



**Town of West Boylston**  
140 Worcester Street, West Boylston, Massachusetts 01583

## **[Zoning Board of Appeals] Meeting Minutes**

<b>Date / Time / Location of Meeting</b>	<b>Thursday, November 21, 2019/7:00 p.m./Selectmen's Meeting Room #210</b>
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<b>Members Present</b>	<b>Chris Olson (Chair), Barur Rajeshkumar (Vice-Chair), David Femia (Clerk), John Benson, Andrew Feland (Associate Member) and Secretary Toby Goldstein</b>
<b>Members NOT Present</b>	<b>Nathaniel Orciani; Mark Wyatt and Charles Witkus (Associate Members)</b>
<b>Invited Guests</b>	<b>Iqbal Ali</b>

**Welcome – Call to Order**                      **Time: 7:24 p.m. (by Mr. Olson)**

**Approval of Previous Minutes**        **Executive Session, August 15, 2019**  
**Minutes of October 17, 2019**

**Motion Originator**    **Mr. Femia (approved as written) – August 15 (Executive Session and short Open Session) and October 17, 2019**

**Motion Seconded**    **Mr. Feland – August 15; Mr. Rajeshkumar – October 17**

**Treasurer – Financial Report**        **Mr. Olson reviewed the latest financial statement, dated 10/31/19**

**Motion to Accept**    **N/A**

**Seconded**    **N/A**

At 7:24 pm, Mr. Olson called the meeting to order upon Mr. Benson's arrival.

**Discussion of Closing Account for Sajda Gardens, 92 North Main Street:**

(Iqbal Ali represented). Mr. Olson asked Mr. Ali to step forward, and reiterated to him that this was a continuation of the discussion from the October 17, 2019 meeting, where the board discussed that they were holding funds in escrow for Mr. Ali for this project and were trying to close out that account. Mr. Olson explained that the board received emails from Town Counsel in response to two issues discussed by the board. One was the possibility of reimbursement of funds spent by the Town for CPA work done by Denise Cataldo; the response from Town Counsel was that, as the fee was already paid, the board should let it stand. The second issue was regarding a final "as-built" review of the project by VHB; Town Counsel responded that he did not find a basis in the amended Comprehensive Permit to do a separate engineering review now. Mr. Olson asserted that there was a basis for doing that review beforehand, and Mr. Ali explained at the October meeting that it was done, that the previous Building Inspector (Bentley Herget) said that everything looked okay to him and he issued the occupancy permits. (Mr. Ali added that VHB had inspected everything). Mr. Olson added that he saw no other outstanding issues, but the ZBA still needed to confirm that Mr. Ali's engineer certified that all construction was according to the plans, and said that if the board or Building Dept. does not have the confirmation, he will reach out to Mr. Ali. Mr. Ali continued to explain that, before the last building was released, according to the amended Comprehensive Permit the "as-built" was supposed to be given to the Building Inspector (who was Bentley Herget at the time) for approval. He explained that a few things were changed concerning the fence and some other outside items for Mr. Herget, then the permits were issued. In response to Mr. Olson, Mr. Ali replied that this did include certification from his engineer that all construction was done according to plans. Mr. Olson responded that he will confirm this, and if he cannot find that information, he will let Mr. Ali know. He suggested to the board that, if they have the engineer's confirmation, the funds in escrow should be returned to Mr. Ali as there would be no reason to hold them. Mr. Femia made a motion to do this; Mr. Rajeshkumar seconded the motion. All voted in favor. Mr. Femia added that the request to return the funds would then have to be made to the Town Accountant.

**Public Hearing, Mark Senior, Jr., Petition for Special Permit for Home Occupation, 104 Maple Street:**

(Mark Senior, Jr. represented). (Mr. Femia read aloud the public hearing notice). Mr. Olson welcomed Mr. Senior, and gave him instructions as to how the hearing would proceed; Mr. Senior would present his information, the board would ask their questions, then the public would ask questions and give comments. Mr. Senior began by explaining that he had a sign on his property (for his home occupation) for over a year and was not aware that he was not following certain Town guidelines; he asserted that the sign was small (2' x 2'), and said that then he was notified that it was too close to the road, and then he was notified that he could not run his business. He explained that his business was originally in Worcester, then he came to West Boylston and filed for a license; he said that he was then told that he had not filed correctly, which he was not aware of also. Mr. Senior said that he had a small office attached to his house which was previously used by a piano teacher, but said that the overhead was too much to have a separate office in town when he would only have about four or five wedding couples per month and a lot of his work is done by e-mail and over the phone. He explained to Mr. Feland that he was a DJ/Entertainer and asserted that he does a lot of work in the area. He explained that he put up a sign so that people would know where the office was located, and said that he would only have wedding couples to his home or customers dropping off paperwork and payments. Mr. Senior described how he was involved with the Town, such as working at proms at the high school, and that he was involved quite a bit in Worcester also, such as with the Fire and Police Depts., and said that he tried to give back where he could. He mentioned that he left his job with the State before starting his business because he loves the work that he is doing now, and described how he works odd hours, days and nights, and explained that he is just trying to conduct business and do whatever he needs to do to make that happen.

