

CITY OF MARLBOROUGH MEETING POSTING

Meeting: Planning Board
Date: January 13, 2020
Time: 7:00 PM
Location: Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2020 JAN -9 P 4:30

Agenda Items to be Addressed:

First Order of Business: Planning Board Organizational Meeting - Election of Chairperson and Clerk

- 1) **Meeting Minutes**
 - A. December 16, 2019
- 2) **Chair's Business**
 - A. Proposed 2020 Planning Board Meeting Dates
- 3) **Approval Not Required**
 - A. ANR Application: The Charles Company, LLC, 131 Black Bear Drive S. Waltham, MA 02451
Owners: Richard Chaousis, 283 Bolton St., Marlborough, MA 01752 and Amy Aldrich Goebel, 16 Greybert Ln., Worcester, MA 01602
Location: Stevens Street – Middlesex South Registry of Book 9742 page 362. (Excluding Lot 1 of Plan 467 of 2018) Engineer: The Jillson Company, LLC, 32 Freemont St. S-200 Needham Heights, MA 02494, Representative Kevin O'Leary, PE.
- 4) **Public Hearings**
 - A. Letter of Withdrawal – Engineer: Robert Parente, 118 Deerfoot Rd., Southborough, MA 01772.
Definitive Subdivision Application: Richard and Joan Lavoie, 24 Clearview Drive and Richard Archibald, 18 Clearview Drive, Description of Property: 18 and 24 Clearview Drive, Marlborough, MA 01752
- 5) **Subdivision Progress Reports (City Engineer- Updates and Discussion)**
 - A. Goodale Estates
 - B. Release of Lot from Covenant of Restrictions – "Elmview at Marlboro" subdivision.
- 6) **Preliminary/Open Space /Limited Development Subdivision Submissions**
 - A. Correspondence from Brown Rudnick LLP re: 339 Boston Post Road East
- 7) **Definitive Subdivision Submissions (None)**
- 8) **Signs**
 - A. Application for Sign Appeal/Variance to Planning Board – 601 Donald J. Lynch Blvd. Pretorius Sign on behalf of Talbots.
- 9) **Correspondence**
 - A. Final Decision of the Energy Facilities Siting Board – NSTAR Electric Company, dba Eversource Energy EFSB 17-02/DPU 17-82/17-83
- 10) **Unfinished Business (None)**
- 11) **Calendar Updates**
- 12) **Public Notices of other Cities & Towns (None)**

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

December 16, 2019

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, Phil Hodge, George LaVenture (arrived 7:10 pm), Chris Russ and Matthew Elder. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes

A. December 2, 2019

On a motion Mr. Fay, seconded by Mr. Russ, the Board voted to accept and file the minutes of December 2, 2019. Matthew Elder abstained. Motion carried.

2. Chair's Business

Mr. LaVenture ran late due to a work commitment. Chair Fenby requested that Mr. Russ serve as Clerk until Mr. LaVenture arrived.

3. Approval Not Required

- B.** ANR 285, 297 Concord Rd. Middlesex South Registry of Deeds Book 19501 page 343 and Book 30947 page 443. Applicants: Paul, Joseph and Sandra May, Engineer: Hancock Associates, 315 Elm Street, Marlborough, MA 01752 Attorney Sem Aykanian, owner's representative.

Mr. Russ read the 12-12-19 Engineering review letter of City Engineer DiPersio. On a motion by Mr. Elder, seconded by Mr. Hodge, the Board voted to accept and file the correspondence. Motion carried. In his letter, the City Engineer outlined several points for the Board's consideration to determine whether the plan shows a subdivision as defined in MGL Chapter 41 Section 81L or whether the plan can be endorsed as "Approval Not Required". These points include: 1) The status of the gated, unconstructed portion of Hemenway Street as a public way. 2) Hemenway Street's ability to satisfy the definition of "frontage" for the purpose of endorsement of the ANR plan. 3) Whether the "vital access" standard is met for the new building lot.

Mr. Fay recounted some of the history of this proposed plan which had been before the Board informally in past years. Mr. Fay stated that the City's former City Solicitor had also informally researched Hemenway Street's status as a public way, but a final opinion was not made. Mr. Fay acknowledged the work of Attorney Aykanian in establishing a case for Hemenway St. as a public way. Mr. Fay did not wish to challenge that position at present but did question whether the applicant had established that there was present adequate access to the building lot from the public way providing the requisite frontage. Mr. Fay stated he found no evidence that the apparent illusory access provided by the unconstructed portion of Hemenway St. meets the access standard contemplated by the subdivision control law.

Mr. Fay reminded those in attendance that Fire Chief Breen appeared before the Board (on May 7, 2018) as part of a previous informal discussion. He indicated that access with traditional firefighting apparatus would be problematic. Mr. Fay pointed to a number of cases that use vital access in determining whether a plan qualifies as "Approval Not Required" under subdivision control law. Mr. Fay cited the Hrenchuk case involving frontage on RT 95. There was no actual access to Route 95, the public way on which Hrenchuk claimed his lots had frontage. City Engineer DiPersio asked whether that case involved a limited access highway. Mr. Fay was not completely certain. He mentioned additional case law that supports the need for present and non-illusory adequate access. Mr. Fay stated that the Board faces a dilemma, since this access issue is unresolved, and the Board must take action that evening.

Attorney Aykanian requested permission to address the Board. (granted) While he did not argue with Mr. Fay's case findings regarding access, he requested that the Board take a broader view of the plan. He feels that the Board should consider the access from Concord Rd. as providing safe access, and this plan should not be grouped with other situations involving problematic access issues. Attorney Aykanian acknowledged that his client was unlikely to win on a possible appeal, since courts have consistently backed planning boards' decisions made for the health and safety of the public. Mr. Fay said his research indicates that consideration of vital access from the legal frontage (not Concord Rd.) is valid. He summarized the Board's view that the unconstructed way did not provide practical vital access for emergency vehicles to the proposed building lot. Chair Fenby added that the applicant may wish to withdraw at this point unless adequacy of the public way is established. She asked for the Board's sense on the matter. Mr. LaVenture, Mr. Russ, Mr. Elder and Mr. Hodge indicated they were unlikely to vote for endorsement until the issue of access was resolved. Mr. Fay said the Board wants to act responsibly but provide the applicant with another opportunity to find a case that discounts the (illusory) access of the proposed frontage along Hemenway St. Upon consultation with his client, Attorney Aykanian requested that the plan be withdrawn. The request was so granted.

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to move to item 4B to allow for City Councilors' participation in the public hearing on the proposed Commonwealth Heights subdivision.

4. Public Hearings

- B. Definitive Subdivision Application: Marlborough/Northborough Land Realty Trust c/o The Gutierrez Company, 200 Summit Drive, Suite 400, Burlington MA 01803. Engineer: Connorstone Engineering, Inc., 10 Southwest Cutoff, Suite 7, Northborough, MA 01532. Description of Property: Middlesex South Registry of Deeds Book 31932 Page 445. (Property described as 10.6 acres located at the northeast corner of Ames St. & Forest St.) Scott Weiss from The Gutierrez Company and Vito Colonna of Connorstone Engineering were in attendance for the presentation.

Chair Fenby opened the public hearing. Mr. LaVenture read the public hearing notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members. Mr. Elder wished to disclose that while he is not a direct abutter to the project, he could be considered and abutter to an abutter. He wished to disclose this fact out of an abundance of caution.

Presentation:

Scott Weiss of The Gutierrez Company addressed the room. He said the 23-lot subdivision is a resubmittal of a previously approved project in 2005/2006. The project was partially constructed during 2007 and 2008, when drainage and utility work were done to the site. The Gutierrez Company is not a home builder, and the site was previously under contract with Birchwood Development. The developer ran into erosion control issues, and the site was shut down on several occasions to allow for remedial work. "Then the bottom fell out of the economy." The builder walked away from the project and Gutierrez was granted extensions of approval numerous times as they worked on finding a new partner and pursued alternative uses for the site, but these uses required a zoning change that did not occur. Since the site remains zoned residential, this plan will provide for a residential development consistent with current zoning.

Vito Colonna of Connorstone Engineering next addressed the group. Mr. Colonna described the current conditions of the 23-lot project. The site has a general slope down from Ames Street. There are existing sewer connections available off Ames St. and MacKay. Catch basins are installed and are complete. Catch basins were recently cleared of debris.

The plan includes a dead end 1017' roadway (waiver required), which previously was the preferred configuration over the alternative plan that included through traffic to Mackay. The plan also calls for a restricted emergency access roadway.

Speaking in Favor:

No person spoke in favor of the proposed amendment. Ms. Fenby closed that portion of the hearing.

Speaking in Opposition:

Lorraine Suazo – 161 Conrad Rd. is opposed to the plan. She believes the plan will result in more erosion, traffic and noise and will also have a negative impact on area wildlife. Loss of habitat from surrounding development has resulted in more wildlife in the neighborhoods.

Marguerite Sawyer – 33 Teller St. is opposed to the development. Her home is one of the properties that was affected by the runoff from the previous developer. She said that they clear cut the site, which destabilized the soil. Runoff was significant and ran into the sewer system. She isn't confident that a new developer will do things differently.

John Sawyer – 33 Teller St. is also in opposition.

With no further comment, Chair Fenby closed that portion of the public hearing.

Questions and Comments from the Board:

Ms. Fenby requested that Mr. LaVenture read the City comments into the record. Comments were provided by the following:

i. Board of Health- John Garside, Interim Director of Public Health

The submitted soil management plan is from 2006. Due to the historic use of this property as an apple orchard, the plan must be updated and include the following: 1) a current conditions assessment 2) an updated operational plan for on-site and off-site soil management and 3) the names of current consultants, agents and engineers proposed for use. The Board of Health also recommends any approval be conditioned on the applicant providing funds allowing the City to employ an independent Licensed Site Professional (LSP) to review their operations, monitoring and data.

ii. Conservation- Priscilla Ryder, Conservation Officer

Ms. Ryder's comments state that 1) No wetland permits are required 2) Property falls within the City's Water supply Protection District and must, therefore meet the Total Suspended Solids (TSS) removal requirements for stormwater runoff. 3) Due to the site's prior use as an orchard, the Board of Health has the authority to require that the soils from the property be managed to MA Contingency Plan (MCP) standards based on contaminants found at the site. She also recommends a License Site Professional (LSP) be hired to prepare a new soil management plan as well as funding set aside for an independent LSP to advise the City and provide technical assistance on the plan review and monitoring. Sample conditions from similar projects were provided for the Board's consideration. 4) Due to the extremely high clay content on the site, proper erosion control measures are required. The Conservation Officer recommends the developer be required to hire an erosion control consultant approved by the City Engineer. Suggested language was provided for incorporation at the Board's discretion.

iii. Engineering- Timothy Collins, Assistant City Engineer

Mr. Collins detailed previous approval and subsequent expiration of the subdivision approval in 2017. Mr. Collins provided an accounting of prior work on the site. As-Built Plans documenting the completed work should be submitted to the DPW Engineering Division. The work "not completed" should be included in the new Definitive Subdivision Plan submission.

