

Annual Report of The West Boylston Planning Board Fiscal Year 2008

The Planning Board consists of five (5) members, who are elected for five (5) year terms. In the period from July 1, 2007 through June 30, 2008, the Board held twenty-one (21) regular meetings, nine (9) public hearings and eleven (11) continued public hearings. The Board did not meet in executive session during this year.

Subdivision Control

The Planning Board signed four (4) plans for dividing lots that we certified as ANR (Subdivision Approval Not Required) plans. One of these ANR plans re-configured lots created by an ANR plan which the board reluctantly approved as required by law during FY07. The previous plan created a 9,000 square foot lot in the Single Residence Aquifer District by utilizing a portion of the Subdivision Control Law known as the *Section 81-L Exemption* to circumvent the zoning bylaws of the Town. The second modification of the same properties expanded the smaller lot, but still created undersized lots in the Aquifer Zone, as the Board and the Building Inspector anticipated.

The Planning Board received no new Subdivision Plans during this period, though work continued on previously approved subdivisions. The Merrimount Subdivision provided all outstanding legal documents and the covenants were released for the sale of the lots. The Board issued a Certificate of Completion for the subdivision and the road was accepted at Town Meeting on May 19, 2008. The final bonds for the Chino Avenue and Timberwood/Stillwater Heights Drive subdivisions were released in October 2007, one year after the roadways were accepted at Town Meeting as required in the *Rules and Regulations Governing the Subdivision of Land in West Boylston*. Two other subdivisions, Century Farm and the Worcester Corporate Center are still incomplete.

At the request of owners and developers, the Board held information discussions regarding possible future developments on Fairbanks Street, Malden Street and Maple/Shrewsbury Streets, though no official filings were received.

Site Plan Review

While new construction slowed during this fiscal year, the Planning Board continued to work on the process of Site Plan Review, which is required under Section 3.6 of the town's zoning for many commercial, industrial, and multifamily building projects. In addition to Site Plan Review, a Special Permit from the Planning Board is required for specific uses.

Four (4) new Site Plan Review Applications were received in this fiscal year, three (3) of which were for Special Permits for a Wireless Communications Facility. The fourth, concerning a change of use of a building from a motel to a restaurant was approved in February of 2008.

The Oakdale Rehabilitation and Skilled Nursing Center project was issued a Site Plan Approval in August of 2007. After construction began, the applicant requested a modification to the location of propane tanks due to a conflict with the sewer line. After consulting with the Board's engineer and the Department of Public Works, the Board approved this as an administrative change with the change to be shown on the As-Built plans. The project was well underway, though incomplete by the end of this fiscal year.

The Site Plan Approval for Honey Dew Donuts on West Boylston Street was granted on December 12, 2007 after several continuances requested by the applicant. During the review process, the applicant was advised to get the required state approvals before finalizing the site plan but the applicant chose to proceed with the Site Plan Review process. After the

approval, the Department of Conservation and Recreation (DCR) required several changes due to the brook on the property which raised the question of an Amended Site Plan submittal. After a review of the plans and a discussion with the applicant, the Board voted to accept the changes by the DCR as part of the Site Plan on March 25, 2008.

The Ernie's Car Wash project on West Boylston Street submitted changes to the approved plans involving underground structures and other changes that did not affect traffic flow or drainage issues. These changes, which must be included on the As-Built plans, were approved without the necessity of filing a formal Amended Site Plan Review on August 22, 2007.

The cellular communications tower on the West Boylston Water District property on Lawrence Street was subject to a number of requests for Special Permits to co-locate wireless communications equipment on the existing tower. These site plan reviews brought a number of abutters to the public hearings to air their concerns regarding the state of the access road and the runoff and erosion that was affected the neighboring properties. Two Special Permits (Nextel and FiberTower) were issued in July of 2007 with several conditions regarding the plans to reconstruct the road. Unfortunately, these conditions were not met and the next application for co-location (Metro PCS) precipitated a number of meetings between the Board, the West Boylston Water District and the tower owner, Crown Castle. As the fiscal year ended, these issues were still under discussion and another application for co-location (Omnipoint) was received.

The D&S Realty Site Plan Approval project received their Certificate of Completion in January 2008. While As-Built Plans were received for the Gates Brook condominium project in March of 2007, the requested corrections to these plans have not been made and the project is incomplete.

The Board continued to work with the developer of Hillside Village to address concerns regarding the functioning of the detention basins and the flow of water from the property onto an abutter's land. The developer's engineer produced a remediation plan concerning two of the basins and the spillway. The work was completed during this fiscal year, but there were indications that the basins were still not functioning as designed. The Conservation Restriction on the property, which was a condition of the Site Plan Approval, had not been completed during the year.

The Board approved an Amended Site Plan for Angell Brook condominiums concerning the construction of an earthen berm for residents' privacy.

The Board met with a developer of a former private club regarding a future plan to use the property as a restaurant. The developer questioned the need for a Site Plan Review on the property since both the private club and the restaurant serve food and alcohol. The Board explained that the previous use was an "Institutional Use" and a restaurant is a "Business Use." The Zoning Bylaws require a Site Plan Review when a property changes from one category of use to another, since the nature of the use will significantly change. The purpose of a Site Plan Review is to ensure that the design and layout of the development is suitable for the site and the neighborhood. If the use of the property changes, the requirements for parking, the hours of operation and the impact on the neighbors may change, for example. Town Counsel was asked for their opinion on this matter and agreed with the Planning Board.

Zoning Bylaws

Massachusetts state law requires the Planning Board to hold public hearings on all amendments to the Zoning Bylaws. In an effort to increase the tax base of the town, the Planning Board proposed the creation of the new zoning district, Commercial/Limited Industrial Zone, at the October 2007 Town Meeting. This new district was adopted by Town Meeting and a section of town, north-west of Interstate 190 and north-west of Raymond Huntington Highway was re-zoned to Commercial/Limited Industrial.