In response to Mr. Olson, Mr. Senior replied that he would have four or five meetings per month. To Mr. Feland he replied that he would have a couple of people at a time at the most (such as a husband and wife). In response to Mr. Rajeshkumar, Mr. Senior replied that he could probably fit 14 cars at a time on his property. In

response to Mr. Benson, Mr. Senior replied that he has a turnaround, and described that the office is at the opposite end of the garage and has a separate entrance from the main entrance of the house (he noted that the house actually has three entrances). Mr. Olson asked him if there is anything else outside the residence besides the sign, such as storage? Mr. Senior replied "no". Mr. Olson then looked at the Zoning Bylaws regarding signage, and said that the bylaws do not allow a standing sign but do allow a sign with dimensions of 2' x 2', with only the business name and occupation. He explained that, in a residential zone, there are limitations on the signage. In response to a question from Mr. Benson regarding any other employees that Mr. Senior might have, Mr. Senior replied that he has subcontractors that come to his home but they do not conduct business at the house. In response to Mr. Femia, Mr. Senior replied that the office was about 250 square feet in size, and the entire house was 3,000 square feet, including the garage; the office would be less than 25% of the total area (area allowed in the bylaws for the home occupation to occupy). (Mr. Benson and Mr. Olson looked at a plan of the house and office and saw that the office was less than 25% of the total area). When asked by Mr. Benson about the hours of operation of the business, Mr. Senior replied that he works whenever the time is best for the customers and by appointment only, but replied to Mr. Rajeshkumar that, if he needs to meet someone as late as 8 or 9 o'clock, he tells the customer to meet him at a public place; he reiterated that he contacts customers mainly by phone and e-mail.

In response to Mr. Femia, Mr. Senior replied that he did read the comments from the other Town boards (Planning, Board of Health, and Conservation Commission). In reference to the Planning Board comments, Mr. Femia mentioned Paragraph 3 (that the business lacks specific description of use in the petition paperwork) and said that he agreed with Planning Board as he did not really understand either what Mr. Senior was doing for the home occupation. Mr. Senior explained that he filled out the petition paperwork that he submitted with the Town Clerk's office and did what he was told to do as he was not sure of how to fill it out (he did speak with Ms. Goldstein several times also). Mr. Femia also commented on the Conservation Commission's opinion, which mentioned hesitation at allowing commercial activity in a residential neighborhood as they believed that a person buying a home in a residential neighborhood had a right to expect that the zoning would be enforced. Mr. Rajeshkumar responded that this was Concomm's opinion, but the ZBA does allow home occupations, and opined that if people object to this then they should change the bylaw. Mr. Feland agreed. Mr. Feland then commented that the petition form does not ask for Planning Board's comment and opined that the form should be updated. Mr. Femia opined that, before processing a petition, it should be sent to the Chair to see if everything is there that should be there. Mr. Olson responded that this has happened, that the general petition can be used for any filing that comes up but does not list specifics for all 25 or 30 of possible special permits and that perhaps this was a separate issue that should not be settled tonight; Mr. Benson agreed that it should be discussed at another time.

Continuing the discussion, Mr. Olson asked Mr. Senior, with an average of 4 to 5 meetings per month with usually the same numbers of cars, if the business impacts the neighborhood and if this amount of activity is beyond what a residential neighborhood would have? Mr. Senior opined that no one notices it. Mr. Olson surmised that would mean one car per week from the business, so if a neighbor sees one or two cars per week it is not much, but suggested that, if the business got larger, one or two per day might be a lot. Mr. Senior replied that he cannot see that happening as he already has a busy schedule and this would not be the right place to have the business if that were going to happen.

Mr. Olson asked the board if they would want to make a condition of an upper limit of meetings? Mr. Benson opined that the neighbors would not want the business to be such that cars are going in and out all day because then it would be more like a retail establishment. Mr. Benson then read aloud the Planning Board's questions in their comment letter, and asserted that they were all addressed. Mr. Senior added that he had opinions from neighbors here also.

In response to Mr. Benson, Mr. Senior replied that the business name is on his sign. Mr. Rajeshkumar suggested that the issue was that it looks like a real estate sign hanging next to the road. In response to Mr.

Benson, Mr. Senior replied that the sign had been up for over a year. Mr. Benson noted that the sign must comply with the bylaws.

(With no further questions or comments by the ZBA members, Mr. Olson opened the hearing to public comment; he directed the public that, if someone wishes to speak, that person needs to clearly state his/her name and address). First to speak was Ellen Sargent of 108 Maple Street. She said that she wanted to support the petition, and commented that she lives next door to Mr. Senior, and until the sign appeared she did not know he had a business; she opined that there is very little traffic from his home.

Next to speak were Mike and Carol D'Onofrio, 107 Maple Street. They opined that traffic would not be an issue and had no objections to the home occupation.

