

CITY OF MARLBOROUGH MEETING POSTING

Meeting: Planning Board
Date: October 18, 2021
Time: 7:00 PM
Location: Memorial Hall, 3rd Floor, City Hall, 140 Main Street, Marlborough, MA 01752

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This meeting of the Planning Board will be held in Memorial Hall on Monday, October 18, 2021 at 7:00 PM.

PUBLIC ATTENDANCE IS PERMITTED.

Agenda Items to be Addressed:

1. **Draft Meeting Minutes**
 - A. October 4, 2021
2. **Chair's Business**
 - A. **SET PUBLIC HEARING DATE** – Referred from City Council: Order #21-1008274C, Proposed Zoning Amendment to Chapter 650 to amend Section 61 Temporary Moratorium for Multi-Family Housing Projects.
 - B. Marlborough Planning Board Subdivision Rules and Regulations – ongoing discussion – no updates from City Solicitor
 - C. Scenic Roads – ongoing discussion – no new information
 - D. Holiday Party discussion
3. **Approval Not Required (None)**
4. **Public Hearings (None)**
5. **Subdivision Progress Reports**
 - A. Commonwealth Heights Subdivision – ongoing discussion
Multiple Planning Board meeting minutes
Multiple City Council meeting minutes
 - B. Goodale Estate – Schedule updates
Correspondence from Kevin Gillis, Managing Director, Northborough Realty Holdings, LLC
6. **Preliminary/Open Space/Limited Development Subdivision (None)**
7. **Definitive Subdivision Submissions**
 - A. 342 Sudbury Street, Marlborough, MA 01752
Representative: Neal Vigeant
Engineer: Robert Parente, P.E.
8. **Signs (None)**
9. **Correspondence (None)**
10. **Unfinished Business (None)**
11. **Calendar Updates (None)**
12. **Public Notices of other Cities & Towns**
 - A. Misc. surrounding Cities/Towns Planning Board – Notices of Public Hearings

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

October 4, 2021

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, Matthew Elder, Sean Fay, William Fowler, Phil Hodge, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. September 27, 2021

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the September 27, 2021, meeting minutes. Yea: Elder, Fay, Fowler, Hodge, Russ, and Fenby. Nay: 0. Abstain: LaVenture. Motion carried.

2. Chair's Business

A. Marlborough Planning Board Subdivision Rules and Regulations – ongoing discussion

The Board had a discussion regarding the legal process of accepting all changes and the Board's final vote.

Mr. LaVenture decided he would reach out to City Solicitor Jason Grossfield regarding a timeline of his view process.

B. Scenic Roads – ongoing discussion

Mr. LaVenture read the correspondence dated 9/22/21, from Robert Fagone, Historical Commission, regarding scenic road street signs into the record. Mr. LaVenture read the correspondence dated April 2021 from Robert Fagone, Historical Commission, regarding stone walls into the record.

On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

City Engineer Thomas DiPersio updated the Board on his plan with City Solicitor Jason Grossfield. The plan is to come up with proposed amendments to the ordinance that will clarify what the intent is and to structure it in a way in that incorporates what the Board feels their role should be. Mr. DiPersio ask the Board for their feedback.

Mr. Russ discussed language differences within the Mass General Law Chapter 40 Section 15C and the City of Marlborough's Chapter 497-1 and wanting to adjust the language regarding roadway construction. Mr. LaVenture agreed with Mr. Russ and expressed his support of the language and purpose presented in Robert Fagone's letters. He also suggested some level of protection of all stone walls, including ones not in the right-of-way. Mr. DiPersio said he would touch base with the Mr. Grossfield regarding protecting stonewalls beyond the right-of-way but predicts it would be separate from the Scenic Roads ordinance.

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports

A. Commonwealth Heights Subdivision – Schedule Update

Mr. LaVenture read the correspondence dated 9/30/21, from Scott Weiss, The Gutierrez Company, into the record.

The Board discussed previous conversations they had with Scott Weiss throughout the preliminary subdivision process. The Board requested the administrator collect meeting minutes from throughout the process for their review.

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The Board discussed the option of rescinding the approval and determined the approval is transitory. If another developer were to buy the property, the approval of the subdivision would transfer with the land to the new developer.

