



ZOOM MEETING MINUTES February 8, 2023

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

Members Absent: None

Others Present: Dave Femia, Paul Lenkarski, Jennifer Warren-Dyment (Town Administrator), Kevin Duffy (WB DPW), Jaurice Schwartz (Weston & Sampson)

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

Citizens' Comments – Dave Femia said the CPTC 2023 Conference will be held March 18, 2023 at Holy Cross.

New Business:

Site Plan Review Application – Shrine Avenue (proposed 9-unit multi-family development) Accept Application and Set Public Hearing Date – Mikael Lassila (SJ Mulaney Engineer) was present for the applicant. The application fee was not received; the property is 2.91 acres. The review fee is \$6,000 plus \$1,200 for the application fee; \$1,642.07 is in the review fee account from the prior submittal at this site. The Board asked why the application form did not indicate that a Stormwater Management Permit was being requested. A Stormwater Management Permit is needed, but if they do not request it now, it will have to be reviewed and acted upon at a later time and will be more delay. The application is not complete but the public hearing was scheduled for April 12th at 7:05 p.m. Mr. Lassila was asked to provide a site address for reference since the property is located between 61 and 63 Shrine Avenue.

Stormwater Bylaw Update (Kevin Duffy/Weston & Sampson) – Kevin Duffy (DPW) and Jaurice Schwartz from Weston and Sampson were in attendance to talk about the Town's intention to propose new bylaws and regulations to comply with requirements of the Municipal Separate Storm Sewer System Permit (MS4 Permit). The MS4 permit is with the EPA and State of MA. Current Town Rules and Regulations are in line with the 2003 Permit but need to be updated. When the Feds updated MS4 Permit, there were additional requirements that our Bylaws, and Rules and Regulations don't fully encompass. In addition, he is working with Weston & Sampson on mapping of the drainage system in the urbanized area, dry flow sampling, wet flow sampling and have drafted an IDDE Bylaw, (Infiltration Detection and Discharge Elimination), Stormwater Bylaw, and Stormwater Rules and Regulations.

Ms. Schwartz gave a power point presentation explaining what the MS4 Permit encompasses. A new permit was finalized in 2016, effective July 1, 2018; it expires in 2023. The Town adopted a Stormwater Bylaw in October of 2007 to comply with the 2003 requirements. The Rules and Regulations may not have to go before Town Meeting; they can be adopted with a public hearing. Mr. Vignaly asked if the Rules and Regulations were coming from Zoning or General Bylaws or Rules and Regulations from the Stormwater Authority. Ms. Schwartz said through the General Bylaws. Mr. Vignaly asked where the Regulations would be “housed”. Ms. Schwartz said the Stormwater Bylaw would cover everything related to stormwater management. Mr. Vignaly said that the Planning Board adopts Regulations by a public hearing and a vote. He didn’t know if the Planning Board could adopt regulations that apply to the ZBA, Conservation and Earth Removal Board and not sure they would want the Board to do that. Additionally, a Bylaw change needs Town Meeting approval and he questioned who would conduct the public hearing necessary. The Town Administrator will follow up with Town Counsel on who would be holding the public hearing prior to Town Meeting. Ms. Schwartz said they had a presentation with Conservation and will be before the Sewer Commission on Monday; she hopes to get feedback from them and the Board and make updates before going to the Selectboard in March; Town Counsel and the Bylaw Committee will review them, and hopefully they will be ready for the May Town Meeting.

Mr. Vignaly asked Mr. Duffy if any other Stormwater Permits had been issued by any other entity besides the Planning Board since 2007 when it was enacted. Mr. Duffy said there was one permit brought to him by Mr. Tignor (Building Inspector) recently in an area that has stormwater and runoff related problems in the right-of-way. It was over 10,000 square feet of land disturbance and over 4 units. The person did provide a Stormwater Management Plan for review. Mr. Vignaly mentioned the stipulation about a common plan of development because if someone comes to the Board with an ANR and it shows a 3-lot development, when will they be required to submit for a Stormwater Permit? A single lot will not likely exceed 10,000 square feet, but when all three are developed it may not go over the 10,000 square foot threshold. Is it the Conservation Commission or Building Department monitoring this ideal of a common plan? Mr. Duffy said it is currently included. Mr. Vignaly asked if there is any wording he would suggest being incorporated by the Planning Board into their current permit language to please comment. Mr. Frieden asked if it applied to projects for private residents; Ms. Schwartz said there are no exclusions; it’s based on the threshold of disturbance (10,000 square feet). Mr. Duffy said the enforcement will be the DPW Director or his designee. It will be on the March Agenda for discussion for any comments the Board may have. The Town Administrator felt it would be the Selectboard who would hold the public hearing because of the overlap with the Planning Board, Conservation, ZBA and Earth Removal Boards, but will verify it.

Review Annual Town Report (due March 1st) – Mr. Frieden will prepare the report and send it to the Board for review before sending it to the Selectboard Assistant, Faye Zukowski.

Old Business:

20 Holt Street Project Update – Ms. Miles said there is a bond estimate to be determined; new HOA documents have been sent to Town Counsel; there is an agreement to be enacted with the project regarding a license and liability for the town regarding the unpermitted wall constructed on Town land. The request from Mr. Lenkarski is to allow, based on the progress he said has been made thus far, to allow one of the two Temp Occupancy Permits to be released.