Mr. Collins detailed the one waiver for a roadway in excess of 500 feet. He states that topographic plans should be updated to reflect the completed site work, and the capacities of the detention basins should be certified (at values equal or greater than the original detention basin design.) Utility stub connections should be field verified and shown on the plans as existing and any adjustments to the municipal utility easements be made.

Engineering concurs with the site recommendations of the Conservation Agent and Board of Health. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the correspondences. Motion carried.

Mr. Elder supported the recommendations of the City officials, including the updated site topography and the employment of LSPs to provide independent oversight. Runoff must be managed.

Mr. Fay asked if Mr. Weiss was aware of the recommendations of the City Officials. Mr. Weiss indicated he was aware of the recommendations and fully supported the conditions. Mr. Weiss was not with Gutierrez during the previous development but acknowledged the previous issues on the site. They have contacted the same Geotech and environmental professionals used on the Talia project next door. They are comfortable with independent review. They also recognize that site work must be done in stages.

Mr. Fay asked if Mr. Weiss had a current development partner for the site. Mr. Weiss indicated no, not at the present time. Mr. Fay asked what assurances can be provided that the same situation won't occur 3 years from now? Mr. Weiss recounted the request for a zone change that was previously requested to attract a partner. The effort did not result in a zone change. He hopes to complete the subdivision approval and find a new development partner. Mr. Fay asked whether the road will be built by next summer if he obtains approval. Mr. Weiss repeated that they are not builders, and they will be looking for a partner to complete the road and houses as one process. Mr. Fay said this scenario reminded him of the Blackhorse Farm subdivision that had languished for years waiting for a developer to complete it. After providing additional pressure to complete the road, sidewalk, curbing and streetlights, the property started to look like a neighborhood, and people wanted to live there, and houses were built. For that reason, Mr. Fay would be opposed to extensions of an approval if the road was not completed. Mr. Weiss will accept and commit to completing the roadway in the prescribed schedule. Mr. Elder stated that his project support was weakened with the knowledge that there is no developer in the picture. Mr. Weiss expressed optimism that by completing the approval process and permitting the site, a developer would follow. They are trying to work with the only development option they have, since the property is zoned for single-family homes. Mr. LaVenture said the Board will look forward to receiving the details of a plan addressing the City's comments. With no further comments or questions, Chair Fenby closed the public hearing.

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to return to item 4A.

4. Public Hearings

- A. Definitive Subdivision Application: Richard and Joan Lavoie, 24 Clearview Drive and Richard Archibald, 18 Clearview Drive. Engineer: Robert Parente, 118 Deerfoot Rd., Southborough, MA 01772. Description of Property: 18 and 24 Clearview Drive, Marlborough, MA 01752. Prior to the start of the public hearing, Mr. Fay offered a disclosure statement. He resides on Clearview Drive beyond the area of the property abutters. To avoid the potential appearance of conflict, he has made a disclosure on this matter to his appointing authority.

Chair Fenby opened the public hearing. Mr. LaVenture read the public hearing notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from Board members.

Presentation:

Project Engineer, Robert Parente, presented the plan to the Board. The applicants are seeking to resolve a building encroachment issue. The plan was filed seeking Planning Board endorsement modifying the lot lines of 18 and 24 Clearview Dr. and to waive the frontage requirement under current zoning. The stone wall between the properties has served as the lot line for over 20 years.

The resultant lots will look more conforming, but the frontage of 18 Clearview will be reduced to 60.79'. Current zoning is 100'.

Speaking in Favor:

Deb Estes and Catherine Mockus of 52 Clearview both spoke in favor of the plan. The lots are fine, and they have no issues with the reconfiguration. The new lots are aesthetically pleasing and pose no issues to anyone in the neighborhood. They hope the plan is approved.

Bob Archibald also spoke in favor of the plan. He noted this is essentially a paper change that has no bearing on how the properties have been or will be used. Nothing will change in the neighborhood.

Chair Fenby noted she spoke to an abutter from Farm Road. She had no issues with the plan. Ms. Fenby closed that portion of the hearing.

Speaking in Opposition:

No person spoke in opposition to the proposed amendment. Ms. Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Chair Fenby asked Mr. LaVenture to read the included comments from the Board of Health and Assistant City Engineer into the record. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Motion carried.

In his review, City Engineer Collins noted that Lot 96A would require of waiver of the Planning Board of the frontage requirement of the Subdivision Control Law. The following deficiencies of current zoning requirements are noted: Lot 95A: Area and Lot Shape; Lot 96A: Lot Shape.

City Engineer shared a recent concern expressed by Building Commissioner Cooke. Deficiencies of lot shape and area would require variances from the Zoning Board of Appeals. Under these conditions, he was unsure of a mechanism that the owner would be entitled to apply for a variance, since the buildings are already present. During the 1980's, the Building Dept. issued a permit for the encroaching garage to be built, but the authorization to do so was based on an unintentional, yet inaccurate, representation of the lot lines. Mr. DiPersio said that he Building Commissioner cautioned the homeowners that there could be unintended consequences if the lots were put into non-compliance with existing zoning.

Hypothetically, if one of the structures were to burn to the ground, could they be rebuilt?

The Board discussed this issue. Mr. Russ wondered whether it was cleaner to change the lines with an ANR. Mr. Parente and Mr. Russ conceded that to do so would require very odd lot shapes to make the frontage areas and setbacks work. It may still not be possible to keep the lots in full zoning compliance. Ms. Fenby asked the Board for their sense on a potential vote. Mr. Hodge felt that there seems to be a growing consensus that the plan would pose problems. Mr. LaVenture and Mr. Elder felt that the plan would have their support, but once hearing the Building Commissioner's perspective, the viewpoint was changing. Mr. Fay asked if the Board could recess to see if the Commissioner was available to share his perspective with the Board. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to take a recess. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to reconvene the meeting. Motion carried.

Mr. Cooke was not in the building, so the Board discussed further options such as an exclusive use agreement or easement. The lots would remain in zoning compliance. Mr. Parente felt this was preferable to other options that may exist such as a case of adverse possession.

Chair Fenby continued the public hearing. If necessary, the Board would entertain possibly having a special meeting of the Planning Board on January 6th. Mr. Parente will be in touch with Engineering to let them know how his client would like to proceed.

5. Subdivision Progress Reports (City Engineer, Updates and Discussion)

A. Goodale Estates - Engineering Bond Determination

On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the December 6, 2019 letter from Assistant City Engineer Collins regarding the security determination for the completion of the Goodale Estates subdivision. The Board further voted to approve the recommended security amount of \$352,000.00. Motion carried. The Board requested that Mr. Gillis prepare the appropriate legal documents and submit the selected form of surety for Legal and Planning Board review.

6. Preliminary/Open Space /Limited Development Subdivision Submissions (None)

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence

- A. Supplemental Notice of Intent Pursuant to MGL c. 61A, §14 to Sell Land and Convert Use (23.17 Acres of land – Assessor's Parcels 73-28, 73-24, 73-26 and 73-26A)

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to waive the reading of the November 11, 2019 correspondence from Heritage Farm, LLC and to place on file. Motion carried.

10. Unfinished Business (None)

11. Calendar Updates

- A. Commonwealth Heights Definitive Subdivision: Decision due prior to March 26, 2020 meeting of the Planning Board.

12. Public Notices of other Cities & Towns

- A. City of Framingham (5 Notices)

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the notices. Motion carried.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to adjourn the meeting of the Planning Board. Motion carried.

Respectfully submitted,

/kih

Christopher Russ/Acting Clerk
George LaVenture/Clerk

2020 PLANNING BOARD MEETING SCHEDULE*

JANUARY 13

JANUARY 27

FEBRUARY 10

FEBRUARY 24

MARCH 9

MARCH 23

APRIL 6

APRIL 27

MAY 4

MAY 18

JUNE 8

JUNE 22

JULY 20

AUGUST 24

SEPTEMBER 14

SEPTEMBER 21

OCTOBER 5

OCTOBER 19

NOVEMBER 2

NOVEMBER 16

DECEMBER 7

DECEMBER 21

***Proposed**

Additional meetings may be added to the schedule as required.

APPENDIX A

PLANNING BOARD

DATE 1-7-20AGENDA 1-13-20ACTION FOR SUBMISSION

TJ

APPLICATION FOR ENDORSEMENT OF
PLAN BELIEVED NOT TO REQUIRE APPROVAL

File one completed form with the Planning Board and one
copy with the City Clerk in accordance with the
requirements of Section 11-B.

Marlborough, Massachusetts

1/7/2020

(Date)

To the Planning Board:

The undersigned, believing that the accompanying plan of his property in the City of Marlborough does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submit said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant The Charles Company, LLC.Address 131 Black Bear Dr. S-1912 Waltham, MA 024512. Name of Engineer The Jillson Company, LLC.Address 32 Fremont St. S-200 Needham Heights, MA 024943. Deed of Property recorded in Middlesex Registry ofDeeds Book 9742 Page(s) 362

4. Location and description of property:

Deed at Book 9742, Page 362 and excepting from that parcel a portion therein shown as Lot 1 on a plan recorded at Middlesex South District Registry as Plan 467 of 2018.

Rchaousis
Signature of Owner
REBECCA L. CHAOUSIS
Address: 283 Bolton St.
MARLBOROUGH, MA 01752

Contact email address: attorneytremblay.comContact phone number: 720-347-5748

Amy M Aldrich Goebel
Signature of Owner
AMY M. ALDRICH GOEBEL
Address: 16 Greybert Ln.
WORCESTER, MA 01602
PO Box 150
Marlborough, MA 01752

Contact email address: attorneytremblay.comContact phone number: 508-816-2696

From the desk of:

The Jillson Company, Inc.

32 Fremont St. S-200
Needham Hgts., MA 02494
Tel (781) 400-5946
koleary@jillsoncompany.com

34-2
LETTER OF TRANSMITTAL

TO: Marlborough Planning Board
c/o Krista Holmi Marlborough Eng. Dept.
135 Neil Street
Marlborough, MA 01752
CC: The Charles Company, LLC. w/enc.

DATE: 1/7/20 JOB #: 2945
RE: #0 Stevens Street.
(Hand Delivery)

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via _____ the following items:
☐ Shop Drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☐ Copy of Letter ☐ Change order ☐ _____

NO.	DATE	COPIES	DESCRIPTION
1.	1/7/20	2	Appendix A (Completed w/owners' signatures)
2.	1/7/20	2	24" x 36" "0 Stevens Street Subdivision Approval Not Required" Plan of Land (Blue ink signature & stamp)
3.	1/7/20	10	11" x 17" "0 Stevens Street Subdivision Approval Not Required" Plan of Land (signed & stamped)
4.	1/7/20	1	\$150 Submission Check made by Jillson Company (CK#10,054)

THESE ARE TRANSMITTED as checked below:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> For approval | <input type="checkbox"/> Approved as submitted | <input type="checkbox"/> Resubmit _____ copies for approval |
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted | <input type="checkbox"/> Submit _____ copies for distribution |
| <input type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return _____ corrected prints |
| <input type="checkbox"/> FOR BIDS DUE _____ | | <input type="checkbox"/> PRINTS RETURNED AFTER LOAN TO US |

REMARKS: From our telephone conversation yesterday afternoon please find all of the above items for your review & processing. 1/13/20, generally, at 7pm is the Planning Board Public Meeting to present this plan to the Planning Board. I will be present to make a brief presentation & discuss the project. Please contact me back with any questions or comments.

