

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

April 27, 2020

The **Remote Meeting** of the Marlborough Planning Board was called to order at 7:00 pm. 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, also participated in the remote meeting.

1. Meeting Minutes

A. April 6, 2020

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the minutes of April 06, 2020. Yea: 6 – Nay: 0; Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Carried 6-0.

2. Chair's Business

- A. May Meetings.** Chair Fenby informed the Board that the next scheduled meeting of the Planning Board is just a week away. She polled the Board on their thoughts of skipping the May 4 meeting if no pressing matters are added to the agenda by Thursday, April 30, the posting deadline. As there were no objections, the Board will plan to meet again on May 18 (pending confirmation that no pressing matters are added to the agenda.)

3. Approval Not Required

- A. 19 Ash Street – Applicant: David Skarin, 36 Wethersford Rd. Bellingham, MA 02019; Surveyor: Jarvis Land Survey, 29 Grafton Circle, Shrewsbury, MA 01545; Description of Property: Middlesex South Registry of Deeds Book 29963 Page 483; Assessor's Map 43 Parcel 29. Plan representative: David Skarin, Applicant/Owner.**

Mr. Skarin was not online when item 3A was announced. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to move on to item 3B. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. 6-0 Carried.

- B. 53 Second Rd. – Applicant: Reginald Ashford, 61 Second Road Marlborough, MA 01752; Surveyor: Hancock Associates, 315 Elm St. Marlborough, MA 01752; Description of Property: Middlesex South Registry of Deeds Book 26162 Page 256, Assessor's Map 6 Parcel 30. Plan representative: J. Dan Bremser, Hancock Assoc.**

After a brief delay, Mr. Bremser of Hancock Associates joined the meeting. Mr. Bremser indicates that the purpose of the plan is to subdivide the existing lot (shown as Lot 2 on the plan) at 53 Second Road and creates a separate parcel, "Parcel A", with 25 feet of frontage on Second Road. This parcel has been accurately identified on the plan as "not a separate buildable lot" and is to be used exclusively with the adjacent property at 61 Second Road. Lot 2 at 53 Second Road maintains the applicable setback requirements for a lot in the A3 zone.

i) Engineering Review Letter

Mr. LaVenture read the April 27th review letter from Assistant City Engineer Collins into the record. The letter reviews the intent of the plan and indicates that Lot 2, which contains an existing single family home, has the required area and the required frontage for property in a Residence A-3 zone, has "present adequate access" on Second Road and also meets the "lot shape requirement". The letter further indicates that "Parcel A" does not meet the requirements for area, frontage or lot shape and is properly designated as "not a separate buildable lot". Parcel A will be used with the adjacent property (61 Second Road), owned by the applicant. On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept, file and endorse the referenced plan at 53 Second Road as Approval Not Required under the subdivision control law. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nay: 0. Motion carried 6-0.

As Mr. Skarin was not yet available to present item 3A, the Board moved on to the next agenda item, 4A.

4. Public Hearings

A. Continued: Commonwealth Heights Definitive Subdivision – Revised plan

Applicant - The Gutierrez Company; Project Engineer - Connorstone Engineering, Inc.

Location – 10.55 Acres located on the corner of Forest Street and Ames Street. Middlesex Registry of Deeds Book 31932, page 445 (Lot 14).

Chair Fenby reopened the public hearing. Mr. LaVenture read the public hearing notice into the record. As the state of emergency due to COVID-19 remains in effect, with no objections expressed, Chair Fenby continued the public hearing until May 18, 2020 at 7:00 pm. No public testimony was heard.

Applicant Skarin joined the meeting, and the Board returned to item 3A.

3. Approval Not Required

A. 19 Ash Street – Applicant: David Skarin, 36 Wethersford Rd. Bellingham, MA 02019; Surveyor: Jarvis Land Survey, 29 Grafton Circle, Shrewsbury, MA 01545; Description of Property: Middlesex South Registry of Deeds Book 29963 Page 483; Assessor's Map 43 Parcel 29. Plan representative: David Skarin, Applicant/Owner.

