



## TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

|  |
|--|
| <b>Date / Time / Location of Meeting</b> |
|--|

8/17/17/7:00/Board of Selectmen Meeting Room

|                            |
|----------------------------|
| <b>Members Present:</b>    |
| <b>Members NOT Present</b> |
| <b>Invited Guests</b>      |

David Femia (Chair), Barur Rajeshkumar (Clerk), Christopher Olson, Charles Witkus and John Benson (Associate Member-arrived 7:45)

Nathaniel Orciani, and Daniel Cronin (Associate Member)

**Welcome – Call to Order**

**Time: 7:01 pm**

**Approval of Previous Minutes**

**7/20/17**

**Motion Originator** Mr. Rajeshkumar (approved as amended)

**Motion Seconded** Mr. Olson

**Treasurer – Financial Report**

**Mr. Femia only read.**

**Motion to Accept** N/A

**Seconded** N/A

**Other Business:**

**a.Iqbal Ali to Discuss Landscaping for 92 N. Main St., per Our Meeting Discussion (4/20/17), General Discussion of Substantial Changes (Heat Pumps on Decks-Meeting of Chair and VHB at Site) and Discussion of Affordable Rental Housing Opportunity Application for 92 North Main Street:**

Mr. Femia mentioned to Mr. Ali that Mr. Witkus brought the presence of heat pumps on the decks at 92 North Main Street to the board's attention at the last meeting; he explained that the Building Inspector, Bentley Herget, went out to the property, took photos, and sent them to the board, and noted that these heat pumps were not on the original approved plan. Mr. Femia also noted that gas power was originally to be used, but now electric is being used and questioned him about that. Mr. Ali replied that it was an option. Mr. Femia continued that the

Town Administrator contacted Town Counsel about this, and she responded that it was up to the board as to how to handle this. Mr. Femia continued, that he then asked VHB to look at this, and said that he, Larry Galkowski of VHB, and Mr. Ali met about this. Mr. Ali took the other gentlemen into a unit, and asserted that there was minimal noise from the heat pump, but the heat can be felt on the balcony. Mr. Galkowski also thought that the noise was minimal to abutting units but they all agreed that the pumps were not aesthetically pleasing, and thought that alternate locations for them would not be practical. Mr. Witkus asked Mr. Ali how much more costly it would be to heat and cool with this system rather than with gas? Mr. Ali replied that there are no gas lines there, and the utility company will not install gas there. He mentioned propane as an option, but said that it would involve large, above-ground tanks, and he cannot control propane prices, but asserted that electric is fairly consistent in price in the area and that heat pumps are most efficient and more economical than propane; he commented that he wants people to stay there once they move in. Mr. Ali added that condensers on the outside would be needed for air conditioning and, because of the type of roofs, there could not be ceiling units. In response to a question from Mr. Femia, Mr. Ali replied that heat pumps do not cause much condensation and there is not much loss of heat or cold. Mr. Witkus asked Mr. Ali if the cost of running the complex would be affected by use of electric instead of gas? Mr. Ali replied that this would not happen with heat pumps, and reiterated that propane would be more expensive than electricity. Mr. Rajeshkumar asked Mr. Ali if, as the unit gets older, there would be more noise from the heat pumps? Mr. Ali replied that he did not know, he would have to speak with the engineer about that. Mr. Ali asserted that putting the unit on the deck on the wall would not cause a noise problem and added that it would be safe for children. Mr. Femia asked Mr. Ali about a maintenance plan, and Mr. Ali replied that the filters would be changed every six months, and asserted that they would be fixed right away if needed. Mr. Olson asked Mr. Ali if there would be more noise when there will be many of these heat pumps between all three buildings? Mr. Ali asserted that there would not be greater noise and it would be as if only from the one building, and he also replied that there would need to be condensers for air conditioning.

Mr. Femia next asked Mr. Ali about the landscaping and if he had set a date for the work to be complete? Mr. Ali replied that they would start the following Wednesday, explaining that someone was coming regarding irrigation water from the well, and the plants would come on Wednesday. He described that the well would be 200-feet deep, with 17 gallons per minute of water for the irrigation; this would do the entire project. Mr. Ali described what would be planted (he pointed it out on a map), where they would be located, and that some would be 8 to 10-feet high, with 10 of them being Norway Spruce.

