

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

January 13, 2020

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, Chris Russ and Matthew Elder. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

First order of Business: Planning Board Organizational Meeting – Election of Chairperson and Clerk

Chair Fenby opened the organizational meeting. George LaVenture opened the nominations for Planning Board Chairperson by nominating Ms. Fenby. There were no other nominations for Chairperson. On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to elect Dr. Barbara Fenby as Chairperson of the Marlborough Planning Board for the year 2020. Motion carried. Mr. Fay then nominated Mr. George LaVenture to serve as Clerk of the Planning Board. There were no additional nominations. On a motion by Mr. Fay, seconded by Mr. Hodge, the Board voted to elect Mr. George LaVenture to serve as Planning Board Clerk for the year 2020. Motion carried.

1. Meeting Minutes

A. December 16, 2019

On a motion Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of December 16, 2019. Motion carried.

2. Chair's Business

A. Proposed 2020 Planning Board Meeting Dates

Ms. Fenby directed the Board to the proposed 2020 meeting dates. With no objection to the proposed dates, on a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the 2020 Planning Board proposed meeting calendar. Motion carried. Additional meeting dates may be added as necessary. As is customary, the Planning Board will generally meet on the same days as the Marlborough City Council.

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, was present to introduce the plan. Mr. O'Leary indicated that the parcel consists of 23+-acres bisected by a City of Marlborough sewer taking. The parcel had been surveyed, and the plan before the Board creates two separate building lots. He described the locus of the plan and indicated that the two lots meet requirements in the A-2 zone, which has a minimum lot size of 18,000 SF and 120 feet of frontage. Mr. LaVenture noted that there is a large area of wetland on the larger Lot 2. He asked Mr. O'Leary whether there was adequate access for the proposed building lot. Mr. O'Leary indicated that Lot 2 has plenty of upland. Lot 2 does fall into the Wetland Protection District, and the plan includes the necessary 20' "no touch buffer". On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to refer the plan to Engineering. Motion carried.

4. Public Hearings (Cont.)

- A. Letter of Withdrawal : 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
- Mr. LaVenture read the December 23, 2019 letter from project engineer, Robert Parente. On behalf of the property owners, he requested withdrawal of the Definitive Subdivision Plan at 18 and 24 Clearview Drive. His clients will move forward with a plan for exclusive use areas instead. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to file the correspondence and to accept the withdrawal the referenced definitive plan on Clearview Drive. Motion carried.

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

- A. Goodale Estates – Mr. LaVenture read portions of the draft “Standby Irrevocable Letter of Credit” submitted by the property owner, Kevin Gillis. His attorney has been working on an acceptable form of surety. Mr. Gillis was not present at the time of the initial discussion. The Board noted a line of credit is not one of the forms of surety mentioned in the City’s subdivision rules and regulations, and the draft form will require additional review. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to refer the matter to the City Solicitor and City Comptroller for review and recommendation. Motion carried.
- B. Release of Lot from Covenant of Restrictions – “Elmview at Marlboro” subdivision.
- Mr. LaVenture read a portion of the January 3, 2020 letter from Assistant City Engineer Collins into the record. Katie Sheehan, an attorney working for the owners of 29 Leonard Drive (lot 6) in the “Elmview at Marlboro” subdivision requests a Release of Lots from Covenant of Restrictions. The original release was acted upon on August 14, 1974, but the release was never recorded at the South Middlesex Registry of Deeds. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the Assistant City Engineer’s letter with the provided historical backup and to execute the document “Certificate of Performance Release of Lots from Covenant of Restrictions” for lots 2 through 7. Motion carried. The release will be returned to Attorney Sheehan for recording.

6. Preliminary/Open Space /Limited Development Subdivision Submissions

- A. Correspondence from Brown Rudnick LLP re: 339 Boston Post Road East
- Planning Board Administrator Holmi indicated she had received the included email communications from the attorneys at Brown Rudnick stating they wished to withdraw the preliminary subdivision filing for 339 Boston Post Road East. Brown Rudnick had previously requested to present the plan at the January 13th meeting. Attorney Sampson said a formal communication would arrive by January 10, 2020. As of the meeting date on January 13, the correspondence had not arrived. On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the email correspondence. Motion carried.

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.
- Ms. Fenby opened the sign hearing. Jeffrey Cooke, Building Commissioner, was present to address the sign permit denial for which the applicant is seeking a variance. Two issues exist: The total allowed flat wall signage on the mall is limited to 200 square feet. This limitation is detailed in a variance approved by the Marlborough Planning Board on May 6, 1996. The 1996 variance did not expressly allow for any tenant flat wall signage, so the flat wall sign allowance is already consumed with general mall signs. The second issue detailed in the denial letter is that Talbots is not located on the façade for which the flat wall sign is requested.