SIGNED: Kevin O'Leary, P.E.

If enclosures are not as noted, kindly notify us at once.

NF BSL
MARLBOROUGH
DEVELOPMENT LLC

STEVENS STREET
(PUBLIC - VARIABLE WIDTH)

NF CITY OF MARLBOROUGH

NF CHAQUIS &
ALDRICH-GOEBEL

LEGEND
• DH/F DRILL HOLE / FOUND
▲ W 25 EXISTING 2018 WETLAND FLAG

NF MCCARTHY

NF JOHNSON

NF CAVICCHI

NF AYKANIAN

NF KEIGWIN

NF BOOTH

NF GAUTHIER

NF LACHAPPELLE

NF HOFFMAN

#315 STEVENS ST.

#309 STEVENS ST.

LOT 3

LOT AREA=64,017± S.F. (1.47± ACRES)
REQUIRED LOT AREA=18,000± S.F.
ESTIMATED UPLAND AREA= 64,017± S.F.
OR 100± (SEE NOTE #4)

LOT 2

LOT AREA=142,459± S.F. (3.27± ACRES)
REQUIRED LOT AREA=18,000± S.F.
ESTIMATED UPLAND AREA= 50,537± S.F.
OR 392± (SEE NOTE #4)

THE DELINEATED BWV SHOWN HEREON SHALL
SERVE AS THE BOUNDARY OF THE
MARLBOROUGH FLOODPLAIN AND WETLAND
PROTECTION DISTRICT

ESTIMATED WETLAND
LINE (SEE NOTE #4)

LOT 4

REMAINING LOT AREA= 25.5± ACRES

DEED REFERENCES:

LOCUS - BOOK 8742, PAGE 362; BOOK 89475, PAGE 147
BOOK 72820, PAGE 388; BOOK 84737, PAGE 301
BOOK 1357, PAGE 87; BOOK 51818, PAGE 283
BOOK 48116, PAGE 200; BOOK 14258, PAGE 379
BOOK 83482, PAGE 230; BOOK 12808, PAGE 40
BOOK 88216, PAGE 173; BOOK 68870, PAGE 53
BOOK 33578, PAGE 300; BOOK 53586, PAGE 192
BOOK 88744, PAGE 482; BOOK 88087, PAGE 279
BOOK 14192, PAGE 279; BOOK 53273, PAGE 250
BOOK 10178, PAGE 111; BOOK 28468, PAGE 163
BOOK 84821, PAGE 470; BOOK 13336, PAGE 77
BOOK 28344, PAGE 118; BOOK 41552, PAGE 41
BOOK 88218, PAGE 222; BOOK 41552, PAGE 117
BOOK 81851, PAGE 188; BOOK 2476, PAGE 326
BOOK 84072, PAGE 189; BOOK 4180, PAGE 326
BOOK 82520, PAGE 187; BOOK 25521, PAGE 326
BOOK 82520, PAGE 335; BOOK 4151, PAGE 326

PLAN REFERENCES:

PLAN NO. 1457 OF 2019 LC PLAN NO. 18257A
PLAN NO. 1830 OF 1987 PLAN NO. 1051 OF 1978
PLAN NO. 332 OF 1982 PLAN NO. 825 OF 1980
PLAN NO. 308 OF 1980 PLAN NO. 1089 OF 1980
PLAN NO. 883 OF 1981 PLAN NO. 888 OF 1980
PLAN NO. 888 OF 1987 PLAN NO. 883 OF 1970
PLAN NO. 388 OF 2008 PLAN NO. 1532 OF 1989
PLAN NO. 1840 OF 1988 PLAN 1462 OF 1988
PLAN NO. 1550 OF 1987 PLAN NO. 1557 OF 1989
PLAN NO. 1546 OF 1987

ZONE	1-3 MINIMUM REQUIREMENT
RESIDENTIAL	
ITEM	
AREA	18,000 SF
FRONTAGE	120'
SIDE YARD	15'
FRONT YARD	30'
REAR YARD	40'
MAX COVERAGE	30%

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN
ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS OF THE COMMONWEALTH OF
MASSACHUSETTS.



REVISIONS

1. 1/9/20 ZONING RECTANGLE, LOT LINE AND AREA ADJUSTMENTS, STREET
NUMBERS ASSIGNED PER ENG. DEPT. REVIEW COMMENTS.

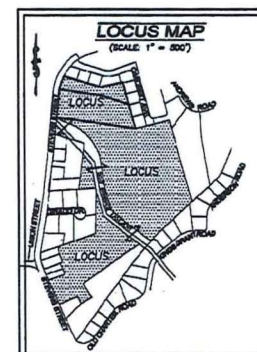
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED
MARLBOROUGH PLANNING BOARD

DATE:

FOR REGISTRY USE ONLY

NOTES

1. THIS PLAN REFERS TO THE CITY OF MARLBOROUGH ASSESSOR'S MAP 44, LOT 148.
2. ZONING CLASSIFICATION: A2. A PORTION OF THE SITE IS LOCATED IN THE FLOODPLAIN AND WETLAND PROTECTION DISTRICT (SEE WETLAND LINE IN PLAN VIEW).
3. THE PLANIMETRIC SITE FEATURES SHOWN HEREON ARE BASED ON FIELD SURVEY WORK PERFORMED BY THE JILLSON COMPANY IN NOVEMBER 2019.
4. THE "ESTIMATED WETLAND" LINE SHOWN HEREON IS BASED ON THE 2018 EXISTING WETLAND DELINEATION AND ASSOCIATED 95 ELEVATION. IT SHALL BE CONSIDERED APPROXIMATE.
5. THE PROJECT SITE IS LOCATED IN "ZONE X - AREA OF MINIMAL FLOOD HAZARD" AS SHOWN ON FIRM FLOOD MAP NUMBER 25017C2481F, EFFECTIVE ON 7/7/14.



REMAINING FRONTAGE
THERE REMAINS 382' APPROXIMATELY OF
STEVENS STREET FRONTAGE.

"309 & 315 STEVENS STREET SUBDIVISION APPROVAL NOT REQUIRED" PLAN OF LAND IN MARLBOROUGH, MASS.

APPLICANT: THE CHARLES COMPANY, LLC
131 BLACK BEAR DR. S-1912
WALTHAM, MA 02451

SCALE: 1" = NTS DATE: 08 JANUARY 2020

PREPARED BY: THE JILLSON COMPANY, INC.
32 FREMONT STREET, S-200
NEEDHAM HEIGHTS, MA 02464
(781)-400-5848
www.JILLSONCOMPANY.com

SURVEYING

RESEARCH BY: DES
FIELD CHECK BY: RJM
COMPUTED BY: RJM

DRAWN BY: RTW
CHECKED BY: JSL
APPROVED BY: TPC

JOB #2945

THE ABOVE DOCUMENTS ARE RECORDED WITH THE MIDDLESEX REGISTRY OF DEEDS DISTRICT.
OWNERS: REBECCA L. CHAQUIS & ANY M. ALDRICH-GOEBEL.
C/O ANY. MICHAEL J. TREMBLAY
277 MAIN ST., MARLBOROUGH, MA 01752

**RJP Construction and Engineering**

Bob Parente

P.O. Box 98 • Southboro, MA 01772 • 508-509-0891

December 23, 2019

Ms. Barbara Fenby
Marlborough Planning Board
City Hall
Marlboro, Ma. 01752

Re: 18 & 24 Clearview Drive

Dear Ms. Fenby and Board Members,

On behalf of Mr. Lavoie and Mr. Archibald, owners of the two properties at 18 and 24 Clearview Dr we hereby request withdrawal of the Definitive Subdivision Plan that was submitted in November 2019.

There are many too many variables that my clients would have to resolve with the exchange of land that we presented so they have decided to exchange exclusive use areas which will allow the land to be used in the same way that it is currently used.

Your consideration in this matter is greatly appreciated

Sincerely

Robert J. Parente, P.E., P.L.S.



City of Marlborough
Department of Public Works

135 NEIL STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. 508-624-6910
*TDD 508-460-3610

JOHN L. GHILONI
COMMISSIONER

January 3, 2020

Dr. Barbara L. Fenby, Chairwoman - Marlborough Planning Board
c/o Krista Holmi - Planning Board Administrator
135 Neil Street
Marlborough, MA 01752

RE: Release of Lot #6 from Covenant of Restrictions – “Elmview at Marlboro” subdivision

Dear Dr. Fenby:

Our office received a request for a Release of Lots from Covenant of Restrictions for the subdivision known as “Elmview at Marlboro”, by Katie Sheehan, an attorney working for the owners of #29 Leonard Drive, Marlborough, MA (Lot 6). From our files I was able to retrieve the following documents:

1. The approved Definitive Subdivision Plan for “Elmview at Marlborough” (Recorded Plan No. 113 of 1974 at the South Middlesex Registry of Deeds), endorsed by the Marlborough Planning Board on November 1, 1973 showing Lots #1 through #7 (with an existing house on Lot #1).
2. Covenant for “Elmview at Marlboro” subdivision, dated January 20, 1974 and recorded at the South Middlesex Registry of Deeds as Book 12584 Pages 588-589.
3. Letter from the Marlborough Planning Board, dated July 25, 1974 informing the developer that the amount of \$7,000.00 would be needed to cover the costs to complete the subdivision
4. Letter from the Marlborough Planning Board, date August 14, 1974 informing the developer that a “Release of Lots from Covenants of Restrictions” on Lots 2 thru 7 in the subdivision known as “Elmview at Marlboro”, with a copy of the Release included. This release was not recorded at the Registry of Deeds.
5. Letter from the Marlborough Planning Board dated January 31, 1975 informing the developer that the amount to secure the completion of the subdivision was lowered from \$7,000.00 to \$1,300.00.
6. Letter from the Marlborough Planning Board dated June 11, 1975 informing the developer that the amount to secure the completion of the subdivision was lowered from \$1,000.00 to \$300.00.
7. Marlborough City Council Order #15247 approved on December 22, 1975 accepting Leonard Drive as a Public Way and recorded at the South Middlesex Registry of Deeds as Book 12914 Page 379.

8. Letter from the Marlborough Planning Board dated March 8, 1976 informing the City Treasurer that the Marlborough Planning Board had "voted to release any monies held by the City of Marlborough" to the developer.