(Several residents went up to the map to look at the plantings, and Mr. Femia instructed them to give their names and addresses). The residents were Robert Holden and John Owanisian of 12 and 8 Stillwater Heights Drive, respectively. Mr. Ali discussed with them how far apart the trees would be and they looked at where the trees will stand as a barrier. Mr. Femia, after looking at the map, asked Mr. Ali if he could spread out the trees further? Mr. Ali replied that they will grow in 5 to 6 years and become closer together. Mr. Owanisian asked about a gap, and Mr. Ali explained that the dumpster and playground will go there, and added that the trees will grow to 8 to 10 feet high. He showed Mr. Owanisian where the fence will be. Mr. Femia suggested that the two residents set up an appointment with Mr. Ali and he will explain and show them what is being done, and told them to let Ms. Goldstein know if there are any issues and she will contact him (Mr. Femia).

Mr. Witkus then had a discussion with Mr. Ali about how tall the trees will be and how far apart they will grow; Mr. Witkus asserted that the trees should be 25-feet apart for their nutrition, but Mr. Ali responded that they will be too far apart for screening purposes, and said that trees could be taken down for more width allowed if need be.

Mr. Holden then had a question regarding the design of the surface drain coming off the hill; he asserted that one culvert on Route 140 had been blocked for months and he was concerned that it should be addressed before winter due to hazards from freezing; he commented that the catch basin covers on Stillwater Heights were of a different design that traps more water. Mr. Ali responded that it would be the last thing they will work on. He told Mr. Femia that they will try to finish the sidewalks before December. Mr. Rajeshkumar discussed the flooding concern of Mr. Owanisian, stating that VHB was involved and the blockage was fixed and asserted that there should not be any flooding of the main roads. Mr. Holden asserted that it was still blocked, with rocks and gravel piled up. Mr. Ali explained that all the water goes into a catch basin, and because they do not have a berm that

they put a stone behind it so all the water goes into the catch basin. He told Mr. Rajeshkumar that he will fix it. Mr. Rajeshkumar noted that Stillwater Heights had different covers on their catch basins. Mr. Holden described how they are different. Mr. Ali thought that maybe the pavement was too flat for the newer catch basin covers? Mr. Femia said to Mr. Rajeshkumar, regarding VHB, that they said that the catch basin was functioning, but that he would check with them again and have them look at it. He mentioned that, a few months before, he went to the site with VHB and they went back later and said that it was fixed. Mr. Ali reassured Mr. Femia that he would make sure the catch basins were not blocked. Mr. Owanisian asked if the retention basin that is fenced in at the front was to be a permanent structure in its present form, and was it designed to catch runoff? He commented that it was not the “most aesthetically pleasing” structure. Mr. Femia acknowledged Mr. Owanisian’s opinion of the basin’s appearance, but explained that the catch basins at the reservoir are not attractive but they have a purpose.

Next, the board discussed with Mr. Ali the affordable rental units. Mr. Ali said that they had 17 applications already. Mr. Femia commented about the outdoor grilling station that he saw when he visited the site, which he said he had not seen before on the plans. He also discussed with Mr. Ali the pet station which he had not seen on the plans before, and commented that everything else looked fine to him when he toured the site. Mr. Femia then discussed the rents charged for the market value units for one, two and three bedroom units.

Mr. Femia then suggested to Mr. Owanisian and Mr. Holden that they make an appointment with Mr. Ali to see the plantings, and if they are dissatisfied with it, to contact Ms. Goldstein and she will contact the board. Mr. Ali told them what times he would be available, and noted that he is following the approved plan and it cannot be changed unless they come before the ZBA. Mr. Femia reiterated that the two residents should contact Mr. Ali to visit the property.

**b. Update from Building Inspector re Construction at 92 North Main St.**

Mr. Femia informed all present that the Building Inspector was on vacation, and should make a visit to the site when he comes back.

**c. Discussion with Board Regarding Handling of 40B Violations and Questions for Affordable Housing Trust and Housing Specialist:**

Mr. Femia discussed a few violations committed by people renting at Afra Terrace, and that CHAPA is working with AHT to rectify them. They asked Mr. Femia to see if the ZBA had any questions for Affordable Housing Trust (AHT) or the Affordable Housing Specialist on handling future violations by people renting at 40B properties. He instructed the board to send any questions to Ms. Goldstein, and she will forward them to him.

**d. Miscellaneous Mail and Paperwork Needing Signatures**

**e. Future Agenda Items/ZBA Reports** – there were none.

**f. Update on Possible Filing Fee Increase:**

Mr. Femia said that he was still working on obtaining fee information from other towns for comparison purposes.