6. Preliminary/Open Space/Limited Development Subdivision

A. Informal Discussion of potential subdivision - 342 Sudbury Street, Marlborough, MA 01752 – Continued from July 19, 2021

Representative: Neal Vigeant, Engineer: Robert Parente, P.E.

Mr. LaVenture read the correspondence dated 9/30/21 from Chris Russ, into the record.

Dr. Fenby suggested the Board start looking at outlining the conditions they would suggest if they were to approve the potential subdivision.

Mr. Russ and Neal Vigeant discussed specifications regarding the no cut buffer zone and the understanding Mr. Vigeant has already established with a neighbor.

The Board discussed the hammer-head turn around and the requirements from the fire department. Mr. Vigeant explained he met with Assistant Chief, Jeffrey Gogan and Mr. Gogan had given the OK.

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business (None)

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns

A. Misc. surrounding Cities/Towns Planning Board – Notices of Public Hearings

On a motion by Mr. Elder, seconded by Mr. LaVenture the Board vote to accept and file all correspondence under 12A.

Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

On a motion by Mr. Fowler, seconded by Mr. LaVenture, the Board voted to adjourn the meeting. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

Respectfully submitted,

/kmm

George LaVenture/Clerk

**CITY OF MARLBOROUGH
OFFICE OF THE CITY CLERK
MARLBOROUGH, MASSACHUSETTS 01752**

LEGAL NOTICE

Public Hearing –Proposed Zoning Amendment to Chapter 650 to amend Section 61 Temporary Moratorium for Multi-Family Housing Projects.

Notice is hereby given that the City Council of the City of Marlborough will hold a Public Hearing on **Monday, November 8, 2021 at 8:00 PM** in the City Council Chamber, 2nd floor, City Hall, 140 Main Street, Marlborough, Massachusetts to amend Chapter 650 by amending §61 Temporary Moratorium for Multi-Family Housing Projects.

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. By amending Section 650-61 entitled “Temporary Moratorium for Multi-Family Housing Projects”, said zoning ordinance amendment adopted by City Council Order No. 21-1008274, in order to extend the temporary moratorium, as follows:
 - a. Section 650-61(B)(1): Delete the following words in the first sentence: “ending 90 days from the date of approval of this zoning amendment by the City Council.” and replace them with the following: “ending December 31, 2021.”

Per Order of the City Council

#21-1008414

X 21-1008274C

**MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752**

Call to Order

November 18, 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, Phil Hodge, George LaVenture, Chris Russ and Matthew Elder. Absent: Sean Fay, City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes (None)

2. Chair's Business

- A. Chair Fenby informed the Board of a request by First Colony Crowley Drive One, LLC. An ANR submission at 92 Crowley Drive is planned for the 12-02-19 Planning Board meeting. The project on the adjacent lot has been previously reviewed in Site Plan Committee. First Colony respectfully requests that the Planning Board refer the ANR plan to Engineering. Ms. Fenby asked City Engineer DiPersio to comment on the substance of the ANR. Mr. DiPersio said the matter was a straightforward land swap between parcels of commonly owned property. The land swap would not adversely affect the existing building on Lot #3. The ANR is intended to accommodate a portion of the parking lot for the planned retirement community next door. On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board referred the plan to Engineering for review and recommendations. Motion carried. The applicant is required to formally present the ANR plan at the Planning Board meeting on 12-02-19.

3. Approval Not Required (None)

4. Public Hearings

- A. Council Order Number 19-1007738C, Proposed Zoning Amendment Section 650-8, Boundaries Established; 269 Mechanic Street. Proposed change from Limited Industrial to Residence B. (Assessor's Map 56, parcel 126, plus a small area behind the parcel within an easement area.) Attorney Michael Norris present.

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:

Attorney Michael Norris of 171 Locke Dr. is back with a slightly modified request for a zoning amendment for the property at 269 Mechanic St. The new zoning amendment includes an additional area in the rear of the building, because the building extends beyond the rear property line. Attorney Norris showed the location of this encroachment. The property is currently between two zones, the front half of the parcel RB (Residence B) and the abutting area to the north is LI (Limited Industrial). The proposed use is to convert the warehouse to condo units after rezoning the entire parcel to RB.

Speaking in Favor:

No person spoke in favor of the proposed amendment. 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:

Given the proponent for the zone change does not own the property, Mr. Elder asked Attorney Norris if he is within his rights to request the zone change.