Attached is a "Certificate of Performance – Release of Lot from Covenant of Restrictions for Lots 2 through 7 – "Elmview at Marlboro" for signature. This document will be forwarded to Katie Sheehan from Crowley & Cummings, LLC for recording at the South Middlesex Registry of Deeds.

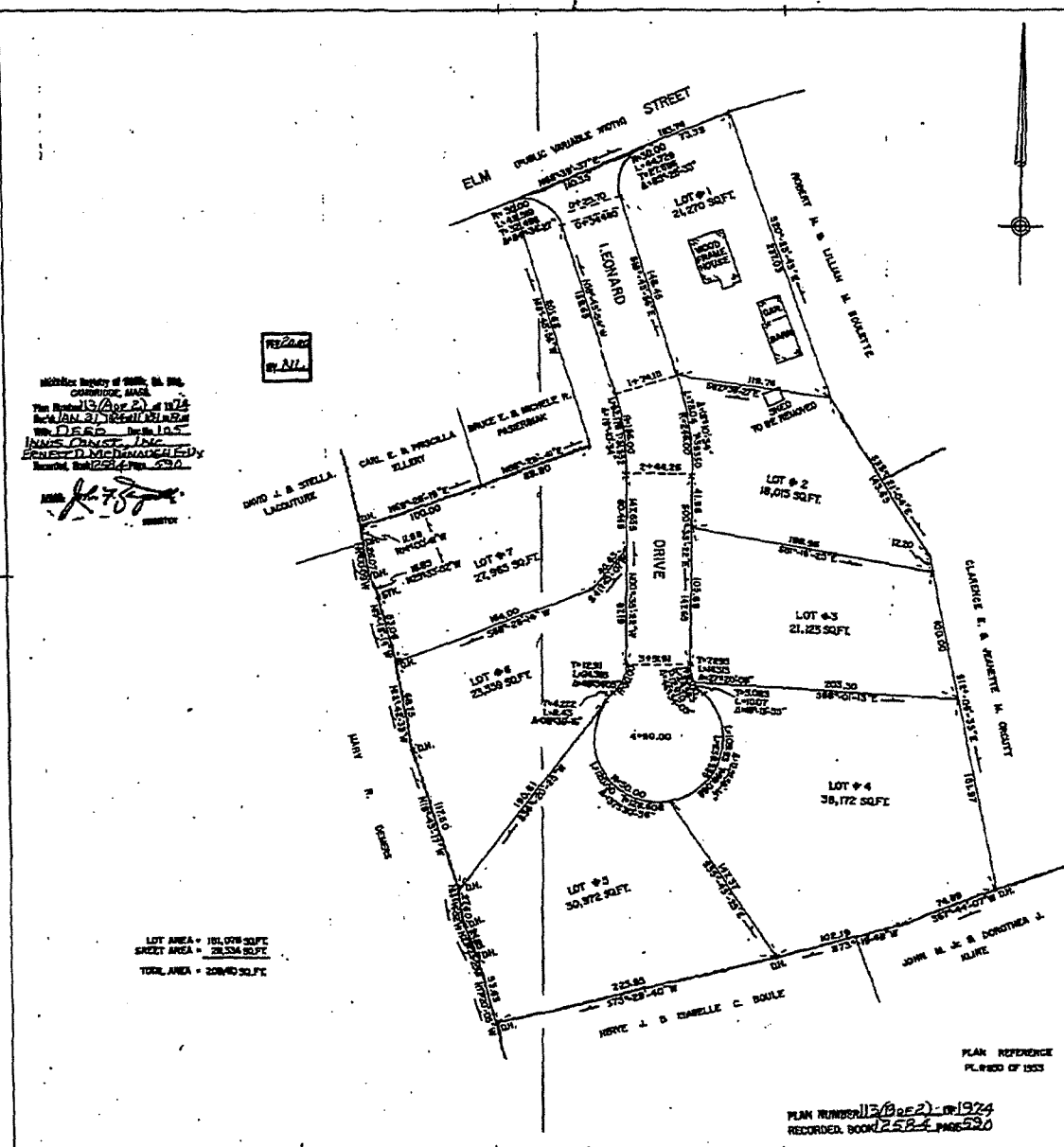
Should you have any question regarding the above, please do not hesitate to contact me at (508) 624-6910.

Sincerely,



Timothy P. Collins
Assistant City Engineer

xc: John L. Ghiloni – DPW Commissioner
Thomas DiPersio, Jr., P.E., P.L.S. – City Engineer
Jason Grossfield – City Solicitor
Katie Sheehan - Crowley & Cummings, LLC



I, CITY CLERK OF THE CITY OF MARLBOROUGH, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE MARLBOROUGH PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO APPEAL HAS BEEN RECEIVED DURING THE TWENTY DAYS NEXT, AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

August 30, 1973
DATE

John D. Catterall
CITY CLERK

ZONING CLASSIFICATION
RES. DIST. A-2

MARLBOROUGH PLANNING BOARD

APPROVED
John D. Catterall
Charles A. Hall
John H. Gossard
David A. Samuels
David H. Gossard

DATE
Nov. 1, 1973

ELMVIEW AT MARLBOROUGH
SUBDIVISION OF LAND
MARLBOROUGH, IN MASS.
PETITIONER: ARTHUR R. & ANNA M. HAWES BK. 2595 PG. 53, 54
300 ELM STREET
MARLBOROUGH, MASS.
DEVELOPER: HENRY CONSTRUCTION, INC.
15 IVY LAKE
MARLBOROUGH, MASS.
SCALE: 1" = 40' DATE: AUGUST 30, 1973
HIGHLAND LAND SURVEYORS, INC.
69 MAPLE STREET
MARLBORO, MASS.



John D. Catterall

30,583
113

JUN 31 - 74 PM 11:31 104E ***6.00

BK 12584 PG 588

COVENANT

The undersigned Innis Construction, Inc., a Massachusetts Corporation, having a principal place of business in Milford, Worcester County, Massachusetts

in consideration of the approval by the Planning Board of the City of Marlborough, Massachusetts, of a Definitive Subdivision Plan to be recorded herewith entitled "Elmview at Marlborough" Subdivision of Land in Marlborough, Mass. Petitioner: Arthur R. and Anna M. Hawes Book 6595 Page 5354 500 Elm Street Marlborough, Mass. Developer: Innis Construction, Inc. 18 Ivy Lane, Milford, Mass. Scale 1"=40' Dated: August 30, 1973 Highland Land Surveyors, Inc. 69 Maple Street Marlboro, Mass. The undersigned hereby covenants and agrees with the City of Marlborough as follows:

1. The Covenantor is the owner of record of the premises shown on said plan.
2. This Covenant shall run with the land and be binding upon the Covenantor, its successors and assigns and its successors in title to the premises shown on said plan.
3. The Undersigned shall not sell any lot in the Subdivision, or erect or place any building on any such lot, until the road-way and other improvements necessary to serve adequate each such lot, have been constructed and installed in the manner specified in the undersigned's application for approval of said Definitive Plan, in accordance with the applicable Rules and Regulations of the Marlborough Planning Board.
4. Nothing herein shall be deemed to prohibit a conveyance subject to this Covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services.
5. Lots on said plan covered by this agreement may be released from time to time by a majority of the Planning Board.
6. The exit way onto Elm Street as shown on said subdivision plan shall be graded so as to provide a safe sight distance of Elm Street in an easterly and westerly direction. The sloping shall not be less than 2%.

SEE PLAN IN RECORD BOOK 12584 PAGE 592

0113

BK 12584 PG 589

7. Lot #1 of said plan which fronts on Elm Street, a public way is not subject to the terms and conditions of this covenant and the said lot may be conveyed without further release from the Planning Board.

EXECUTED AS A SEALED INSTRUMENT THIS 29th DAY OF JANUARY 1974.

MARLBOROUGH PLANNING BOARD

BY:

Frank Bicchieri
FRANK BICCHIERI, CHAIRMAN

INNIS CONSTRUCTION, INC.

BY:

Richard Innis
RICHARD INNIS, PRESIDENT

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, S. S.

THEN PERSONALLY APPEARED THE ABOVE-NAMED, RICHARD INNIS, PRESIDENT, AND ACKNOWLEDGED THE FOREGOING INSTRUMENT TO BE THE FREE ACT AND DEED OF INNIS CONSTRUCTION, INC., BEFORE ME.

Dan G. J. Rowe
NOTARY PUBLIC

MY COMMISSION EXPIRES:

7/19/79



City of Marlborough

PLANNING BOARD

CITY HALL
MARLBOROUGH, MASSACHUSETTS
01752
TEL. (617) 481-5365

July 25, 1974

Mr. Anthony Iacovelli, Trustee
Gerri-Coe Builders
376 Bellingham Road
Mendon, Massachusetts

RE: Bond on Leonard Drive "Elmview at Marlboro"

Gentlemen:

Please be advised that our Engineering Administrator, Mr. Francis Zanca has set the bond amount of \$7,000.00 for completion of the road in the above named subdivision.

The Planning Board has called a special meeting on Thursday, August 8, 1974 and has set the time of 7:45 P.M. in order for you to appear before the board with the bank book to cover this bond.

If you have any further questions in this matter, please feel free to call the office on Monday or Wednesday between the hours of 10:00 A.M. to 2:00 P.M.

Yours very truly,

THE MARLBOROUGH PLANNING BOARD

Frank W. Bicchieri
(d)

Frank W. Bicchieri, Chairman

/mfo



City of Marlborough

PLANNING BOARD

CITY HALL
MARLBOROUGH, MASSACHUSETTS
01752
TEL. (617) 481-5365

August 14, 1974

Mr. A. Iacovelli, Trustee
Gerri-Coe Builders
376 Bellingham Road
Mendon, Massachusetts

RE: Release of lots 2 thru 7 from Covenants of Restrictions

Dear Mr. Iacovelli:

Attached hereto please find "Release of Lots from Covenants of Restrictions" on Lots 2 thru 7 in the subdivision known as "Elmview at Marlboro". The release has been duly signed by both the Chairman of the Planning Board and a Notary Public.

Thank you for your consideration in this matter.

Yours very truly,

THE MARLBOROUGH PLANNING BOARD

Frank W. Bicchieri
(s)

Frank W. Bicchieri, Chairman

/mfo

Att:

cc: David Gadbois, City Solicitor

CERTIFICATE OF PERFORMANCE

RELEASE OF LOTS FROM COVENANTS OF RESTRICTIONS

MARLBOROUGH, MASSACHUSETTS

August 12, 1974

The Undersigned, representing the Planning Board of the City of Marlborough, Massachusetts, hereby certify that the requirements called for by the Covenant dated January 29, 1974, and recorded in Middlesex Registry of Deeds South District, Cambridge, Mass., in

Book 6595 Page 5354 have been completed to the satisfaction of the Planning Board by Gerri-Coe Builders, 376 Bellingham Road, Mendon, Mass. (Mr. A. Iacovelli, Trustee) by posting of bond as to the following enumerated lots No. 2, 3, 4, 5, 6, and 7. Pass Book #603659 in the amount of \$7,000.00.