**g. Any Information Not Received By Board Prior to 48 Hours Before Meeting – NOTE: THIS INFORMATION CANNOT BE ACTED UPON THIS EVENING AND MUST BE ON THE NEXT MEETING’S AGENDA** – there was none.

**h. Discussion of Update of ZBA Filing Forms:**

Mr. Femia asked the board members if anyone looked over the present filing forms; Mr. Olson replied that he had some suggestions. Mr. Femia asked him to bring those suggestions to the September meeting.

**i. Next Scheduled ZBA Meeting Date – Discuss Board Availability in September (either September 14 or September 28, rather than September 21, depending on availability of the board):**

The board agreed to meet on Thursday, September 28, 2017 (as Ms. Goldstein will not be available on September 21). She will notify the Town of the change of date.

(Mr. Femia announced that the board would now have a short recess from 7:36 to 7:45 pm, the scheduled time for the public hearing).

**7:45 Public Hearing, Wachusett Woods Realty Trust (Jos. Evangelista and Gary DeWolfe, Trustees), Petition for Special Permit, Woodland Street (Lot 4, Assessors Map 174, Parcel 45):**

(Mr. Benson arrived for the public hearing). (Mr. Femia read aloud the public hearing notice). (Representatives were Atty. George Kiritsy and Mr. Ron Thunberg, Engineer). Mr. Femia explained the public hearing process to the representatives. Atty. Kiritsy said that he represented Wachusett Woods Realty Trust, the owner of the property, and explained that the application is for special permit to reduce frontage from 120 feet to 100 feet in a single-family residence lot. He said that Mr. Thunberg was the surveyor who prepared the plans. He discussed the zoning dimensional requirements for lots that is stated in the bylaws. He explained that the property is mostly located in a single residence zone, with a small corner in a business zone (he pointed this out on a map of the area). Atty. Kiritsy explained that the applicant wants a single-family residence, with reduced frontage, but has 100-foot width, and pointed out the area is where the house will be built. He noted that the Town is unique in that it provides for reduction in frontage in a single-family residence lot from 120 feet to not less than 100 feet with a special permit, instead of requiring the procedures of a variance. So, the request is to reduce frontage to 100 feet in that lot, which he explained will allow the use of the business zone lot, and asserted that both will conform as a result of the special permit.

Atty. Kiritsy continued, explaining how he believed that his client met necessary criteria in the bylaws. He mentioned how access is from the public way, exclusively on this lot. They believe ingress and egress to both be safe. If the board had concerns with pollution, the house will be single-family and he thought there would be no adverse effects or any environmental concerns. He also noted that the property will be connected to Town sewer. Mr. Femia mentioned a 30-foot wide sewer easement at the end of the property, and Mr. Thunberg responded that it is in the back yard, and would be accessible if needed.

Atty. Kiritsy continued that they did not see any extraordinary impact on the neighborhood with regards to noise, vibration, smoke, clay or dust or that there would be any particular nuisance to the Town. Refuse will be picked up as with all the other single-family homes. He stated that the property conforms to the bylaws in area, and there is room for setbacks and it meets other dimensional requirements. He did not see that the planned use of the property was incompatible with the bylaws in any way. Regarding reduction in frontage, he added that the Town recognizes that this type of situation exists, and they feel this will allow for a better product on the commercial lot.

Next, referring to the map of the location, Mr. Thunberg pointed out to Mr. Femia single family houses on the left hand side. Mr. Femia referred to a driveway from lot 5 and Mr. Thunberg replied that the driveway is existing, will get moved and was of no use now because the house located there has its own driveway. In reply to a question from Mr. Olson, no easement is associated with the driveway. Mr. Thunberg and Atty. Kiritsy responded to Mr. Femia that there is no house on Lot 5, and commented that this was all one property at one time.

Mr. Witkus next asked if the applicant planned to only build one house? Atty. Kiritsy replied that this was the case on this property, but pointed out business lots that will be built up under business zone regulations, and this lot 4 will be a buffer between the other single-family residents and the business lots. He replied to Mr. Rajeshkumar that Wachusett Woods owns this property. He replied to Mr. Benson that Lots 4 and 5 are divided only by an existing driveway (with no use, said Atty. Kiritsy). (Mr. Thunberg and Atty. Kiritsy showed Mr. Benson the map, pointing out where the frontage was to be decreased, and pointed out why they cannot develop the

commercial lot without reducing the frontage on the residential lot to 100 feet). (They explained to Mr. Femia why the frontage varied , from 101.69 feet at the top of the property to 100 feet down all the way to the front of the house-they asserted that the bottom width was at least 100 feet; these differences were due to a curve on the property).