Mr. Vignaly said VHB's review included the ramp going into the basin not being completed, the pavement on the abutting property not being removed, and the reduction in width to 18' from 20' access driveway were questioned. Mr. Lenkarski's response was that he thought everything was fine. Nothing has been received from VHB or the Fire Chief stating that. His opinion was that nothing should be released until the job is complete. The stone wall can be removed at any time; it was never on the plan or permitted. He doesn't see any real progress and not interested in the bond; just finish the job. Mr. Rajeshkumar felt the same. His view is that nothing has been done. The Board has seen with other projects that once the Temporary Occupancy Permit is issued, the Board doesn't get anything else. There is no excuse for the stone wall and do we want to put the town in liability. He said there are many other construction projects going on so it can be removed. His view and vote would be the same. Mr. Lopriore recused himself from the matter. Mr. Frieden shared the other two opinions and said he is in a confusing situation on the Planning Board: for the first time ever we've been able to enforce wanting to finish a project and we need to make it play its way out. Mr. Vignaly said the condition has been included in other projects, it has not always been enforced, and that's where the Board has gotten burned in the past. The permit conditions for this one, encouraged by current and past Town Administrators, have asked the Building Inspector to follow the rules and permit requirements. The stance of the Board to have this type of situation occur, is to get projects completed. He doesn't want to fold and not enforce our own requirements that we've been asking the Building Inspector to enforce over the last five years. Mr. Rajeshkumar said the Building Inspector should not have issued permits. He was repeatedly told as well as Mr. Lenkarski that the Board won't be issuing any permanent Occupancy Permits until the project is complete. Ms. Miles said she has been on the board for four years and all of the projects started before she came, and it is important to note that this is not the only time that this limited number of temporary occupancies has been placed into a Planning Board approval. It hasn't been enforced before, and just because it hasn't been enforced doesn't mean it's wrong to start enforcing it. Mr. Lenkarski said if the Board releases one, we are still holding one and said of course he will complete the project. He said the wall will come down. He said holding two permits has taken away his revenue, he can't do work without making money. He said he did address the issues. Except for the wall, he doesn't see any other issues. Mr. Rajeshkumar read the minutes from November 2022 noting multiple issues that needed to be addressed that have still not been addressed. Mr. Lenkarski said the wall will be removed by May 1st, the Board will have a bond and a unit. Ms. Miles said the Board does not have to have a bond; we would have to vote to accept a bond. He is offering a bond in exchange for one Temporary Occupancy. He said there are no other issues outstanding. He didn't understand why the Board has to hold two permits. Mr. Vignaly reminded him that it's in the approval letter and Special Permit since it's been written. They should have planned and known that the condition was there and aware of it before they got buyers and organized their schedule. The idea that there is one thing remaining is wrong; there are many issues outstanding; an estimated bond was \$70,000-\$90,000; Mr. Lenkarski offered a bond of \$12,000.

Mr. Vignaly made a motion that the Board not release the condition of withholding the Certificates of Occupancy; Mr. Rajeshkumar seconded. Mr. Vignaly withdrew his motion because it was not in the affirmative. Mr. Vignaly made a motion to authorize releasing the requirement of holding two Temporary Certificates of Occupancy until a Certificate of Completion is done and revise it that only one Certificate of Occupancy be held; Mr. Rajeshkumar seconded; roll call vote: Vignaly-no; Rajeshkumar-no; Frieden-no; Miles-yes; Lopriore abstained; motion does not pass. He was told to send his as-built to the Board and it will be forwarded to VHB.

Zoning Changes Discussion Update – The Zoning Bylaw changes were reviewed and final revisions made. The Building Inspector was asked to provide edits or draft language but did not submit specifics.

Ms. Miles asked if the Board was ready to set a public hearing and if changes could be made at the hearing. Mr. Vignaly said there can still be changes at the public hearing as long as the changes are not significant.

The next step was to schedule a public hearing. The Town Administrator said at the next Selectboard meeting she anticipates they are going to be setting a date to open the Town Meeting Warrant. Because this is a Zoning Bylaw, the Board has to submit the Zoning Bylaw changes to the Selectboard who votes to send it back to the Board to hold the public hearing. Ms. Miles would like to hold the public hearing in March but the Town Administrator said the Town Meeting Warrant is not open for the Selectboard to be receiving Warrant Articles until after their meeting next week. Mr. Rajeshkumar made a motion to authorize the Chair to send the Bylaw changes to Selectboard tonight and the Town Administrator can put it on the agenda when appropriate; Mr. Frieden seconded; roll call vote: Lopriore-yes; Vignaly-yes; Frieden-yes; Rajeshkumar-yes; Miles-yes; motion approved.

MBTA Communities Zoning Discussion – The Town Administrator said the Board is in interim compliance.

Reports from Other Boards: None tonight.

Invoices were approved for payment. Mr. Rajeshkumar made a motion to approve the January 11, 2023 Meeting Minutes; Mr. Lopriore seconded; roll call vote: Lopriore-yes; Frieden-yes; Vignaly-yes; Rajeshkumar-yes; Miles-yes; motion approved.

March 8, 2023 at 7:00 p.m. via Zoom was confirmed as the next regular meeting date and time.

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

The meeting was adjourned at 9:07 p.m.

Date Accepted: _____

By: _____
Marc Frieden, Clerk

Submitted by: _____
Melanie Rich