Shown on plan entitled "Elmview at Marlboro" Petitioner: Arthur & Anna Hawes, 500 Elm St., Marlboro, Developer: Innis Construction, Inc., 18 Ivy Lane, Milford, Mass.

recorded as Plan #850 of 1953 the Middlesex County Registry of Deeds, South District, Lots 2 thru 7 and said lots are hereby released from the restriction as to sale and building specified thereon.

MARLBOROUGH PLANNING BOARD, BY

Frank W. Bicchieri
CHAIRMAN Frank W. Bicchieri, Chairman
DATE 8/13/74

COMMONWEALTH OF MASSACHUSETTS

Middlesex, S.S.

Then personally appeared the above Frank W. Bicchieri of the Planning Board of the City of Marlborough, Massachusetts and acknowledge the foregoing instrument to be the free act and deed of said Planning Board before me.

S. J. Lapine
Notary Public

My Commission expires: Mar 4, 1977



City of Marlborough

PLANNING BOARD

CITY HALL
MARLBOROUGH, MASSACHUSETTS

01752

TEL. (617) 481-5365

January 31, 1975

Mr. Clifford Avey, City Treasurer
City of Marlborough
City Hall
Marlborough, Massachusetts 01752

Re: Release of bond in the amount of \$5,700 for
"Elmview at Marlborough"

Dear Mr. Avey:

Please be advised that at a regular meeting of the Marlborough Planning Board held on Thursday, January 30, 1975 the board voted to release a bond for \$5,700 on Leonard Drive at "Elmview at Marlboro" a subdivision located off Elm Street.

Pass Book #603659 in the amount of \$7,000 which is being held by your office on this subdivision should retain \$1,000 for fire alarm boxes and \$300 for the maintenance bond, therefore releasing the sum of \$5,700 to Mr. Tony Iacovelli, Trustee of "Elmview at Marlboro".

Thank you for your consideration in this matter.

Yours very truly,

Frank W. Bicchieri
(4)

MARLBOROUGH PLANNING BOARD
Frank W. Bicchieri, Chairman

/mfo
cc: Tony Iacovelli
F. Zanca, E. A.



City of Marlborough

PLANNING BOARD

CITY HALL
MARLBOROUGH, MASSACHUSETTS
01752
TEL. (617) 481-5365

June 11, 1975

Mr. Clifford Avey, City Treasurer
City of Marlborough
City Hall
Marlborough, MA 01752

REFERENCE: Release of Bond in the amount of \$1,000
for "Elmview", a Subdivision off Elm St.

Dear Mr. Avey:

Please be advised that at a regular meeting of the Marlborough Planning Board held on Thursday evening, June 5, 1975 the board voted to release a bond for \$1,000 for fire alarm boxes on Leonard Drive.

\$300 for the maintenance bond will be retained releasing the sum of \$1,000 to Mr. Tony Iacovelli, Trustee of "Elmview at Marlboro".

Very truly yours,

Frank W. Bicchieri

MARLBOROUGH PLANNING BOARD
Frank W. Bicchieri, Chairman

/nt
cc: Tony Iacovelli
F. Zanca, E.A.

DEC29-75 PM 1:35 160ME***650



CITY OF MARLBOROUGH
MASSACHUSETTS

IN CITY COUNCIL

BK12914 PG379

December 10, 1975

"WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that

LEONARD DRIVE ~~SHOULD~~ should be laid out and accepted as a public way from off Elm Street to its end

as shown on plans thereof, and as hereinafter described; it is therefore

ORDERED, that the parcels hereinafter described be and the same are hereby taken in fee for highway purposes; and it is further

ORDERED, that the said LEONARD DRIVE be and the same is hereby laid out and accepted as a public street or way of said City of Marlborough, as shown on said plans, to be recorded with Middlesex District Registry of Deeds.

Said Plan is described as follows:

"Plan of Acceptance of Leonard Drive in Marlborough, Massachusetts December, 1974, Scale 1" = 40'. Paul A. Sharron, Commissioner of Public Works, Francis H. Zanca, Eng. Adm." M.P.B. 1640, L-218

OWNER

Mr. Anthony Iacovelli
Gerri-Coe Builders Realty
376 Bellingham Road
Mendon, MA

AWARD

\$1.00

Adopted by the City Council: December 15, 1975
ORDER: No. 15247

Attest: *Rita T. Lapino*
Rita T. Lapino, City Clerk

Approved by the Mayor: 12-22-75

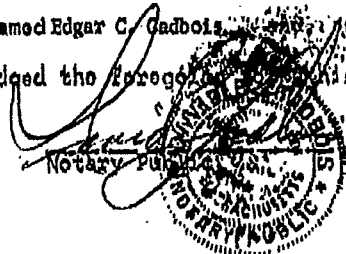
Edgar C. Gadbois
Mayor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. December 22, 1975 City of Marlborough

Then personally appeared the above named Edgar C. Gadbois, Mayor of the City of Marlborough acknowledged the foregoing true act and deed before me.

My commission expires June, 1977.



March 8, 1976

Mr. Clifford Avey
City Treasurer
City of Marlborough
Marlborough, MA

Reference: Elmview Subdivision (Leonard Drive)

Dear Mr. Avey:

This is to advise you that the Marlborough Planning Board voted to authorize you to release any monies held by the City of Marlborough for Gerri-Coe Builders on the above mentioned roadway.

The bond amount was \$300.00.

Very truly yours,

Frank Bicchieri
Chairman

MARLBOROUGH PLANNING BOARD

FB:nt

**CERTIFICATE OF PERFORMANCE
RELEASE OF LOTS FROM COVENANT OF RESTRICTIONS**

The undersigned, representing the Planning Board of the City of Marlborough, Massachusetts hereby certify that the requirements called for by the Covenant dated January 29, 1974 and recorded at the Middlesex South District Registry of Deeds in Book 12584, Page 588. have been completed to the satisfaction of the Planning Board and said Lots #2 through #7 have been released from the restriction as to sale and building specified thereon.

A "Release of Lots From Covenants of Restrictions" for Lots 2 through 7 was previously granted for the subdivision known as "Elmview at Marlboro" on August 12, 1974 but was not recorded at the Middlesex South District Registry of Deeds.

This is a confirmation by the Marlborough Planning Board that our records show that the amount of \$7,000.00 in Pass Book #603659 was posted with the Marlborough Planning Board securing the completion of the subdivision known as "Elmview at Marlboro" and that the subdivision was completed and was accepted by the City of Marlborough as a Public Way on December 22, 1975 (City Council Order #15247) and all monies held to secure the completion of the subdivision were returned to the developer.

EXECUTED as a sealed instrument this ____ day of January, 2020.

MARLBOROUGH PLANNING BOARD, BY

Name:

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared _____, of Marlborough Planning Board, as aforesaid, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding document and acknowledge to me that he/she signed it voluntarily for its stated purpose and on behalf of the Marlborough Planning Board.

before me,

Notary Public –

My Commission Expires:

From: [Sampson, Gregory S.](#)
To: [Zuckernik, Samuel D.](#); [Krista Holmi](#)
Cc: [Joyce, Kevin P.](#)
Subject: RE: Preliminary Subdivision Plans-January Meeting
Date: Thursday, January 9, 2020 11:57:02 AM

Krista,

FYI - We will be sending an official letter over this week as well to document the requested withdrawal.

Thanks

Greg

From: Zuckernik, Samuel D.
Sent: Wednesday, January 08, 2020 6:30 PM
To: Krista Holmi
Cc: Joyce, Kevin P.; Sampson, Gregory S.
Subject: RE: Preliminary Subdivision Plans-January Meeting

Hi Krista,

Thank you for the follow up. We would like to withdraw our preliminary subdivision filings from the Planning Board. The Applicant recently filed a Special Permit Application through the City Council and will be seeking entitlements for this Project through that avenue.

Thank you very much for your help and insight with regard to the subdivision filing.

Best,

Sam

brownrudnick

Samuel D. Zuckernik
Associate

Brown Rudnick LLP
One Financial Center
Boston, MA 02111
T: 617.856.8287
F: 617.856.0487
M: 617.447.1713
Szuckernik@brownrudnick.com
www.brownrudnick.com



please consider the environment before printing this e-mail

From: Krista Holmi [<mailto:kholmi@marlborough-ma.gov>]
Sent: Wednesday, January 08, 2020 12:04 PM
To: Zuckernik, Samuel D.
Subject: RE: Preliminary Subdivision Plans-January Meeting

City of Marlborough
Commonwealth of Massachusetts



Ethan Lippitt
 Code Enforcement Officer
 140 Main Street
 Marlborough, MA 01752
 Phone: (508) 460-3776 XT 30201
 Fax: (508) 460-3736
 Email: elippitt@marlborough-ma.gov

12/19/2019

Pretorius Electric and Sign Co. LLC
 267A South Main St.
 West Bridgewater, MA
 02379

RE: Sign Denial Letter at 601 Donald J Lynch Boulevard

To whom it may concern,

On 11/15/2019 it was noted that a Sign Permit was applied for relating to the installation of Exterior Signage at Solomon Pond Mall located at 601 Donald J. Lynch Boulevard.

- This would be a violation of Marlborough General City Code §526-9.
- **§ 526-9 Nonresidence districts.**
 [Amended 2-14-2011 by Ord. No. 10/11-1002763A]
 The following regulations pertain to signs in Business, Industrial, Limited Industrial, and Commercial and Automotive Districts and to legally nonconforming businesses located in residence districts but not to home occupations.
 - **B. Flat wall signs.**
 - **(1) Location.** A flat wall sign may be located anywhere on any wall of a building occupied by a business establishment, provided the sign shall not conceal any part of a window, that its length shall not exceed 7/8 of the facade of the business establishment, and that it does not project beyond or above the top or sides of the wall to which it is attached, nor more than 14 inches from the face of the wall, unless mounted on a canopy, arcade or awning pursuant to § 526-9B(2) below.
 - **(3) Calculation of area.**
 - **(a) Basic area.** Unless otherwise hereinafter provided, the total area of all flat wall signs shall not exceed 1 1/2 square feet for each horizontal linear foot of the facade of the establishment, provided that the aggregate area of all flat wall signs for any one establishment on any one building shall not exceed 100 square feet, except for bonus area provided in § 526-9B(4) and (5) below.
 - **(b) Number of signs and allocation of area.** Any number of separate flat wall signs may be erected on the face of a building, provided they meet all provisions of this section and do not exceed the aggregate area allowed by Subsection B(3)(a), Basic area, above.
 - **(5) Bonus for large buildings.** If a single business establishment has over 20,000 square feet on one floor of one building, the area of flat wall signs for that establishment may be increased by an additional 10 square feet for each 100 feet of facade of the establishment and for each 100 feet the establishment is set back from the public street, provided the total sign area does not exceed 200 square feet for a single business establishment, provided the flat wall sign faces and can be viewed from the public way with no obstructing building or other object between the sign and the street.