(Mr. Olson then looked at some items that the board considers with all special permits). He noted that there are two access points to the business and plenty of parking. In response to a question from Mr. Benson about a Declaration of Covenant requested in the Planning Board's letter, Mr. Olson replied that it is required if the special permit is granted; he explained that, after the 20-day appeal period if there is "No Appeal", Mr. Senior would fill out the form, it would be signed by the board, and then taken to the Registry of Deeds to be recorded. Mr. Olson noted that, if Mr. Senior sells his home, the special permit would be null and void and does not go with the property.

Next, Carol D'Onofrio asked if there is a certain limit of guests or traffic, can the public come back before the board if there is so much traffic that the neighbors have concerns? Mr. Benson replied that it is always a concern that a business can evolve. Mr. Rajeshkumar suggested that they might want to specify two people maximum at a meeting, with five meetings per month at the most. In response to Mr. Benson, Mr. Senior replied that he would be agreeable to conditions such as those being set. Mr. Rajeshkumar opined that it would be hard to impose conditions and that the Building Inspector would not be counting how many people are there. Mr. Feland opined that it is reasonable to expect that, if the business grows that much, it will outgrow the space. Mr. Benson opined that the board can approve the special permit as requested. Mr. Rajeshkumar asked if Mr. Senior has more than five meetings per month if he would have to come back before the board? But he also asked how would the board know if there is more than the amount of 5 meetings per month? Mr. Benson replied that the reason to have the amount stipulated in the special permit was in case the situation would become out of control, so that Mr. Senior would have to come back if there were complaints from the neighbors. Mr. Rajeshkumar suggested an example of there being a large amount of traffic going to and from his house, and the neighbors can have recourse if amounts are specified.

With no further comments or questions, Mr. Rajeshkumar made a motion to close the public hearing; Mr. Benson seconded. All members were in favor. (The board then deliberated). Mr. Olson brought up the issue of times that clients would be at the business, and said that he did not hear that the neighbors were concerned with that, so he questioned if the board needed to give a condition of latest meeting time? Mr. Benson responded that they would need to specify the condition of latest meeting time if there were a huge number of cars present at all times. Mr. Olson, Mr. Benson and Mr. Rajeshkumar agreed that the signage has to be compliant with the zoning bylaws; the requirements would only be a sign not greater than two square feet and attached to the building, so long as it was not garish. (The board then discussed and agreed upon the conditions for the motion for the granting of the special permit).

Mr. Rajeshkumar then made a motion to approve the petition of Mark Senior, Jr. for special permit for home occupation, under zoning bylaw Section 3.5B, to host business-related meetings in a home office with a maximum of two adults at each meeting and an average of five meetings per month, at 104 Maple Street, West Boylston, MA. (Mr. Olson explained to Mr. Senior that a supermajority of the five members, or four members, must vote "yes" to pass the motion). The vote was as follows:

Mr. Rajeshkumar – "yes"

Mr. Feland – "yes"

Mr. Olson – “yes”

Mr. Benson – “yes”

Mr. Femia – “abstain”

The vote was 4 “yes”, 0 “no”, and 1 “abstain”; the motion passed. Mr. Olson explained to Mr. Senior that the board will have a decision within 14 days, and this would be followed by a 20-day appeal period; if there are no requests for appeal, Mr. Senior will need to submit a Declaration of Covenant form, filled out, to the board for their signatures.

**Minutes of August 15, 2019 Executive Session (with short Open Session):**

After review of the draft minutes previously by the board, Mr. Femia made a motion to approve the minutes as written. Mr. Feland seconded. The vote was 3 “yes”, 0 “no”, and Mr. Olson and Mr. Benson abstained.

**Minutes of October 17, 2019 Meeting:**

After review of the draft minutes previously by the board, Mr. Femia made a motion to approve the minutes as written. Mr. Rajeshkumar seconded. The vote was 4 “yes”, 0 “no” and Mr. Feland abstained.

**Tentative ZBA 2020 Meeting Schedule:**

The board members previously reviewed a tentative meeting schedule sent by Ms. Goldstein, and they agreed with the dates listed. Ms. Goldstein said that she would send this schedule to the Town Administrator, Nancy Lucier.

**Treasurer’s/Financial Report:**

Mr. Olson looked over the latest report, dated 10/31/19.

**Next Scheduled ZBA Meeting – THURSDAY, DECEMBER 19, 2019** – Mr. Olson noted that this meeting would probably be cancelled as there was not yet a public hearing to be held on that date.

**Miscellaneous Mail and Paperwork Needing Signatures/Future Agenda Items/ZBA Reports:**

Mr. Olson looked over mail given to him by Ms. Goldstein; none of it needed to be discussed with the board.

With no further discussion taking place, Mr. Femia made a motion to adjourn the meeting at 8:05 p.m. Mr. Rajeshkumar seconded. All in favor.

Submitted by: \_\_\_\_\_

Date submitted: \_\_\_\_\_

Approved by: \_\_\_\_\_





