

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

March 09, 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.

1. Meeting Minutes

A. February 24, 2020

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of February 24, 2020. Motion carried.

2. Chair's Business

A. Chair Fenby shared that Nusrath Kahn has elected not to join the Planning Board.

B. Public Hearing Date: Council Order 20-1007947 – Proposed Zoning Amendment to Chapter 650, §5, §17, & §18 – Contractor Storage Yards and the Proposed Rezoning of land located on Farm Road, identified as Map 85 Parcel 12. The Board selected April 6, 2020 for the public hearing date.

3. Approval Not Required (None)

4. Public Hearings

A. Proposed Zoning Amendment to Section 650 §17 & §18 – Livestock Farms.

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:

City Councilor Robey spoke about the need for the proposed zoning amendment. A resident had contacted her asking about Marlborough's livestock regulations- specifically, raising chickens. Upon research, she found the City's current code lacks specificity on what is allowed or disallowed. Councilor Robey stated the City Code contains the statement, "All uses not noted in § 650-17, entitled "Table of Uses," shall be deemed prohibited." If the code is searched for chickens, there are no results found. If the code is searched for poultry, there is some information one can reference the Table of Uses. Livestock farms need to be over ten acres, but there are few properties in and are only allowed in the Rural Residential zone. There are not many properties in Marlborough over ten acres and located in the Rural Residential area.

Councilor Robey stated she is aware that residents in the city raise chickens for fresh eggs for personal use. She noted that Framingham recently reworked its ordinance and she consulted with the City Solicitor on the proposed ordinance with input from the Board of Health and Building Commissioner Cooke. She learned that the BOH has its own regulations and permitting process for chickens. The amendment includes language allowing slaughtering of chicken hens for personal use only. The Table of Uses will be amended to allow for six or fewer chickens in Rural Residential, A-1, A-2, A-3, Residence B, and Residence C and between seven and twelve in Rural Residential, A-1, A-2, and A-3 but not in Residence B or Residence C. Chickens are not allowed in the newly created Wayside District. Councilor Robey requested the Board's consideration of the proposed amendment.

Speaking in Favor:

Mr. Joseph Bisol of 212 Hudson St. spoke in favor of the amendment. He had a negative experience with a rooster in his neighborhood. Without this ordinance, he feels that the City lacks the ability to enforce situations like his. He doesn't feel any resident should need to resort to legal action due to lack of specificity in the code. He states that the zoning amendment will improve the quality of life for citizens in the City. With no further comment, Chair Fenby closed that portion of the hearing.

Speaking in Opposition:

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

Questions and Comments from Board Members:

Mr. Elder asked whether the Board of Health requires a fee for people to register their chickens. He is opposed to any additional fees. Mr. Fay expressed concern that coyotes and other predators are attracted to chickens. Councilor Robey asked to address the Board, granted ... She said that coyotes and foxes already live in and around our neighborhoods and knows that these predators will take advantage of any opportunity. She is aware that the chickens along the rail trail have been taken by predators in the past. She still thinks the City needs this code in order to allow the keeping of chickens for personal use. Mr. Russ asked whether the Board of Health (B.O.H.) had any concerns over fecal matter. Ms. Robey said that the registration with the B.O.H. allows them to monitor the properties to see that they are being maintained. Mr. Russ brought a sample regulation from the Town of Leicester. Mr. Russ reviewed several elements of the Leicester ordinance, which includes an exclusion for lots less than 7,000 square feet, restrictions against placement of poultry structures within a protected wetland or buffer zone or near homes as well as a specification of design characteristics for structures. Mr. Russ believes the Marlborough ordinance lacks specificity. Mr. LaVenture shares some of the members' concerns. Coyotes, foxes and other wildlife may be drawn to coops. While he didn't want to overreact, considering the current concerns about virus transmission, he wondered if we should be concerned about any diseases carried by birds. Can we reach out for comment from the B.O.H.? His concerns include waste management, sickness, predators, and uncertainty about compliance with registration. Mr. Elder said the issue is no different than dog owners who fail to register their dogs. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to refer the matter to the Board of Health for comment. Motion carried. Chair Fenby declared that the public hearing will be continued until the next meeting of the Planning Board.

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

- A. (Preapproval Discussion) Commonwealth Heights Definitive Subdivision— 3-2-20 Communication from Mr. Scott Weiss, The Gutierrez Company. Request for extension of time for decision.
Mr. LaVenture read the 3-2-20 email communication from Mr. Weiss into the record. On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted accept and file the communication and to grant the requested extension of time for review and consideration of the Commonwealth Heights application to 03-23-20. Motion carried.
- B. Communication from Assistant City Engineer Collins: Request for lot release – Forest Grove Subdivision (Housekeeping matter)
Mr. LaVenture read the March 5, 2020 communication from Assistant City Engineer Collins into the record. A title exam and research by D'Ambrusco Law, LLC, revealed a deficiency in the 2002 lot release for the Forest Grove Subdivision. Mr. Collins provided a detailed chronology and evolution of several subdivision applications that lead to the mistake. For the Board's consideration, Mr. Collins attached a Release of Lot(s) form which corrects the errors in the previous release.

6. Preliminary/Open Space /Limited Development Subdivision Submissions (None)**7. Definitive Subdivision Submissions (None)**

8. Signs (None)

9. Correspondence (None)

10. Informal Discussion (None)

11. Calendar Updates

- A. Public Hearing- Council Order 20-1007947 – Proposed Zoning Amendment to Chapter 650, §5, §17, & §18 – Contractor Storage Yards and the Proposed Rezoning of land located on Farm Road, identified as Map 85 Parcel 12. Hearing Date: Monday, April 6, 2020.

12. Public Notices of other Cities & Towns (Included in electronic packet)

- A. City of Framingham – 4 Notices
- B. Town of Sudbury – 2 Notices
- C. Town of Northborough - 1 Notice

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,



George LaVenture/Clerk

/kih