Mr. Skarin addressed the plan. He indicated that the purpose of the plan is to subdivide the existing (1.94 acre) property into two lots. Lot 1 will be developed as an 11-unit residential townhouse project and on Lot 2, the existing single-family house will be converted to a two-family house. The new plan identifies that Lot 2 no longer contains encroachments and meets setback requirements. A barn on the property was torn down, and a pool was removed. Mr. Russ asked if the plan was a representation of existing conditions. Mr. Skarin indicated yes. He explained that the structure represented on Lot 1 as "BUILDING" will be razed.

Mr. LaVenture read the April 27, 2020 letter from Assistant City Engineer Collins into the record. Mr. Collins indicates that the purpose of the plan is to subdivide the existing 1.94 acres property into two lots: Lot 1 contains 1.55 acres with a total of 192.61 feet of frontage on Ash St. Lot two contains .39 acres with a total of 117.99 feet of frontage on Ash St. In his review, Mr. Collins indicates both lots 1 and 2 have the required area and the required frontage for property in a Residence A-3 zone, meet the required front, rear and side yard setbacks and have present adequate access on Ash Street and meet the lot shape requirement.

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept, file and endorse the plan of land as Approval Not Required under the subdivision control law. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. 6-0 Carried.

4. Public Hearings

B. 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.

Chair Fenby opened the public hearing. Mr. LaVenture read the public hearing notice into the record. As the state of emergency due to COVID-19 remains in effect, with no objections expressed, Chair Fenby continued the public hearing until May 18, 2020 at 7:00 pm. No public testimony was heard.

C. Continued: CO 20-1007915 - Proposed Zoning Amendment to Section 650 §17 & §18 – Livestock Farms.

Chair Fenby reopened the public hearing and asked for member comment. Mr. Russ expressed that as written, he was not in favor of the amendment. He would like additional information from the Board of Health (BoH). He feels that there is not enough information on what is allowed, and what is not allowed and further detailed additional recommendations. Mr. Fay expressed similar reservations and feels that passing the zoning ordinance before updated BoH regulations are in place is premature. (Specific comments are detailed in the motion below). Chair Fenby thanked Mr. Russ and Mr. Fay for their thoughtful consideration of the proposed amendment, closed the hearing and asked for a motion. On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to provide a negative recommendation on the proposed amendment pending updated Board of Health regulations on the keeping of livestock animals. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0 Carried 6-0.

In its decision, the Board expressed the following concerns:

The current Board of Health (BoH) regulations written in 2005 do not adequately address the potential public health risks associated with keeping chickens in residential settings (including risks of salmonella, campylobacter, etc.) Additionally, BoH regulations do not provide for inspections and do not adequately address the disposal of manure and storage of feed.

Other concerns expressed by the Board include the risk of increased predator prevalence with an increased food source, the lack of specific regulations concerning the location of structures that would house chickens and the potential impact to residents should multiple abutters choose to keep chickens.

The Planning Board recommends that the City Council delay further action on the proposed amendment until the Board of Health, Conservation Commissioner and Animal Control have an opportunity to work collaboratively to establish appropriate and thorough regulations. The Board concurs with the expressed statements of the Building Commissioner. It is preferred that zoning deal with the authority of allowing the uses, and the BoH will deal with how to keep and raise livestock. In short, the Board believes that enacting the current zoning amendment without first having comprehensive Board of Health regulations in place would be putting the cart before the horse and may ultimately put public health at risk.

The Planning Board makes the following recommendations on the proposed amendment:

1. That no keeping of chickens be permitted in RB or RC zones;
2. That the number of chickens allowed in A3 Zones be limited to 6;
3. That the minimum lot size for the keeping of chickens be 8,000 square feet;
4. That the Board of Health be the permitting authority;
5. That the sale of eggs be prohibited;
6. That the regulations for chicken coops fall under the accessory structures rules and be prohibited within 25 feet of a dwelling;
7. That no chickens be kept in the front yard of a property; and,
8. That the keeping of chickens be allowed only for single-family, owner-occupied properties.

