



MEETING MINUTES July 14, 2021

Members Present: Paul Anderson (Chair), Sarah Miles, Marc Frieden, Vincent Vignaly, Barur Rajeshkumar

Members Absent: None

Others Present: George Tignor (Building Inspector) See Attached Sign-In Sheet

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 meeting at 7:03 p.m.

Citizen Comments – Dave Femia asked if the board would be reviewing the various zoning bylaws to make changes at the fall town meeting, specifically accessory apartments; it will be on an upcoming agenda. Mr. Tignor will be meeting with other State Building Inspectors soon and will forward any information on the implementation of the Governor's recent authorization to change housing permitting when he receives it. He will also forward his comments regarding any other bylaws he feels need changes before the next meeting.

Bethlehem Bible continued Public Hearing – Mr. Vignaly recused himself from the matter. The applicant requested a continuance. Mr. Rajeshkumar made a motion to continue the public hearing to August 11, 2021 at 7:05 p.m.; Mr. Frieden seconded; Anderson/Miles/Frieden/Rajeshkumar voted in favor; Vignaly was recused; motion approved. Abutters attending were told to return next month.

Old Business:

Nuha Circle – The Agreement regarding the shed has been reviewed by Town Counsel and recorded. Mr. Ali will be submitting paperwork for his request for the town to accept the roadway at the next meeting. He asked what type of deed and easement the town has accepted in the past. Mr. Vignaly suggested he review Jeff Perkins Old Century Farm project off Goodale Street. Mr. Vignaly asked if the Homeowners Association now includes 1 and 2 Nuha Circle and was resolved; the board will want to review it before the town accepts the roadway. Mr. Ali said an owner of 2 Nuha Circle is one of the trustees. Mr. Vignaly explained that the first two lots were not included in the HOA because they were frontage lots; their access and address is now on Nuha Circle so they should be part of the HOA. The board will review and accept it but does not vote on it or have to approve it.

Westland Circle – Mr. Ali said he is meeting with the Sewer Commission on July 21st to see if the town will accept the sewer system location with the road right-of-way. The walkway maintenance and liability are still outstanding. There is also a small drainage issue which he is working on. William Pitro (35 Westland Circle) asked how Mr. Ali could have sold all the houses without a Homeowners Association (HOA) being in place. He knew nothing about the

sewer lines or the HOA before purchasing his property and has no intention of joining it. Mr. Ali said it is supposed to be part of the title report; his attorney will address it at the next meeting. He did not tell anyone about the sewers because he thought they were public sewers; he said it was his mistake; he has never seen that stipulation before and will be asking the Sewer Commission to accept the sewers. Mr. Pitro was concerned there will be issues with the sewers in the future. He also said there are 9 houses and only 8 will have to be part of the HOA. The engineering design of the sewer system was reviewed and approved by VHB and Weston and Sampson. Mr. Vignaly said the additional lot needs to be part of the HOA if they are connecting to the sewer. Mr. Ali said that lot was an ANR lot and has no restrictions on it; the other 8 are part of the original subdivision boundaries under the subdivision control law. Mr. Pitro asked why the town wouldn't maintain the sewer if everything was up to code. He was told that would be a question for the Sewer Commission. Mr. Anderson said it is a unique situation. Mr. Pitro asked who was responsible for making sure there was an HOA established before building permits were issued. The Building Inspector is responsible for issuing permits; there is a requirement in the subdivision approval stating that no building permit may be issued until the HOA documents are recorded and a copy sent to the Building Inspector's office. One resident wanted to know who is responsible for maintaining the sewer lines because it is an immense liability for 8 homes, and how can they be asked to join an HOA after-the-fact. Another resident said had they known, they would not have purchased their home. Mr. Vignaly said the HOA is a legal question that needs to be assessed and will be before the road is accepted by the town. Mr. Vignaly told the residents they could check the Planning Board's webpage on the town website for the subdivision approval to see the list of conditions. Mr. Ali plans to have answers at the next meeting. Ms. Miles said the board will need to see information from Mr. Ali's attorney two weeks prior to the August 11th meeting so Town Counsel can review it.

