



# TOWN OF WEST BOYLSTON PLANNING BOARD [planningboard@westboylston-ma.gov](mailto:planningboard@westboylston-ma.gov)

140 Worcester Street \* West Boylston MA 01583 \* Phone 774-261-4073

## PUBLIC HEARING MEETING MINUTES

### Amend Zoning Bylaws

#### Section 5.2.A.1.(f) Off Street Parking and Loading

AND

#### Section 5.6 Signs and Billboards

October 11, 2017

Members Present: Vincent Vignaly (Chair), Marc Frieden, Cheryl Carlson, Paul Anderson, Barur Rajeshkumar

Members Absent: None

Others Present: 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 regular meeting at 7:00 p.m.

The purpose of the public hearing was to consider amending Section 5.2.A.1.(f) Off Street Parking and Loading AND amending Section 5.6, Signs and Billboards and bring the changes forward to town meeting for the people to vote. The hearing notice was read into the record.

**Section 5.2.A.1.(f) Off Street Parking and Loading.** Because there was a dispute between neighbors with regard to a commercial vehicle being parked in a residential area, the Town Administrator asked the Planning Board to consider changing the Zoning Bylaws so the weight for commercially-licensed vehicles could be reduced. The Building Inspector provided the factual information and recommended the change from 18,000 pounds gross vehicle weight (currently) to 12,000 pounds gross vehicle weight. The draft wording to be considered was as follows: *"Commercially-licensed vehicles in excess of 12,000 pounds gross vehicle weight and commercially licensed vehicles with more than two axles are prohibited from parking overnight in a residential zoning district, except school buses or farm vehicles, or construction equipment during actual construction on the site. The definition of gross vehicle weight is the maximum operating weight/mass of a vehicle, as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo but excluding that of any trailers."*

The board added the definition of gross vehicle weight because it is not currently stated. The Building Inspector recommended limiting it to two axles. Mr. Frieden said the question previously was 12,000-pound vehicles and more than two axles, or exclusive. It was intended to be two separate phrases and he believes we now have the intent of the change.

Rick Ramstrom (45 Maple Street) said pickup trucks will be impacted by the change. He said the change for one or two people will affect thousands. Cheryl Tomaiolo (40 Maplewood Avenue, one of the parties of the lawsuit that initiated this change), said the neighbor owns and parks a large 10-wheel Mack diesel tractor truck on his property, it is loud, he idles and repairs it on his property and it affects her quality of life. Jeff Cranston (55 Fairbanks Street) asked the

gross vehicle weight of a 10-wheel Mack truck. Ms. Tomaiolo said the original registration weight said 18,500 pounds. He weighed it at a CAT scale and said it was 17,800 pounds, but no one witnessed that. Ms. Carlson said the 12,000-pound figure was given to the board by the Building Inspector; we are trying to do our research so as not to impact the majority of the residents. Dan Mercurio (206 Lancaster Street) asked that the town enforce the current bylaws before changing the regulation and do our due diligence. Mr. Frieden asked those present do they adhere to the 18,000 pounds currently; yes. Will anything less impact them? All of them stated yes. Matt Rogers (232 Lancaster Street) said a Ford F550 dual vehicle weight is 19,500 pounds and thought it would make more sense to go by axels. He said he has taken trucks home for 20+ years and never had a complaint. Mr. Vignaly read the definition of gross vehicle; “gross vehicle weight is the maximum operating weight or weight/mass of a vehicle”; it is just the vehicle, not loaded. Mr. Mercurio said he is already in violation. Mr. Tomaiolo said the police department said he is not in violation. Mr. Vignaly said that we have a zoning bylaw in place and are told by our current Building Inspector and the Police Department that is not working, so we are drafting language to make something that would be enforceable so the situation doesn’t happen again. We are holding the public hearing tonight so we don’t make it worse than it needs to be. Mr. Mercurio said the GVW is what the vehicle can legally weigh fully loaded. There is also the “tare weight” which is what the truck weighs empty. A certified scale will weigh the tare weight first and then the gross vehicle weight after it is loaded with whatever material it is hauling. Mr. Ramstrom asked why so much money was spent going to court. He was told that the Building Inspector issued a citation, it was appealed to the courts, and it is still an ongoing court case. Ms. Tomaiolo said there are different definitions for GVW and GVW Rating and you must choose the definition. She said the Housing Court said he was at 18,500 pounds and his rate was fine and said the town was questioning if he had a business; they found no business. Rob Parslow (408 Worcester Street) found it disturbing that we were having this discussion. He said the truck in question goes by his house and he doesn’t really hear it. He sees it as an isolated issue the neighbors need to resolve between themselves and doesn’t think we should pick a weight or GVW without doing more research. He asked if it changes, what’s to prevent him from starting an old car and running it. Ms. Tomaiolo said the Board of Health deemed it a nuisance. Scott Bostek (1 Olde Century Farm Road) said it is unfortunate for Ms. Tomaiolo and asked if she had considered moving. He said it is one instance that affects a lot of people. Edward Tomaiolo (40 Maplewood Avenue) read a statement about the small lots, narrow roads, and that people live close to each other. The trucks are damaging the roads, there is a risk of children getting hurt, it affects the quality of life, the vibration, noise, home values and believes a change in the bylaw is necessary. The consensus for those that attended was that they feel bad for the Tomaiolos, it is wrong, but what will happen to all of them and their businesses if it is dropped. They would like the Tomaiolos to look at their side of it as well.