Attorney Norris indicated he had consulted with City Solicitor Grossfield, and Solicitor Grossfield had confirmed that the petitioner was within his rights. That Legal determination wasn't shared with the Board. The proposed zoning amendment was changed to include the portion of the building that was encroaching into City property. The existing deed also contains a maintenance easement. Mr. Russ asked Attorney Norris if his client intended to add on to the building. Attorney Norris said no, there are no plans to increase the building footprint. The Board would like to hear from the City Solicitor on the following points: 1) Does the proponent have the right to rezone a property or a portion of a property that is not owned by the proponent. 2) Can the new owner legally redevelop the property even though the property lies, in part, on city property. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to refer the preceding questions to the City Solicitor for comment. Motion carried.

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

A. Goodale Estates- Goodale Estates- Recording of Open Space Deed (Bk 73647 page 403)

On a motion by Mr. Mr. Hodge, seconded by Mr. Russ, the Board voted to accept and file the recorded deed for the open space parcel of Goodale Estates Subdivision. Motion carried.

City Engineer DiPersio updated the Board on site progress. The binder layer is now down. Granite curbing is on site, but not installed. The owner must request a bond to secure the completion of the subdivision and obtain lot releases or make any conveyances.

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

7. Definitive Subdivision Submissions

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.

Mr. Parente was present to introduce the definitive subdivision submission at 18 and 24 Clearview Dr. The applicant is seeking approval of the plan under subdivision control law including a waiver for the frontage of house #18, which is less than the required frontage of 100 feet for the A-3 zoning district. The plan will remedy an encroachment issue between the two properties. December 16, 2019 was identified as the next available date for the public hearing on the subdivision application. The hearing will be advertised for December 16, and abutters will be notified by mail. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the application. Motion carried.

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.)

Vito Colonna of Hancock Associates and Scott Weiss of The Gutierrez Corporation were present for the introduction of the definitive subdivision application. Mr. Colonna explained that the submittal is essentially the same plan as the Commonwealth Heights plan that was previously approved in 2007. There are minor changes from the original plan including changes to the granite curbing, updates to stormwater standards and updated utilities. Mr. LaVenture read the 10-24-19 cover letter from Mr. Colonna to the Board detailing the project overview. On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to accept and file the letter. Motion carried.

Mr. Elder addressed the room and disclosed that while he is not an identified abutter, he lives in proximity to the project. He has reached out to the City Solicitor's Office to seek guidance on whether he has any conflicts in participation or voting on this matter.

8. Signs

- A. Communication from Code Enforcement Officer, Pam Wilderman, Re: Doble Engineering, 123 Felton St. Mr. LaVenture read the 10-23-19 letter from Code Enforcement Officer Wilderman into the record. Ms. Wilderman's letter stated that upon further review, Doble's building size allowed for a sign "bonus area". A Planning Board variance for sign square footage was not required.

9. Correspondence

- A. Invitation to Planning Board Members "The Branches" Grand Opening – Nov. 19
On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file. Motion carried.

10. Unfinished Business (None)

11. Calendar Updates

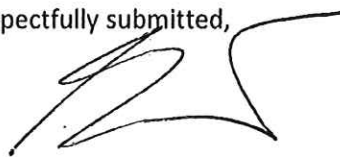
- A. 18 and 24 Clearview Definitive Subdivision Public Hearing – 12-16-19 7:00 pm
B. Commonwealth Heights Definitive Subdivision Public Hearing – 12-16-19 7:10 pm

12. Public Notices of other Cities & Towns

- A. Town of Sudbury (3 Notices)
B. City of Framingham (13 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,



George LaVenture/Clerk

/kih

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,



Christopher Russ/Acting Clerk
George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

February 10, 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, City Solicitor, Jason Grossfield, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes

A. January 27, 2020

On a motion Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of January 27, 2020. Motion carried.

2. Chair's Business

A. Planning Board Member Appointment Recommendation

Chair Fenby informed the Board that the Mayor recommended Ms. Nusrath Kahn for appointment to the Planning Board. She anticipates Ms. Kahn will join the Board in March following the vote by City Council at their next meeting.

B. Set Public Hearing Date: CO 20-1007915 Proposed Zoning Amendment Livestock Farms

On a motion by Mr. Elder, seconded by Mr. Russ, the Board scheduled the referenced hearing for March 9, 2020.