The appeal information has been included below for your convenience.

§ 526-12 Administration and penalties.

C. Rights to appeal.

(1) Any applicant for a permit, any person who has been ordered by the Building Commissioner to incur expense in connection with a sign and any person dissatisfied with any refusal, order or decision of the Building Commissioner may appeal to the Planning Board within 30 days from the date of such refusal, order or decision. The fee for the filing of said appeal shall be \$25, payable to the City of Marlborough upon the filing of said appeal. After written notice given to such parties as the Planning Board shall order, the Planning Board shall address the appeal at a regularly scheduled meeting of the Board. Applying the standards described in Subsection C(2) below, where applicable, and interpreting this chapter, the Planning Board shall affirm, annul or modify such refusal, order or decision within 45 days after hearing the appeal. The action of the Building Commissioner may be annulled or modified only by a two-thirds vote of the Planning Board. If the action of the Building Commissioner is modified or annulled, the Building Commissioner shall issue a permit or order in accordance with the decision of the Planning Board.

[Amended 10-6-2014 by Ord. No. 14-1005921A]

(2) Variances. The Planning Board may vary the provisions of this chapter in specific cases which appear to it not to have been contemplated by this chapter, and in cases wherein its enforcement would involve practical difficulties if, in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this chapter but not otherwise. Any decision to vary the provisions of this chapter shall be by 2/3 majority and shall specify any variance allowed and the reason therefor. Each decision of the Planning Board shall be filed in the office of the City Clerk within 30 days after the decision and a copy of the decision shall be sent by mail or delivered to the appellant and any other person appearing at the hearing and so requesting in writing. Failure to file such a decision within 30 days after the hearing shall not be deemed to be approval of any variance sought. No variances shall be allowed by the Planning Board from the date on which this sentence becomes effective until July 1, 2007.

[Amended 10-30-2006 by Ord. No. 06100-1323A]

(3) Conditions and safeguards. The Planning Board shall set forth appropriate conditions and safeguards whenever in its opinion they are desirable.

The code in its entirety can be found at: <https://www.ecode360.com/9215870>

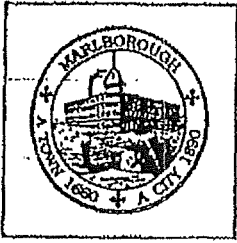
Addendum: The sign code in reference that the permit would be in violation of is in that signs on all façades of the mall may not exceed 200 square feet in total for all signs on all facades combined. The façade of the building is defined as the side of the building and not the individual tenant spaces. As it currently stands there are numerous signs on that side of the building. 526-9(B) Will not apply in this instance as the sign that they would be asking to be installed on is not the side where the entrance for their space is, that is on the opposite side of the building that faces the parking garage.

(4) Bonus area for multiple frontage. If the building has frontage on more than one public street, or public entrances on more than one facade, then an additional flat wall sign area of one square foot shall be allowed for each linear foot of such additional facade frontage. Such additional sign area shall appear solely on that side of the building which gives rise to the multiple frontage and shall be used exclusively for the business establishment having its facade on that frontage. In no case shall more than two facades be counted on any one building for the purpose of calculating total allowable sign area, which shall not exceed 150 square feet per establishment except for bonus area provided for in § 526-9B(5).

Code Enforcement Officer Ethan Lippitt

CC File
 City Council
 Commissioner Cooke
 City Clerk
 Planning Board Secretary

CITY OF MARLBOROUGH
APPLICATION FOR SIGN APPEAL/VARIANCE TO PLANNING BOARD



INSTRUCTIONS: (Ask Planning Board for assistance if necessary) This application must be filed with the Planning Board (which hears the appeal) within 30 days of the date of the decision of the Building Inspector from which appeal was taken. (See Item #7 below) Applicant must attach to this application a copy of the Building Inspector's decision (usually a denial of a sign permit). This application form must be signed by the applicant or his authorized agent (and the owner of the property if the owner is not the applicant). The Planning Board agent will sign the form after the receipt of the \$25.00 filing fee (if check, make out to "City of Marlborough"). Please print clearly.

1. Location of property where sign is located: Street & No: 601 Donald J. Lynch Boulevard

What other signs exist on the property (type, size, location): old Navy has
channel letter set on Raceway - 3'0" x 19'0 3/4"

Are there other signs on the property of similar type to what is requested in appeal (size & location):

old Navy's has a similar size, location and appeal

2. Name of business or activity applying for sign: Talbots

3. Applicant: Pretorius Electric Signs Street: 2679 S. Main St City: W. Bridgewater Zip: 02379

4. Building owner: SIMON Street: 335 W. Washington City: Indianapolis Zip: 46204

5. Tel. #'s Building owner: 317-636-1600 Business with sign: 781-741-4075 Applicant: 508-584-4626*

6. Applicant is ☐ Building Owner ☐ Tenant ☒ Other (describe): sign installer/permit expediter

7. Date of Building Inspector's decision from which appeal is taken: 12/19/2019
(Attach copy of denial of sign permit.)

8. The Section of the Sign Ordinance in question is: Chapter 163 Section: 506-9 B.(1)(3)(9)(5)

Section Heading: non-residence districts

9. Description of Sign: Proposed sign is 41 1/2" x 26" x 19 1/2", channel
letters on Raceway to read "Talbots"

10. Give a brief outline why permit was refused and what you want to do with the sign in question:
Permit was refused because the proposed sign's location
is not on a wall which the business occupies. Also the total

11. Other pertinent information may be submitted with this application and may be required by the Planning Board.
You/representative must present your case in person before the Planning Board.

I hereby request a hearing before the Planning Board with reference to the above noted application.

Signed: [Signature] Date: 1.8.20 Building Owner: [Signature]
Applicant

Received from the above applicant, the sum of \$25.00 made payable to "City of Marlborough" to apply against administrative costs.

Planning Board Agents: L.H. Am Date: 01-08-20

Hearing Scheduled for: 01-13-20

This is your official notification of hearing and receipt of filing fee.

NEW SIGNS MAY NOT BE ERECTED UNTIL APPEAL HAS BEEN GRANTED AND PERMIT HAS BEEN ISSUED. form-sign-appeal

10. (continued)

601 Donald J. Lynch Blvd.
Sign appeal

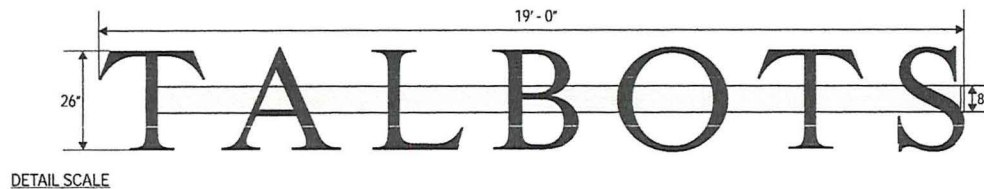
Square footage exceeds 100 square feet for the aggregate area of all flat wall signs.

If granted approval, the exterior sign would aid in directing customers to Talbots. Talbots had an exterior presence at this location with an awning and logo. They have since been removed. The proposed sign would aid in regaining exposure in the mall with customers who otherwise think Talbots has left the mall entirely.

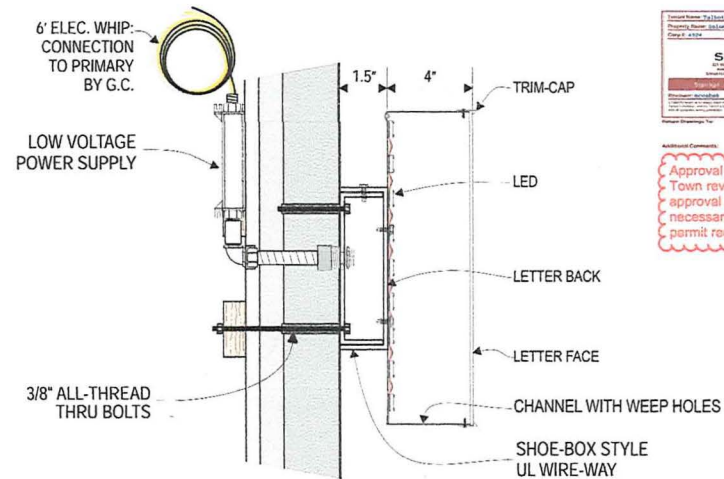
The square footage is similar to that of Old Navy's exterior sign.



RENDERING NOT TO SCALE



DETAIL SCALE



WIREWAY MOUNTED CHANNEL LETTER SECTION
SCALE: NTS

SW 7003



Approval pending
Town review and
approval and any
necessary special
permit requirements.

POWER SOURCE AND
METHOD OF SUPPLY BY
TENANTS CONTRACTOR AT
TENANT EXPENSE.

PATH OF ELECTRICAL
SERVICE AND METERING TO
BE DISCUSSED WITH MALL
MANAGEMENT PRIOR TO
INSTALLATION.

FACE LIT CHANNEL LETTERS ON AN ALUMINUM WIRE-WAY

- .063 Aluminum backs
- .040 Aluminum returns (White)
- .1875 Acrylic faces (White) w/ Surface mounted 3M Dual Color Black Film
- 1" Trim Cap (Black)
- White LED illumination
- Low voltage power supplies
- Fabricated aluminum wire-way painted to match SW 7003
- Remote power supply(s)



676 GEORGE WASHINGTON HIGHWAY
LINCOLN, RI 02865-4255

401-334-9100 401-334-7799

www.mandevillesign.com

APPROVALS
Signatures Required Before Release to Production
I have verified the accuracy of all graphics shown with respect to size and content. The specifications are correct and represent our order requirements exactly. I authorize release to production according to this approved submittal.

APPROVED BY: _____
DATE: _____

REVISIONS			
NO.	BY	DESCRIPTION	DATE
1	JO	REVISE TO 19'-0" S.O.	11/13/19
2			
3			

TALBOTS

CLIENT Talbots #1266

Solomon Pond Mall
Space # N105B
601 Donald Lynch Blvd
Marlboro, MA 01752

PROJECT MANAGER JIM O'NEILL

JIMO ARTIST 8/2/19

1367



Malcolm Hargrave
Talbots
malcolm.hargrave@talbots.com

January 8, 2020
Via Email

Reference: **SIGN REVIEW**
 Talbots
 Space #: N105B

Solomon Pond Mall #4924
Marlborough, MA

Dear Malcolm:

The sign drawings have been reviewed and are approved as noted. One set of plans marked with review comments is enclosed for your records.

Contact the appropriate Landlord Representative at the property to review check in procedures and all mall rules and regulations.

Sincerely,

Kimberly McCabe
Senior Tenant Coordinator 781-449-0888 x2240

Copy: Mall Mgmt
TC10.1/saa

1266 marlborough

For purposes of this Section 24.25, the term Major Tenants shall mean a single tenant, other than a theater, occupying at least 50,000 contiguous square feet of floor area. In no event shall Tenant pay as Alternate Rent in any period an amount which exceeds the sum of the Minimum Rent, Percentage Rent and other charges which would otherwise be payable under this Lease but for the application of this Section 24.25.