Mafuta Kizola (36 Westland Circle) asked about the liability of the walking path because they have an easement on their deed; they don't want to maintain it. Mr. Vignaly said liability was not discussed during the public hearing; that would be a legal question. When it was approved, it was agreed to by the proponent and the board that it would be maintained by the HOA.

Review Approval wording and vote on SPR for 166 Hartwell St., Evergreen Strategies – Mr. Vignaly recused himself from the matter. Anthony Parrinello attended. The letter was reviewed and approved. Having no issues, Mr. Rajeshkumar made a motion to grant the following waivers:

- 1) 3.6.C.2.a-An applicant for a Site Plan Review under this section shall file...the site plan drawn at a scale of 1"=20', or other approved scale...The submitted plans were drawn at 1"=40' to accommodate the scope of work proposed on the site to be shown on a single sheet.
- 2) 2.3.6.D.1.d-A waiver is requested to waive the requirement all-natural features including watercourses and waterbodies, tree lines, significant trees, and other significant vegetative cover, topographic features, soil properties, and any other environmental features of the landscape that are important to the design process. This specifically relates to the inclusion of all trees as the site was heavily wooded.

Mr. Frieden seconded; Anderson/Miles/Frieden/Rajeshkumar voted in favor; Vignaly was recused; motion approved. Mr. Rajeshkumar made a motion to approve Site Plan Review

Approval, Special Permit Approval and Stormwater Management Permit for Evergreen Strategies, 166 Hartwell Street; Ms. Miles seconded; Anderson/Miles/Frieden/Rajeshkumar voted in favor; Vignaly was recused; motion approved. Mr. Parrinello was reminded that the outstanding invoice needs to be paid before the approval letter will be released.

New Business/Review of Correspondence/Emails:

Review status of SPR/Special Permit for 111 Shrewsbury St., Harmony Retail Marijuana – To be discussed at the next meeting; no new information has been submitted.

Review status of SPR/Special Permit for 215 Shrewsbury St., Humboldt Masters – Andrew Kazakoff gave the board a “nasal ranger” which is a calibrated tool to measure odors that was required as part of the approval. He said they are nearing the end of construction. All of the conditions, with the exception of the greenhouse construction and the fence around the greenhouse area, have been done. They would like to start the process for a Certificate of Occupancy. They will also need a Certificate of Completion, but have not done the fence because it would make it impossible to put up the greenhouse. They were asking for a way to get the Certificate of Occupancy for the front portion of the building knowing the fence is not done. The fence is only for a structure that is non-existent; it has a separate building permit; there is no access to the building; it does not protect anything in the current building. They have a manufacturing license for the interior building; there is no cultivation currently; the cultivation license would be with the greenhouse; they have to apply to the state twice. Mr. Anderson asked Mr. Tignor about the separateness of the Certificates of Occupancy that he would issue. Mr. Tignor said the manufacturing facility inside is the Certificate of Occupancy (there would be three separate occupancies in that building). Mr. Rajeshkumar said if it was given, what if they never came back. Mr. Tignor said they need a temporary Occupancy Permit so the Cannabis Control Commission (CCC) can inspect the building and changes made before the final Certificate of Occupancy is issued.

Mr. Rajeshkumar said the greenhouse and fence were discussed during the public hearings and asked if they were going to put it up and was told they were. Mr. Kazakoff said they need a permanent Certificate of Occupancy, not a temporary in order to get state licensing. Mr. Tignor explained that a temporary Occupancy is issued first; he will check the requirements for the grow facilities. Mr. Vignaly said the SPR application was not phased, so no stipulations for doing a partial approval exists. If the board amended the Site Plan Review approval to change the greenhouse separately, when is the greenhouse and fence going to be built? Mr. Tignor commented that the reason the greenhouse is not up is because there was a construction issue; it wasn't planned to be phased. Mr. Vignaly said if they do get a Certificate of Completion, when will the board see an as-built plan. Mr. Kazakoff said the greenhouse and fence will not be up for months. Mr. Vignaly said final certification is given when everything that was proposed to be done is done. They said all the site work is complete except the greenhouse and fence. Mr. Vignaly said it is up to the Building Inspector because the board does not have the authority to issue that. Under the bylaw, a Certificate of Completion is needed before issuing a Certificate of Occupancy. Because the greenhouse will not be ready for months, Mr. Vignaly said once the greenhouse and fence is up and the work is done, they can get their Certificate of Completion whether or not the CCC makes them wait 6-8 months; it can be closed out with the Planning Board so it isn't open in the files for years. Mr. Kazakoff said by doing this they are walking exactly into that right now. He said it is a multi-million-dollar project that they are making no