The board supports part of the change. Mr. Frieden supports the addition of the definition as well as either leaving it at 18,000 pounds or increasing it to 19,000 pounds. It was discussed going to 19,500 pounds and limiting it to two axles. Mr. Frieden liked commercially-licensed vehicles, but was not sure about the axles.

Mr. Mercurio said the concern is for their livelihood. Mr. Carima is already in violation of the bylaw. He does not think the bylaw needs to change at all, just enforce the current bylaw. Mr. Vignaly said it was enforced and the court did not believe he was in violation of our zoning bylaw. Mr. Mercurio said the VIN number will list everything. Mr. Vignaly asked if we could

change the existing bylaw to be a 20,000-pound gross vehicle weight rating. Mr. Frieden read the potential wording after clarifying the definition and adding gross vehicle weight rating: “*The definition of gross vehicle weight rating is the maximum operating weight/mass of a vehicle, as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo.*” He thinks that is the important part because it can’t just be the tare weight because the tare weight doesn’t include the cargo. If that definition is added to the bylaw, it clears it up for the courts who don’t understand it, and thinks that would solve it.

Ms. Tomaiolo said the problem has been ongoing for twenty years. She said the police refuse to come because Gary Carima has threatened to sue them; they never investigated. Mr. Rajeshkumar thought we should wait for a court decision before changing the bylaw. Ms. Carlson was in favor of adding the definition with the rating on it. Mr. Vignaly noted that the board did not do its own research and is relying on the Building Inspector and the Town Administrator. Ms. Carlson was not comfortable with the draft wording and proceeded to check two other towns’ bylaws. Mr. Vignaly said the Planning Board’s recommendation would go to the Bylaw Committee for review and explained the process. Mr. Frieden would like to show that the board is supporting the citizens that are having trouble by adding the definition, but also the rest of the people in town by leaving the weight alone or increasing it to 20,000 pounds. The board agreed that revising the wording to change the 12,000-pound vehicle weight to 20,000-pound vehicle weight and adding the definition of “rating” will help everybody. Mr. Vignaly read the revised wording as follows: “*Commercially-licensed vehicles in excess of 20,000 pounds gross vehicle weight rating are prohibited from parking overnight in a residential zoning district, except school buses or farm vehicles, or construction equipment during actual construction on the site. The definition of gross vehicle weight rating is the maximum operating weight/mass of a vehicle, as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo.*”

Dave Femia commented that since the court ruled in favor of the trucker, saying he is not in violation of the bylaw, what difference does it make if we raise it to 20,000 pounds. Mr. Frieden said the “Gross Vehicle Weight Rating” definition would clarify the issue and they would not need to go to court the next time; it can be implemented by the Building Inspector. If it should end up in court, the definition is right in front of them. It will now go to the Bylaw Committee for review.

**Signs and Billboards, Section 5.6.D.3.1.e.v.** The intent is to eliminate Section 5.6.D.3.1.e.v. “TEXT ONLY” requirement from “Digital Display Signs” in order to allow stationary pictures (they cannot move). There were no questions.

Having no further issues, Mr. Rajeshkumar made a motion to close the Public Hearing; Ms. Carlson seconded; all voted in favor; motion approved.

Date Accepted: \_\_\_\_\_ By: \_\_\_\_\_  
Paul Anderson, Clerk

Submitted by: \_\_\_\_\_  
Melanie Rich