Notwithstanding anything to the contrary contained herein, any non-Major Tenant or Major Tenant that is closed for taking inventory or for up to ninety (90) days by reason of force majeure, fire or casualty or for remodeling shall be deemed open for purposes of determining the existence of a Condition. Tenant acknowledges that the foregoing provisions are not intended as, nor shall the same be deemed, a warranty, representation, or agreement that any Major Tenant or other tenants will remain open for business during the entire Lease Term.

Section 24.26. Exterior Signage. Subject to complying with the Center's design criteria, Sub-Section I(B)(11) of Exhibit "B" attached hereto, and Landlord's approval of Tenant's sign plans, which shall not be unreasonably withheld, Tenant shall be permitted to install exterior signage in the approximate area shown on Exhibit "A-1" attached hereto; provided however, Tenant acknowledges said sign area shall be shared with another tenant of the Center and approval of Tenant's sign plans will be require the design thereof to integrate with such other tenant's sign placement.

Section 24.27. Existing Awning and Exterior Windows. Tenant shall not be required to remove the Premises' existing exterior awning(s) or existing exterior windows ("Existing Exterior Features"); provided however, Tenant acknowledges Landlord (or a future tenant of the Center whose premises may adjoin the area where the Existing Exterior Features are located) has the right to remove the Existing Exterior Features in the future upon Landlord's discretion. In the event of such future removal of the Existing Exterior Features, Landlord shall fill in any openings resulting from the removal of the windows and use commercially reasonable efforts to minimize any disruption to Tenant's business in doing so.

Section 24.28. Termination of Existing Leases.

Tenant is currently occupying a portion of the Premises (Space No. N109) under a Lease dated February 22, 2007 and occupying Space No. S108 at the Center under a Lease dated February 22, 2007 ("Existing Leases") heretofore entered into by and between Landlord and Tenant. It is the intention of Landlord and Tenant that Tenant expand its operations currently in a portion of the Premises (Space No. N109) to the whole of the Premises and relocate its business operations from Space No. S108 to the Premises on or before the Commencement Date of this Lease. Effective as of the fifth (5th) day following the earlier of: (i) the Required Completion Date, or (ii) the date Tenant opens for business in the Expansion Area portion of the Premises, whichever occurs first, ~~Commencement Date of this Lease~~, the Existing Leases shall be deemed terminated and of no further force or effect. Tenant shall fully comply with all obligations under the Existing Leases through the Commencement Date of this Lease. Any Existing Leases' conditions with which Tenant has failed to comply shall survive the termination of the respective Existing Lease. Tenant shall continue to pay all rentals, including Percentage Rent, and other charges under the Existing Leases through the Commencement Date, all of which shall be prorated on a per diem basis. Any undetermined charges under the Existing Leases may be billed to Tenant when determined (and Tenant's obligation to pay the same, and Landlord's obligation to reimburse Tenant for any overpayments, shall survive termination of the Existing Leases), or Landlord may reasonably estimate such charges and require that Tenant pay the same within thirty (30) days after Landlord bills the same, subject to adjustment after the actual charges have been determined. No further documentation shall be required to evidence the termination of the Existing Leases other than as herein set forth.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Exterior Signage Location



level of humidity, shall provide an exhaust system which will prevent such odors or moisture from entering the enclosed mall, other tenant spaces or any other portion of the Center. If, in the sole opinion of the Landlord, any of Tenant's roof mounted equipment accumulates grease, Tenant shall, at Tenant's expense, furnish and install grease collection and elimination facilities in accordance with Landlord's requirements (which may include the use of a Grease Guard collection pan).

- b. In the event that Tenant elects to reuse all or a portion of any existing HVAC system(s), Tenant shall indicate same on Tenant's drawings for Landlord's review. In the event Landlord permits Tenant to reuse said systems, Tenant shall employ a qualified contractor to verify, by written confirmation to Landlord, that such HVAC system(s) is fully operable and in conformance with Landlord's design criteria as provided in Landlord's drawings (said written confirmation shall include, but not be limited to, an air balance report completed by an AABC certified air balance contractor and shall indicate, at a minimum, any discrepancies between design quantities and tested quantities). If any portion of Tenant's HVAC system(s) is not fully operable or does not conform to Landlord's design criteria, Tenant shall, at Tenant's expense, have its contractor repair or replace same to comply therewith and thereafter provide Landlord with written confirmation thereof.
7. Construction Deposit. Prior to commencement of construction in the Premises, Tenant's contractor shall deliver a damage deposit in the form of a cashier's check in the amount of \$5,000.00 made payable to Landlord. Landlord shall have the right to use all or any part of said damage deposit as reimbursement for any debris clean-up or damage caused by Tenant's contractor(s) to any Common Areas.
8. Materials and Services. Prior to commencement of construction in the Premises, Tenant's contractor shall deliver a cashier's check, made payable to Landlord, as payment for materials issued to or services provided for Tenant's contractor by Landlord or for work performed by Landlord for Tenant's contractor at the request of Tenant's contractor. Such items are itemized in the Tenant Information Package and may include (but not be limited to): entrance floor tile; service door, frame and hardware; smoke detectors; temporary utilities; temporary sprinkler system (standard grid); sheetrock; temporary toilets; dumpster and trash removal; final connection and testing to Landlord's fire system; and governmental fees.
9. Construction Rules. Tenant will abide by and cause its contractors, subcontractors, agents and employees to abide by rules and regulations published by Landlord from time to time, including, but not limited to, those pertaining to parking, toilet facilities, safety conduct, delivery of materials and supplies, employee egress to the Center, trash storage or collection or removal, and cooperation with Landlord's architect, general contractor and subcontractors or other agents.
10. Storefront Barricade. If, in the sole opinion of the Landlord, a temporary storefront barricade is required for the Premises, Landlord shall install same at Tenant's expense.
11. Interior Signage. Tenant shall provide and install a storefront identification sign for the Premises which may include, at Landlord's discretion, multiple signs (depending upon Tenant's storefront configuration) and Tenant's established national logo or insignia, if any. Storefront identification signs shall be limited to Tenant's Trade Name as approved in this Lease or as otherwise approved in writing by Landlord. The storefront sign shall be illuminated (unless otherwise specifically approved, in writing, by Landlord). Landlord's approval of Tenant's storefront signage shall be based on the size and style of the sign and lettering, the location of the sign within the storefront, and the cohesive integration of the sign into the overall storefront design. Prohibited storefront signage includes, but is not limited to, signage which advertises or describes products, services, vendors, or departments or is informational or directional in nature, regardless if such signage is attached as a tagline to, or is included as part of, Tenant's Trade Name.

12. Exterior Signage.

1. Tenant shall may provide and install ~~a storefront identification sign for the Premises which may include, at Landlord's discretion, multiple signs (depending upon Tenant's storefront configuration)~~ an exterior sign as allowed by Section 24.26 of the Lease, and Tenant's established national logo or insignia, if any. ~~Storefront identification signs~~ Such exterior sign shall be limited to Tenant's Trade Name as approved in the Lease or as otherwise approved in writing by Landlord. Taglines, if approved at the sole discretion of the Landlord, shall be carefully reviewed for wording, size, style and fabrication. The storefront sign shall be illuminated (unless otherwise specifically approved, in writing, by Landlord).
2. The following types of signs and sign components are strictly prohibited:

KEEGAN WERLIN LLP

ATTORNEYS AT LAW
99 HIGH STREET, SUITE 2900
BOSTON, MASSACHUSETTS 02110-3113

(617) 951-1400

TELECOPIER:
(617) 951-1354

VIA OVERNIGHT COURIER

December 23, 2019

City of Marlborough Planning Board
135 Neil Street 2nd Floor
Marlborough, MA 01752

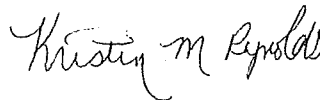
Re: NSTAR Electric Company, d/b/a Eversource Energy EFSB 17-02/D.P.U. 17-82/17-83

Dear Board Members:

Please find enclosed a copy of the Final Decision of the Energy Facilities Siting Board (the "Siting Board") issued on December 18, 2019 in the above-referenced proceeding. This is being provided to you pursuant to the instructions of the Final Decision of the Siting Board (see page 238).

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,



Kristin M. Reynolds
Paralegal
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, MA 02110
(617) 951-1400

Enclosure

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

Petition of NSTAR Electric Company d/b/a
Eversource Energy for Approval to Construct a
New 115 kV Transmission Line in the Towns
of Sudbury, Hudson, and Stow, and the City of
Marlborough and to Make Modifications to
Existing Substations in Sudbury and Hudson,
Massachusetts, Pursuant to G.L. c. 164, § 69J

EFSB 17-02

Petition of NSTAR Electric Company d/b/a
Eversource Energy for Exemptions from the
Operation of the Sudbury, Hudson and Stow
Massachusetts Zoning Bylaws,
Pursuant to G.L. c. 40A, § 3

D.P.U. 17-82

Petition of NSTAR Electric Company d/b/a
Eversource Energy for Approval to Construct
and Use a New 115 kV Transmission
Line in the Towns of Sudbury, Hudson, and Stow,
and the City of Marlborough, Massachusetts
Pursuant to G.L. c. 164, § 72

D.P.U. 17-83

FINAL DECISION

On the Decision:

Stephen August
Charlene de Boer
Ashley Ferrer
Andrew Greene
Dean Hazle
Lavinia LaBonte
Barbara Shapiro
John Young

PLANNING BOARD

DATE 12-26-19
AGENDA 1-13-19
ACTION _____

Joan Foster Evans
Presiding Officer
December 18, 2019

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load interruption is not recommended as a mitigation for voltage violations.¹⁹² See Load Interruption Guidelines at 8. Accordingly, the Siting Board is not persuaded that a load interruption alternative would be an appropriate means of addressing the thermal overloads and low voltage violations identified in the Marlborough Subarea.

Given the reliability needs currently present in the Marlborough Subarea, the Siting Board concludes that inclusion of the NTA information presented by the Town of Sudbury with its Motion to Reopen is not likely to have a significant impact on the Siting Board's determination that the Project is necessary and superior to other alternatives identified with respect to providing a reliable energy supply for the Commonwealth with minimum impact on the environment at the lowest possible cost.

F. Conclusion

The Siting Board finds that the Town of Sudbury has failed to demonstrate clearly good cause for reopening the record in this matter. Therefore, the Town of Sudbury Motion to Reopen Record and Hearing, dated June 13, 2019, is denied. The documents referenced above that Sudbury and the Company have filed pertaining to the Sudbury Motion will not be considered by the Siting Board in its deliberations and in the issuance of a tentative and final decision on this matter.

XIII. DECISION

The Siting Board's enabling statute directs the Siting Board to implement the energy policies contained in G.L. c. 164, §§ 69H to 69Q, to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. G.L. c. 164, § 69H. Thus, an applicant must obtain Siting Board approval under G.L. c. 164, § 69J, prior to construction of a proposed energy facility.