Mr. Femia then referred to comments from Planning Board, suggesting that the ZBA ask about adequate capacity in the culvert below Pinecroft Ave. to accommodate additional stormwater from the development of this lot, as they recalled that there used to be a backup of water. Mr. Femia also said that he talked with DPW, and they had no negative comments about the proposed project. Mr. Thunberg asserted that it would be a DPW issue, if at all, and commented to Mr. Femia that the wetlands were flagged, but they do not have an actual design plan yet. He asserted that, as a single-family house, it should not cause much flow and does not require stormwater management. He responded to Mr. Benson that they would not be within the 100-foot buffer zone. Mr. Thunberg also explained to Mr. Benson the changed traffic patterns and how the traffic will move. In response to a question from Mr. Benson, Mr. Thunberg replied that the driveway will be one-way coming down. He also showed on the map how people will be able to turn left or right.

Mr. Witkus then commented, that it was stated that nothing was located on Lot 5 and nothing will be built, but he asserted that there is a Cape-style home back in the woods there; Mr. Thunberg asserted that it would be on Pinecroft Avenue and reiterated that there were no structures on Lot 5, explaining to Mr. Witkus where the lot in question is located. Atty. Kiritsy added that Lot 5 will be used for business use.

Mr. Olson continued, regarding Planning Board's comments, if the intended use of the lot is for a single-family residence, that it shouldn't impact drainage, but while construction takes place will there be measures taken? Mr. Kiritsy responded that there may be wetlands, and they will meet with the Conservation Commission if they are within the 100-foot buffer zone, and erosion controls will be needed. Regarding driveway activity, there could be erosion controls needed downgrade. Mr. Olson suggested the condition that use of the lot would be limited to a single-family residence. Mr. Kiritsy replied that they have no problem with that, and he and Mr. Thunberg added that there would be no condos there. (Mr. Thunberg also pointed out on the map the traffic movement to Mr. Rajeshkumar).

Mr. Olson noted that the board had a letter from the Planning Board Chair, feedback from the Board of Health, and heard that the Conservation Commission had no issue with the project but they had no document stating that. Mr. Kiritsy responded that they will need to meet with Concomm anyway, and Mr. Olson instructed him that they have 35 days to obtain an opinion before ZBA can make a decision.

Mr. Witkus then asked if a house could be built on Lot 5? Mr. Kiritsy replied "yes", along with any business use allowed in the bylaws.

With no further comments or questions from the board, Mr. Femia then remarked that no one from the public was present in the audience with any questions about the petition. The board decided that they cannot vote until the next meeting on granting of the special permit, as they still need written comment from Concomm (Ms. Goldstein was instructed to obtain an opinion from the Concomm Chair, William Chase). Atty. Kiritsy had no problem with continuing the public hearing, except the need for a supermajority of members to attend; all members present now said that they could attend the next meeting. Mr. Olson made a motion to continue the public hearing to September 28 at 7:15. Mr. Witkus seconded. All in favor.

#### **j. Reorganization of ZBA:**

After discussion, Mr. Olson made a motion for Mr. Femia to remain as Chair for one year. Mr. Witkus seconded. All in favor. Mr. Rajeshkumar then made a motion to elect Mr. Olson as Vice-Chair. Mr. Witkus seconded. All in favor. Mr. Olson then made a motion to re-elect Mr. Rajeshkumar as Clerk. Mr. Witkus seconded. All in favor. (Ms. Goldstein was instructed to send an e-mail to the Town Administrator's office and the other Town boards notifying them of these results.

**k. Any Other Matters for Discussion:**

Ms. Goldstein called the board's attention to miscellaneous mail that was not addressed; Mr. Femia informed the board of regional Open Meeting Law training to take place on September 18, and instructed the members to let Ms. Goldstein know if they are interested; Mr. Femia also called to the board's attention a memo from the Town Administrator outlining the Town Meeting to be held on October 16, and this memo contained a breakdown of various filing deadlines.

**NEXT MEETING**

**Thursday, September 28, 2017**

**MOTION TO ADJOURN**

**Motion Originator    Mr. Rajeshkumar**

**Motion Seconded    Mr. Witkus**

**Time of Adjournment    8:27 pm**

**Signatures**

**Submitted by:**

**Date Submitted:**