During the discussion, member LaVenture noted that Talbots is owned by a private equity firm that owns other mall tenants. As a cautionary comment, he wondered how long it would be before another tenant may request external flat wall signage.

Rich Pretorius of Pretorius sign was present to represent Talbots. Mr. Pretorius indicated that Talbots previously had external signage on the mall, but since moving to a consolidated space on the other side of the mall hallway, they no longer do. He explained Talbots requires the signage, since many people now mistakenly believe that the store is closed. The mall has authorized the sign, (subject to any applicable permits or requirements). The proposed sign will be located beneath the Old Navy sign on the Donald Lynch Blvd. side. Old Navy has already received a sign permit from the Building Department. The proposed Talbots sign is approximately 41 square feet.

Mr. Elder spoke in favor of the proposed sign. The sign, he felt, did not detract from the building and noted it was consistent with other signage on the building. Mr. Fay also commented that for the mall, he also did not see a problem with the signage. His consideration of the mall's size and isolated location factored into his generally favorable opinion of the variance request. He noted that if the request was for sign expansion in the downtown area, his opinion would be much different.

Ms. Fenby has knowledge of the mall's original 1996 variance request. An overall review of the original mall variance may be in order. While tenant signs were not originally contemplated for signage on the mall, current market conditions may warrant a review of allowed signage. Ms. Fenby and Commissioner Cooke agreed that reviewing the original variance with the property owner and adjusting the variance, if necessary, was preferred over addressing individual tenant variance requests. Ms. Fenby suggested that the Marlborough Economic Development Corporation (MEDC) may be an appropriate review body.

Council President Ossing was present and requested the opportunity to address the Board. Granted. President Ossing said that it may be time to review the sign ordinance in its entirety. There was a concerted effort years ago that stalled, but it may be time to revisit language in the ordinance and he would like to establish a working group to suggest possible changes.

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to grant the variance request of Pretorius Electric on behalf of Talbots. The Board believed that the sign ordinance did not contemplate a project of this nature, and to grant relief at this time would not substantially derogate from the intent and purpose of this ordinance. Motion Carried. On a motion by Mr. Elder, seconded by Mr. LaVenture, it was voted to refer the 1996 mall variance to the MEDC for review and potential modification. Motion carried.

Kevin Gillis, owner of the Goodale Estates subdivision property, arrived late to the meeting. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to return to item 5A., Goodale Estates, for a discussion of the proposed surety for the project.

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

A. Goodale Estates – Surety discussion.

Mr. Gillis has submitted a draft security in the form of a standby irrevocable line of credit as a condition of the item 6 of the Goodale Estates covenant. *6. Prior to release by the Planning Board of any Lots shown on the Plan from the terms of this Covenant, the Covenantor shall deposit with the City of Marlborough a performance bond in an amount to be determined by the Planning Board, said bond to be secured by the posting of cash, or by surety company bond or by such other form of security as may be approved by the Planning Board.*

Mr. Gillis questioned why the Board could not approve the surety at this time. He wishes to obtain lot releases, so that the lots can be conveyed and building permits obtained.

Mr. Fay pointed out that this draft form of security had not been formally reviewed by the Solicitor's office. The Board has many years of collective experience, and a line of credit is not the usual form of security. To the Board's recollection, this form of security has never been presented.

Mr. Gillis said the form should be acceptable, he has provided draft deeds for the roadway and municipal easements as well as a certificate of insurance. Ms. Fenby informed Mr. Gillis that the Board voted earlier to refer the proposed security to the Solicitor's office, who shall, according to the City's regulations, approve as to form and manner of execution and to the City Comptroller (Treasurer) to approve as to sureties. The release document cannot be voted on until the Board has these department reviews.

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

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

10. Unfinished Business (None)

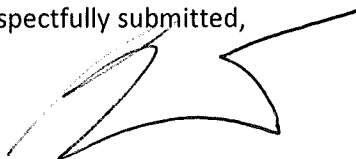
11. Calendar Updates

- A. 1-27-20 : Vote due on ANR Application of The Charles Company, LLC, 131 Black Bear Drive S. Waltham, MA 02451. (Stevens Street)

12. Public Notices of other Cities & Towns (None)

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,

A handwritten signature in black ink, appearing to read 'George LaVenture', written over a horizontal line.

George LaVenture/Clerk

/kih