¹⁹² For example, the 2010 ISO-NE Load Interruption Guidelines includes a "guiding concept" stating that "[p]lanning of the regional transmission system should not consider load interruption as the primary means to mitigate transmission system reliability violations and thus recognizes the importance of providing reliable service to all customers." See Load Interruption Guidelines ("Load Interruption Guidelines") at 3.

In Section III, above, the Siting Board finds that additional energy resources are needed to maintain a reliable supply of electricity within the Marlborough Subarea.

In Section IV, above, the Siting Board finds that the Project is superior to the other alternatives identified with respect to providing a reliable energy supply for the Commonwealth with minimum impact on the environment at the lowest possible cost.

In Section V, above, the Siting Board finds that the Company has developed and applied a reasonable set of criteria for identifying and evaluating alternatives to the Project in a manner that ensures that the Company has not overlooked or eliminated any routes that are on balance clearly superior to the Project. The Siting Board also finds that the Company has identified a range of practical transmission line routes with some measure of geographic diversity. Consequently, the Siting Board finds that the Company has demonstrated that it examined a reasonable range of practical siting alternatives, and the proposed facilities are sited in locations that minimize cost and environmental impacts while ensuring a reliable energy supply.

In Section VI, above, the Siting Board finds that the proposed facilities along the MBTA Underground Route would be superior to the proposed facilities along both the All-Street Route and the MBTA Overhead Route with respect to providing a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost.

In Section VI, above, the Siting Board reviewed environmental impacts of the Project and finds that with the implementation of the specified mitigation and conditions, and compliance with all applicable local, state and federal requirements, the environmental impacts of the Project along the MBTA Underground Route would be minimized.

In Section VII, above, the Siting Board finds that with the implementation of specified mitigation and conditions, the Project is consistent with the health, environmental protection, and resource use and development policies of the Commonwealth.

In addition, the Siting Board finds, pursuant to G.L. c. 164, § 72, that the Project is necessary for the purpose alleged, and will serve the public convenience, and is consistent with the public interest, subject to the following Conditions A through S.

In addition, the Siting Board finds, pursuant to G.L. c. 40A, § 3, that construction and operation of the Company's proposed facilities are reasonably necessary for the public convenience or welfare. Accordingly, the Siting Board approves the Company's Petition for an

exemption from certain provisions of the zoning bylaws of the Towns of Sudbury, Hudson, and Stow, with limitations, as enumerated in Section VIII.D, above. In addition, the Siting Board finds that delay in the completion of the Project would likely cause substantial public harm and that the grant of comprehensive exemptions from the zoning bylaws of the towns of Sudbury, Hudson, and Stow is warranted. Accordingly, the Siting Board approves the Company's Petition for comprehensive exemptions from the provisions of the zoning bylaws of the Towns of Sudbury, Hudson, and Stow, with limitations, as enumerated in Section IX.C, above.

Accordingly, the Siting Board APPROVES pursuant to G.L. c. 164, § 69J, the Company's Petition to construct the Project using the MBTA Underground Route, as described herein, subject to the following Conditions A through S.

- A. The Company shall file, prior to construction, the executed MOU between DCR that outlines vegetation management along the MBTA ROW.
- B. The Company shall, in consultation with the owners/managers of bordering conservation land – Sudbury, Hudson, Marlborough, Sudbury Valley Trustees, DCR, and the U.S. Department of the Interior – develop an access plan that details: (1) the time of year that access would be limited along the MBTA ROW; (2) alternative access points to specific conservation areas if applicable; (3) guidelines for communicating with all owners/managers of such conservation lands; and (4) a complaint and resolution process regarding any issues arising from construction that impact the bordering conservation land.
- C. The Company shall not commence construction of the Project along the MBTA Underground Route until the question of whether the MBTA can enter into the Option Agreement is resolved and the Company's rights to install the New Line along the MBTA ROW are thereby confirmed.
- D. The Company shall file the following documents applicable to a particular community prior to the start of construction in that community: final mitigation plans for wetland replication and compensatory flood storage; completed wildlife habitat assessments; final avoidance and mitigation plans; and each Order of Conditions from the local conservation commissions. The Company shall not be precluded from commencing construction in a particular community if it is fully permitted to proceed in that community.
- E. The Siting Board directs the Company to report on any future consultations with MassDFW and provide any additional mitigation or best practices that will be implemented prior to construction of the Project.

- F. The Siting Board directs Eversource to utilize mechanical vegetation management along the MBTA ROW. Further, if Eversource finalizes an MOU with DCR for vegetation management along the MCRT, Eversource shall incorporate the same provision in the MOU. If DCR does not agree to the inclusion of this provision in the MOU, Eversource shall submit a report to the Siting Board describing DCR's objections for the Board's consideration.
- G. The Company shall use the quietest low-noise generators reasonably available during cable splicing.
- H. Eversource shall place any stationary equipment that emits loud noise in addition to portable generator units as far as practicable from residences and other sensitive receptors during construction.
- I. Eversource shall provide a filing with the Siting Board describing nighttime construction noise mitigation measures that will be implemented during Project construction.
- J. The Company shall limit construction of the New Line in residential areas to Monday through Friday from 7:00 a.m. to 6:00 p.m., with the exception of in-street work as requested by the Town of Hudson. Work requiring longer continuous duration than normal construction hours allow, such as cable splicing, is exempted from this condition. The Siting Board will allow Saturday work at the Sudbury and Hudson Substations, but it shall be limited to large equipment deliveries and to quiet assembly and testing activities.

Should the Company need to extend construction work beyond the above-noted hours and days, with the exception of emergency circumstances on a given day necessitating extended hours, the Company shall seek written permission from the relevant municipal authority before the commencement of such work, and to provide the Siting Board with a copy of such permission. If the Company and municipal officials are not able to agree on whether such extended construction hours should occur, the Company may request prior authorization from the Siting Board and shall provide the relevant municipality with a copy of any such request.

- K. The Company shall inform the Siting Board and the relevant municipality within 72 hours of any work that continues beyond the hours allowed by the Siting Board. The Company shall also send a copy to the Siting Board, within 72 hours of receipt, of any municipal authorization for an extension of work hours. Furthermore, the Company shall keep records of the dates, times, locations, and duration of all instances in which work continues beyond the hours allowed by the Siting Board; if a municipality grants the Company extended work hours in writing, the Company shall keep records of work that continues past allowed hours, and must submit such records to the Siting Board within 90 days of Project completion.

- L. The Company shall provide a Project-specific phone number, staffed during all daytime construction hours, for the public to raise concerns with respect to Project construction impacts. Further, the Company shall develop a Project-specific website, which should at a minimum contain contact information for Company public affairs personnel, the Project-specific phone number, all communications regarding local construction impacts, a Project map, traffic management plans, and a construction timeline. The Company shall provide the Siting Board with the phone number and website address when created.
- M. The Company shall, in consultation with the towns, develop a separate, comprehensive outreach plan for the Project for each municipality. Each outreach plan should describe the procedures to be used to notify the public about: (1) the scheduled start, duration, and hours of construction in particular areas; (2) the methods of construction that will be used in particular areas (including any use of nighttime construction); and (3) anticipated street closures and detours. Each outreach plan should also include information on complaint and response procedures; Project contact information; the availability of web-based project information; and protocols for notifying the schools of upcoming construction.
- N. The Company shall alert abutters a minimum of two weeks in advance of anticipated local construction activities, when possible.
- O. The Company shall, upon request of any person or entity owning property located directly abutting the MBTA ROW whose view has materially changed due to construction of the Project, to provide appropriate and reasonable off site screening. Such screening may include shrubs, trees, window awnings, and fences, provided that operating and maintenance requirements for the transmission line are met. Upon completion of construction, the Company shall notify all owners of property located on or abutting the MBTA ROW in writing of the option to request that the Company provide off site mitigation. The Company shall honor all reasonable and feasible requests for mitigation that it receives from property owners within six months of receipt of the Company's written notification.
- P. The Company shall provide an interim report at the mid-point of construction and a final report at the completion of the Project describing how the Company followed the MassDEP Rail Trail BMP.
- Q. The Siting Board directs the Company to comply with all applicable federal, state, and local laws, regulations, and ordinances from which the Company has not received an exemption. The Company shall be responsible for ensuring such compliance by its contractors, subcontractors, or other agents.
- R. The Siting Board directs the Company to submit to the Board an updated and certified cost estimate for the Project prior to the commencement of construction.


Additionally, the Siting Board directs the Company to file semi-annual compliance reports with the Siting Board starting within 180 days of the commencement of construction, that include projected and actual construction costs and explanations for any discrepancies between projected and actual costs and completion dates, and an explanation of the Company's internal capital authorization approval process.

- S. The Siting Board directs the Company, within 90 days of Project completion, to submit a report to the Siting Board documenting compliance with all conditions contained in this Decision, noting any outstanding conditions yet to be satisfied and the expected date and status of compliance.

Because issues addressed in this Decision relative to this facility are subject to change over time, construction of the proposed Project must be commenced within three years of the date of the Decision.

In addition, the Siting Board notes that the findings in this Decision are based upon the record in this case. A project proponent has an absolute obligation to construct and operate its facility in conformance with all aspects of its proposal as presented to the Siting Board. Therefore, the Siting Board requires the Company, and its successors in interest, to notify the Siting Board of any changes other than minor variations to the proposal so that the Siting Board may decide whether to inquire further into a particular issue. The Company or its successors in interest are obligated to provide the Siting Board with sufficient information on changes to the proposed Project to enable the Siting Board to make these determinations.

The Secretary of the Department shall transmit a copy of this Decision and the Section 61 findings herein to the Executive Office of Energy and Environmental Affairs and the Company shall serve a copy of this Decision on the Town of Sudbury Board of Selectmen, the Town of Hudson Board of Selectmen, the Town of Stow Board of Selectman, and the City Council of the City of Marlborough and the planning boards and zoning boards of appeals in these municipalities. The Company shall certify to the Secretary of the Department within ten business days of issuance that such service has been made.



Joan Foster Evans, Esq.
Presiding Officer

Dated this 18th day of December 2019

APPROVED by a vote of the Energy Facilities Siting Board at its meeting on December 17, 2019, by the members present and voting. Voting for the Tentative Decision as amended: Patrick Woodcock, Undersecretary of the Executive Office of Energy and Environmental Affairs and Siting Board Chairman; Matthew Nelson, Chair of the Department of Public Utilities; Cecile M. Fraser, Commissioner of the Department of Public Utilities;; Gary Moran, Deputy Commissioner and designee for the Commissioner of Massachusetts Department of Environmental Protection; Joseph Bonfiglio, Public Member; and Brian Casey, Public Member.

A handwritten signature in black ink, appearing to read 'Patrick Woodcock', is written over a horizontal line.

Patrick Woodcock, Chairman
Energy Facilities Siting Board

Dated this 18 day of December 2019