money on. Ms. Miles said we don't want to give a Certificate of Occupancy too early and they never return to close out the plan. Mr. Vignaly said the permit was issued in 2019 and it's been dragging. Now they have deadlines to begin operations. Mr. Rajeshkumar said don't blame the board; it has nothing to do with this board. The board gave approval and it's been sitting there for two years. The board's concern is that it may not be completed. They asked what would be the method to solve it. Mr. Vignaly explained the bond process that is used for subdivision developments that could be an option. Mr. Kazakoff said they have two building permits; one on the front building and one on the back building. He thought he could get an Occupancy Permit on the front building and would not get an Occupancy Permit on the back building until there was a fence. The Site Plan Review did not request phasing and was not approved that way. According to the bylaws it is not allowed to be done that way, but Certificates of Occupancy have been issued to incomplete projects in the past. Does the board want to allow it? Mr. Rajeshkumar said it may end up with the one building and the other project may not move forward. VHB is scheduled to visit the site. Mr. Vignaly told them to have their engineer put in their certification letter that they feel all the site work has been completed. He also said their engineer was supposed to provide monthly reports but nothing was submitted to keep the board apprised of the progress on the project. Mr. Kazakoff said he believed they provided site work updates, but did not think they reported on the construction.

Comments to ZBA for 14 Bowen St. Special Permit Petition to reduce frontage less than 120' –

The draft letter was reviewed. There is only a small area on each of the two new lots that can be altered, the rest cannot be because of the Watershed Protection Act and Wetlands Protection Act; they have planned the buildings around that. It was suggested that there be a condition that the area shown on the plan as buildable or useable is all that gets cleared in perpetuity so that any future buyers are aware of the limitations. The ZBA can condition it. Dave Femia said all three lots were grandfathered and there should be no restrictions. Mr. Vignaly said it is not grandfathered if they want to change the existing lot. Mr. Anderson read Mr. Chase's statement in the absence of comments from the Conservation Commission. Mr. Anderson will revise the letter to remove the comment to add a condition and forward it to the ZBA Chair.

Review Town Counsel info for 45-49 Central St., Ludwig buildings (ANR was withdrawn) –

Zach Ludwig was present. Mr. Anderson said Town Counsel suggested they go for a subdivision plan and will need to get variances from the ZBA regarding the frontages. Mr. Anderson will forward Town Counsel's email to Mr. Ludwig. It didn't seem the board had any action if not doing an ANR or 81X. Mr. Ludwig asked if they determined if there was or was not an existing lot line. The lot lines between #45, #49 and #53 were also questioned Town Counsel under the merger rules. Mr. Ludwig said they were owned separately by separate owners and built on separately over time. In 1997 the two lots became owned by the same owner. #49 was built in the early 1900s; #45 was built in the 1960s. Through an 81x they can adjust the lines and bring it to the registry. It was suggested going back to Town Counsel to find out the next step. Mr. Anderson read Town Counsel's response. Mr. Ludwig will review the response received from Town Counsel and send contact info to Mr. Anderson who will forward it to Town Counsel for them to try to find a way to resolve the issue.

Reports from Other Boards: None tonight.

Invoices were approved for payment. The draft June 16th Meeting Minutes and Public Hearing Minutes for Bethlehem Bible Church were not ready for approval.

Sign Registry of Deeds Appointments/Terms – Mr. Vignaly made a motion to authorize any one board member to sign an ANR plan; Ms. Miles seconded; all voted in favor; motion approved. The document was signed.

August 11, 2021 at 7:00 p.m. was confirmed as the next regular meeting date and time.

Mr. Rajeshkumar made a motion to adjourn; Ms. Miles seconded; all voted in favor; motion approved.

The meeting was adjourned at 9:10 p.m.

Date Accepted: _____

By: _____
Vincent P. Vignaly, Clerk

Submitted by: _____
Melanie Rich