3. Approval Not Required (None)

4. Public Hearings (None)

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

A. Goodale Estates – Mr. LaVenture read the 2-6-20 email communication from Solicitor Grossfield, who had reviewed the proposed form of guarantee, by bond, in connection with the referenced subdivision plan. He presented the following documents for the Board's consideration:

i) Performance Agreement Secured by Surety Bond; ii) Subdivision Performance Bond; iii) Lot Release. Solicitor Grossfield was in attendance and confirmed that the documents are in proper legal form and the Comptroller's office has determined the surety acceptable. The documents are ready for the Board's execution. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept, file and approve the \$352,000 bond presented by Northborough Capital Partners, LLC to secure the completion of the Goodale Estates subdivision. Motion carried. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept, file and approve the Subdivision Performance Agreement Secured by Surety Bond (Exhibit A). Motion carried. The owner is responsible for recording these documents. Mr. Fay asked about the status of the roadway deed and deed to appurtenant easements. Solicitor Grossfield indicated the City had received the draft deed, and once he completed his review, the deed could be executed. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to sign the release for lots 1-7 contingent upon the final approval and execution of the deed for the subdivision roadway and appurtenant municipal easements. Motion carried. Once the deed is received, the owner may record the lot release.

B. Commonwealth Heights – Pre-Approval Discussion

Mr. LaVenture read the 2-5-20 communication from Vito Colonna of Connorstone Engineering.

The correspondence details the requested project waivers for the subdivision. The project includes 23 lots with a 1072' cul-de-sac (waiver required to allow a dead-end roadway longer than 500') as well as a waiver to Section V.B.2 & V.D.1 & V.E.1 to allow an alternative roadway cross-section.

The cross-section resembles the cross-section utilized at Mauro Farm. The cross-section allows for reduced pavement area (28' v. 32'), a grass plot between the roadway and sidewalk, a sidewalk reduction from 6' to 5' and allows for staggered tree planting. Connorstone indicates that the waiver reduces the overall impervious area, reduces site runoff and reduces future maintenance costs for the City. Connorstone's correspondence also detailed two alternative plans, that the applicant believes were less favored by neighbors and the City. On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept and file the communication. Motion carried.

Mr. Colonna was not available for the meeting. Scott Weiss from The Gutierrez Company was present for the discussion. He reviewed the two alternate plans (without waivers) with the Board and described the analysis that lead to the final design with the waiver requests. Alternative A consists of a through-road connecting to Conrad Road. This design was not favored by abutters. Alternative B upgrades the emergency access drive to a full roadway, but creates another entrance onto Forest St.

Ms. Fenby asked for the Board's input. Mr. Russ noted the extensive site work required for a through-way design to Conrad. Substantial grade alternations as well as relocating the existing detention basin is required for Alternative A. Prior to making comment, Mr. Elder reminded those in attendance that while he is not an abutter, he lives in proximity to the proposed project. Mr. Elder, Mr. Hodge and Mr. LaVenture all acknowledged that a through-street design could impact neighbors adversely by providing a cut-through to RT 20. Mr. Russ wondered whether increased screening could be added to the rear of the detention basin or possibly adding a buffer zone between Mackay and the project. Mr. Weiss is not opposed to adding appropriate screening. A landscape architect could provide guidance with City approvals on tree types. Mr. Fay noted previous developers have offered landscaping allowances for abutters. Given the previous project's runoff issues, Mr. Russ would also like additional erosion controls. He identified an area for potential improvement between lots 2 and 3 and between lots 3 and 4 and between lots 4 and 5. City Engineer DiPersio agreed that it is preferable to mitigate runoff along the hillside as opposed to controlling the runoff once it has reached the bottom. Mr. Weiss indicated that Connorstone resurveyed the property and softened the lines. Mr. Elder asked whether consideration should be made to opening Glen St. Mr. Fay said that neighbors are not in favor. Alternative B had its own set of issues identified by the Board. The Forest St. entrance's proximity to a controlled intersection could present a cut through for people attempting to avoid the light. Councilor Robey expressed that she is not in favor of an additional opening. Mr. Fay questioned the viability of the two alternative plans. Mr. Weiss responded that the Board requested waiverless plans as a condition of the application, but the preferred design (with waivers) makes use of the existing structures and infrastructure of the partially constructed, previously approved plan. He acknowledged the previous development issues and commented that additional check dams and erosion prevention methods can be added. Gutierrez is seeking approvals for the site consistent with current zoning. He is willing to work with the Board in order to obtain the approvals necessary to develop the property.