Also at the October 2007 Town Meeting, a portion the parcel of land currently owned by Checker Real Estate on Route 12 was re-zoned so that the entire parcel is now in the Business district. This was a petitioned article brought by the owner

and the Planning Board supported the change since the change was in agreement with a goal in the Master Plan that zoning districts should fall on property boundaries where possible.

A third zoning article (Article 16) was struck from the October 2007 Town Meeting because it was added to the warrant without being referred to the Planning Board and without a public hearing. This article concerned the composition of the Zoning Board of Appeals and was suggested by Town Counsel in an effort to bring the Zoning and General Bylaws into agreement. This article was re-introduced as Article 43 at the May 2008 Town Meeting after following the proper procedures and passed at that time.

In addition to the article mentioned above, six other zoning articles were on the May 2008 warrant. Two of these concerned changes to the Continuing Care Retirement Community (CCRC) Overlay District: 1) a petitioned article to include the Industrial District located south of Hartwell Street in the CCRC Overlay District and 2) an article proposed by the Planning Board to require CCRC developments to provide Affordable Housing units. The Board requested the affordability component because 65% of the residential growth in town since 2000 was due to CCRC developments (191 CCRC units out of 294). Both of these articles were approved at Town Meeting.

The four other articles on the May 2008 Town Meeting Warrant were requested by the Zoning Enforcement Officer. Article 47 clarified the relationship between a permit for a sign and a building permit to erect a sign and article 48 authorized the Zoning Enforcement Officer to issue permits for temporary signs for non-profit organizations, rather than requiring a Board of Selectmen special permit. Both of these articles passed. Article 44, which would limit over-night parking of large commercially owned vehicles in a single residential zone, was passed over on the recommendation of Town Counsel to clarify the language. Article 42 which would modify the general requirements for Home Occupations was defeated.

The Master Plan recommends that a new Zoning Map be produced with district boundaries consistent with property lines. The technical assistance required to produce a new map can be expensive and the Department of Conservation and Recreation (DCR) agreed to assist the Board with this task. After careful review, the Board determined that the benefit to the Town would be overwhelmed by the complexity of the task. Specifically, over 400 parcels (and their owners) would be affected by zoning boundary changes; many of the cases would not have a significant impact on the use or possible use of the lot. And in some cases, changing the zone for the entire parcel would push a business use significantly into the midst of an existing single-family residential area. Instead, the Board intends to support individual requests of landowners for a zoning district change to parcels that currently lie in multiple zoning districts when such a change does not have a negative impact on the surrounding neighborhood. The October 2007 change requested by Checker Real Estate is an example. In lieu of this map change, the DCR assisted the town by changing the map for the Commercial/Limited Industrial District and the Planning Board thanks them for their assistance.

Other changes to the Zoning bylaws were discussed by the Board during the year. Some of the topics of discussion were: a wind turbine bylaw, changes to the sign bylaw, a change to expand the number of habitable buildings per lot under certain circumstances, limited site plan review and cluster zoning. Many of these proposals are still under discussion.

Other Activities

Planning Board member Vincent Vignaly was the Board's representative to the Open Space Advisory Committee and helped to prepare the 2008 Open Space and Recreation Plan Update.

The Planning Board met with the Board of Selectmen, Town Administrator and the developer on the proposed construction and demolition recycling facility on Tivnan Drive.

The Board of Selectmen raised the issue of six non-conforming lots in town that some members of the Select Board would like to allow to be divided. These six lots were created by merging two undersized abutting lots with the same owner after

a change to the minimum lot size was adopted by Town Meeting. This “merging” process is required by Massachusetts General Law and the owners of these lots had five years after the change to register their lots separately and did not do so. The Planning Board explained that such “spot zoning” is not allowed by state statute.

At another Select Board meeting, the Board of Selectmen asked about a possible Inclusionary Housing Bylaw. The Planning Board reminded the Selectmen that the town had already approved an Incentive Zoning Bylaws. These two types of bylaws differ mostly by how they hope to encourage housing that can be listed on the Subsidized Housing Inventory as required by Chapter 40B. *Inclusionary Zoning* **requires** that all projects have an affordable component while *Incentive Zoning* **provides incentives** in lower dimensional requirements. The Planning Board expressed their concern that strict Inclusionary Zoning Bylaws have been shown to increase the number of un-friendly Comprehensive Permits which limit the town’s input to the development.

The creation of an Agricultural Commission was supported by the Board and the Board met several times with members of the Economic Development Task Force.

We continued to work with the Town-Wide Planning Committee (TWPC) to implement the Master Plan. Ms. Paré served on the TWPC as the Board’s representative. In December 2007, the Planning Board reported to the TWPC on our progress.

The Board voted to support the addition of the Stormwater Bylaw to the General Bylaws at the October 2007 Town Meeting.

Finances

The Planning Board continued to serve the town with no funding from the town budget during Fiscal Year 2008.

Board Members

During this year, Ms. Halpin served as Chair and represented the Board on the Bylaws Committee and the Housing Partnership. Mr. Salate was elected Vice-Chair, served on the Community Preservation Committee and represented the town at the Central Massachusetts Regional Planning Commission. Ms. Paré was elected as Clerk and representative to the Town Wide Planning Committee. Mr. Vignaly was elected Treasurer and represented the Board on Open Space Advisory Committee. Mr. Baker was the Board’s representative to the Earth Removal Board and the Economic Development Task Force.

Respectfully submitted,

Patricia A. Halpin, Chair

John T. Baker

Karen Fenerty Paré

Lawrence E. Salate

Vincent P. Vignaly