Frieden asked if it had reached a business center when Wonder Bread moved out and they started putting businesses in. Mr. Tignor said he wasn't around then but there is an auto repair shop in the back portion and Total Refit is there also. There is a section of the building in the front for another business. Mr. Vignaly asked why the owner was not coming in; the owner the property has the authority to have a survey done. He doesn't see any issues getting a Site Plan Approval but having one of the tenants come in and be responsible for the whole project seems unfair. The process that needs to be followed is in the Zoning Bylaws; it's pretty involved but for this small a change a lot of things are not needed; there is paving; she would have to calculate how many parking spaces are needed for her use and from the other uses. A Site Plan Review application will have to be submitted with all the items that are required or ask for waivers for some of those that don't seem to be needed. When they have a basic plan, they can come to the Board with a preliminary plan and we can advise them what

they do and do not need. Mr. Frieden said it would be important to know the uses of each business to calculate the parking spaces. Ms. Miles asked if it was possible to offer what she is offering as a service in Total Refit; Ms. Hyppolite did not know but will check to see if it's a possibility. The owner of the building needs to submit the application or authorize her to act for them.

241 Woodland Street Update of ZBA Court Decision – The ZBA denied the petition for another four units in the residentially-zoned land; the Land Court sided with the ZBA; it was appealed and the Appeals Court allowed it. Ms. Miles said if Town Counsel referred it to the Board with the idea that there might be some changes in our bylaws that could be tightened up to make sure this doesn't happen again. Mr. Tignor said when the plan was brought to him originally, he told the builder 4 units would not fit. Part of the building was in the 30-foot buffer zone. The bylaw says you can go into that area as long as it's not active. Mr. Tignor's interpretation of the drawings showed that a large portion of one of the units was in that area; to him that was active and they should not be able to build in there. The higher courts said they could use it actively; he doesn't know how they came to that conclusion; it should not have happened. Mr. Tignor said it should be identified what that space can be used for. Mr. Vignaly asked if there's a reason why we don't delete the 30-foot push into the more stringent zoning. Mr. Tignor did not know. Ms. Miles said when making changes, we need to consider what good it will do and what harm it will do. Mr. Vignaly asked what complaints there will be at town meeting if we delete it. Zoning changes will be added to the November agenda for discussion. Mr. Tignor will make a list of the zoning changes he would like to see; proposed wording is needed as well as feedback from other boards/departments. Sarah wants to see the language with strikethroughs or new language to review.

ZBA Informational Petition (Special Permit Application for 181 West Boylston Street) – David Femia said it's the Classic Suites (old Howard Johnson); they want to put in an Italian coffee shop. A public hearing is scheduled for November 17th. The site plan was reviewed. Ms. Miles would not recommend the current configuration. Mr. Frieden will draft a letter. They appear to be using a "gravel" area for 20 parking spaces, which triggers Site Plan Review, for alteration of 15 or more spaces. The proposed plan does not look viable for the traffic pattern for the use they are looking for; the traffic pattern is not safe, pedestrian access is dangerous, the queuing line for the drive-thru and the traffic pattern for the motel conflict, there is no table for the calculations for the number of parking spaces required for each of the uses on the property. Mr. Tignor suggested they go to the Planning Board for Site Plan Approval, but they opted to try for a special permit. They attended a previous Planning Board meeting and said they did not need to change 15 or more parking spaces, but it appears they do.

Reports from Other Boards:

Invoices were approved for payment. Mr. Frieden made a motion to approve the draft September 14, 2022 Meeting Minutes; Mr. Rajeshkumar seconded; roll call vote: Lopriore-yes; Vignaly-yes; Rajeshkumar-yes; Frieden-yes; Miles-yes; motion approved.

November 9, 2022 at 7:00 p.m. was confirmed as the next regular meeting date and time. It will be a ZOOM meeting.

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

The meeting was adjourned at 9:00 p.m.

Date Accepted: _____

By: _____
Marc Frieden, Clerk

Submitted by: _____
Melanie Rich