The Board discussed a different alternative – reducing the length of the proposed roadway and creating a shorter cul-de-sac. Shortening the cul-de-sac would eliminate two lots at the end (9 and 10) and provide further separation between the Commonwealth Heights development and the Mackay Drive neighborhood. Chair Fenby asked for the Board's sense of this alternate design. All concurred that the suggested design offered advantages to the existing proposed design. By shortening the road, the cul-de-sac location would be moved farther from the downhill abutters, and the proposed utilities and drainage detention basins would not significantly change.

Since the project will be slightly smaller and less impactful to the abutters, the Board wondered whether this proposed roadway change would trigger a new public hearing.

On a motion by Mr. Fay, seconded by Mr. Russ, the board voted to refer to the following question to the Legal Department: If the Commonwealth Heights subdivision plan is modified to reduce the length of the proposed roadway, is a new public hearing required? Motion carried.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business (None)

11. Calendar Updates

- A. Public Hearing: CO 20-1007915 Proposed Zoning Amendment - Livestock Farms March 9, 2020.
- B. Mr. Fay requested that an item be added to the 2-24-20 Planning Board agenda under "Informal Discussion". Long Pond Estates case. The case involves access considerations for ANR plans.

12. Public Notices of other Cities & Towns

- A. Framingham Zoning Board of Appeals – Three 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,



George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

February 24, 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 10, 2020

Following a clarifying question by Mr. LaVenture on item 5B, on a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of February 10, 2020. Motion carried.

2. Chair's Business (None)

3. Approval Not Required (None)

4. Public Hearings

A. Joint Public Hearing – Tree removal along a scenic way – Pleasant St.

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:

Christopher White, City of Marlborough Tree Warden, was in attendance for the presentation. Mr. White has been the City's Tree Warden since 1997 and is before the Board to discuss an upcoming Public Works project on Pleasant Street that involves the removal of five trees within the public way. Mr. White showed a construction plan with photos of the affected trees by location and explained the reasons for removal in each case. The affected trees are either damaged, diseased or causing damage to the adjacent sidewalks, walls and roadway. Mr. White also noted the tree replanting plan.

Speaking in Favor:

No person spoke in favor of the tree removal plan. Chair Fenby closed that portion of the hearing.

Speaking in Opposition:

No person spoke in opposition to the tree removal plan. Chair Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Mr. LaVenture asked Mr. White if there is a formal tree replacement program in the City. Mr. LaVenture recounted that he once lived in an area decimated by Dutch Elm disease. Those trees were lost and were not replaced. Mr. White said the tree replacement plans typically involve replacement with species that are more resistant to disease. Tree replacement is typically the last phase of a project, so there could be delays associated with replanting if a project is ongoing or if funding or staff is limited. Mr. White pointed out that the plan calls for more trees to be planted on this project than will be removed. Chair Fenby asked members whether they needed additional time to consider the matter or to visit the site. Members felt the presentation fully identified and explained the need for the tree removal. As there were no further comments or questions, Ms. Fenby closed the public hearing. On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to approve the removal of the following trees within the public way: 169 Pleasant St. – 32" Oak; 207 Pleasant St. – 18" Oak; 274 Pleasant St. – 12" Pear; Maplewood Cemetery - 32" Oak and 18" Oak. Motion carried.

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

A. Goodale Estates

- i) Communication from Solicitor Grossfield-Reference to signed deed for roadway and municipal easement
 - ii) Performance Agreement - Recorded with Middlesex South Registry of Deeds (Book 74150, pages 335-340)
 - iii) Lot Releases - Recorded with Middlesex South Registry of Deeds (Book 74150, pages 341-342)
- On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file each of the above referenced documents. Motion carried.