5. Subdivision Progress Reports (None)

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence

A. Zoning Board of Appeals -Request for comment- Floodplain and Wetland Protection District Special Permit Application, Property located at 339 Boston Post Rd. East, Map 72-35, 73-28, 24,26.

City Engineer DiPersio explained that the Board is being asked to comment on a special permit application for a proposed development within the floodplain overlay district. A graphic from the site plan was displayed. Mr. DiPersio explained that the boundaries of the 100-year floodplain limits were shown in blue, and the areas in pink represented proposed areas of fill. The applicant must meet the minimum performance standard of providing an equivalent compensatory storage area in the vicinity of the fill area. While the threshold has been met, additional review by Engineering and Conservation is ongoing. The site's drainage is complex and contains three culverts and surrounding areas are prone to flooding. Mr. DiPersio anticipates providing comment at the next Conservation Commission meeting. Mr. Russ said that it was important to be sensitive to any downstream impacts for surrounding neighborhoods such as Helen Drive, where properties are already susceptible to wet basements. Mr. Russ questioned whether another proposed project across from the former airport property would have any additional impact. Mr. DiPersio indicated that there was a potential project on the other side of the wetland, and there should be no impact.

On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to accept and file the correspondence and reserve comment until Engineering completes the stormwater calculations and provides its review to the Board. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.

10. Unfinished Business

A. Draft Policy Discussion – Zoning and Variance Requests

Mr. Fay summarized the thought behind the draft policy. There are two aspects of the proposed policy. The first relates to sign variance requests. The second involves when the Board is providing a recommendation to the City Council regarding a zoning change. The policy is directed at properties that willfully violate the City's Sign Ordinance or other applicable regulations related to use and zoning. Mr. Fay cited examples of properties that display A-frame signs, balloons, banners, signs on fences, signs on trees, telephone poles, etc. Mr. Fay also mentioned properties with uses that are not in keeping of the zoning restrictions for applicable zone. The Board has a tradition of not acting on sign variance requests and other matters if the property is out of compliance with the Sign Ordinance or other applicable regulations. Mr. Fay stated that it sets a bad precedent to afford a property owner with relief who willfully violates City ordinances. The policy puts applicants on notice that they can expect a negative recommendation related to a zoning change, or the Board will not act on a sign variance request unless the property is otherwise compliant with City code. The question was raised as to how the Board will make these determinations. Mr. Fay stated the Board members must view the subject properties and could request a letter from Code Enforcement to see if there are current violations or any ongoing enforcement issues. Ms. Fenby requested member feedback. Mr. Hodge thought the policy of putting applicants on notice was reasonable. Mr. Elder expressed some concern that some properties have been out of compliance for years. You may have some applicants who temporarily clean their properties and then go back to their old ways after. Mr. Fay responded that any resulting violations could always be reported to Code Enforcement for follow-up. Mr. LaVenture thanked Mr. Fay for his thoughts and work developing the policy. Mr. LaVenture wondered whether a variance could possibly expire should properties fall out of compliance. The question was asked how the Board would implement the policy. Ms. Fenby suggested the policy could be put on the website like the guide to abutters. Mr. Fay acknowledged a previous suggestion that the compliance verification be part of the application process. Chair Fenby asked what they wanted for the next step? Mr. Elder agreed with a suggestion that the policy be reviewed by Legal. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to refer the policy to the Legal Department for their input. Mr. Elder was called but did not respond. Yea: Fay, Hodge, LaVenture, Russ, Fenby. Nay:0. Motion carried 5-0.

11. Calendar Updates

- A. Continued: Commonwealth Heights Definitive Revised Sub. Plan- Continued without testimony until 5-18-20 at 7:00 pm
- B. 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. – Continued without testimony to May 18, 2020 at 7:00 pm.

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. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

Respectfully submitted,


George LaVenture/Clerk

/kih