B. Commonwealth Heights – Pre-Approval Discussion

Scott Weiss from The Gutierrez Company was present for the discussion. Mr. Weiss recapped the proposed plan revisions which were made in response to Board input. Changes includes the shortening of the cul-de-sac roadway from 1072 feet to approximately 990 feet. This change still requires a waiver for a roadway in excess of 500'. An emergency access from Forest St. remains. The revised plan will also call for additional drainage swails and additional screening between the Commonwealth Heights project and the existing surrounding neighborhoods. Mr. Fay requested that Mr. Weiss walk through the Forest St. lots. Mr. Weiss confirmed that 343 Forest St. was not part of the development. Mr. Weiss explained that lots 22 and 23 both front and gain access from Forest St. Lot 21 is on the corner of Forest and Ames, and lot 20 fronts Ames St.

Mr. Weiss explained the sketch plan showing the elimination of lots 9 and 10 at the end of the cul-de-sac. There was a discussion on two options to reduce the total lots. Option 1) combine lot 8 with lot 9 and combine lot 10 with lot 11; Option 2) Maintain two unbuildable lots (9 and 10) with a berm and separation at the rear of the cul-de-sac. Mr. Weiss preferred to leave lots 9 and 10 separate. The lots contain a detention basin and have access for maintenance. Mr. Weiss said that they could designate the lots as non-buildable and put a restriction in the deed. He said he would work with the City to do what makes the most sense. The possibility of making an open recreational space was discussed, but consideration to abutting lots may make this option less desirable. Mr. Fay felt the space should remain in private ownership.

In response to last meeting's question about whether proposed plan changes would trigger a new public hearing, Mr. LaVenture read the 2-21-20 email communication from Solicitor Grossfield (item 5Bi) into the record. In the Solicitor's opinion, because the previous public hearing on the subdivision was closed, a new public hearing would allow interested parties to participate and provide input to the Board that could be influential in their decision making. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the communication. Motion carried. Mr. LaVenture read the 2-17-20 email communication from Scott Weiss (item 5Bii) into the record. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the communication. Motion carried. In response to abutters' and Board input, the email details several proposed changes to the subdivision plan. Proposed changes include the following:

- Shortening the roadway by a minimum of 85' and designating lots 9 and 10 as "non-buildable". The area to the rear of the cul-de-sac would include a berm and additional screening from existing neighborhoods.
- The roadway cross-section would include a 28-foot paved road with a six-foot planting strip and five-foot sidewalk on both sides. (Similar to Mauro Farms subdivision).
- A permanent swail and landscape screening consisting of a row of evergreens will be planted along the rear lots 2,3, and 4. The Board also requested additional screening behind lots 11,12, 13 and lot 23. Mr. Weiss said he was agreeable to this additional screening.

Mr. Weiss requested a vote on the subdivision waivers to facilitate the plan finalization and review. Ms. Fenby said the Board would not vote on waivers at this time but asked each member to give their sense of support for the waiver requests. Each member expressed their support for the roadway length reduction. Regarding the modified cross-section, Mr. Fay asked City Engineer DiPersio if the altered cross section required any of the existing infrastructure to change. Mr. DiPersio said no installed utilities would need to be moved. The Board acknowledged they preferred this cross-section which contains a grass strip next to the roadway.

Mr. Fay asked if Mr. Weiss would commit to completing the roadway in two years even if Gutierrez didn't locate a development partner. Mr. Weiss stopped short of making that commitment since that is not their area of expertise. Mr. Fay recounted the Board's experience with another development in the City that sat unfinished for an extended period. When the roadway was completed, the lots sold, and houses were built. Mr. Weiss indicated he has a clear understanding of the Board's expectations.

Mr. Weiss expressed that he preferred not to hold a second public hearing, since he felt the project changes would result in less impact to the surrounding neighborhood. The Board, however, agreed with the Solicitor. Given the project's history, the Board felt notifying abutters of the proposed plan design changes would be in the public's best interest. A new public hearing was scheduled for Monday, March 23, 2020 at a regular meeting of the Planning Board. Mr. Fay suggested the presentation focus on the project changes and how these changes are designed to mitigate impacts to existing neighborhoods. Mr. Weiss indicated that instead of filing a new application, the revised plan will be considered as part of the pending application. Mr. Weiss will request an extension of time to act. Ms. Fenby suggested allowing an additional 60 days to render its decision. Mr. Weiss will prepare the extension request for the 03-09-20 agenda.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Informal Discussion

A. ANR Case – Long Pond Estates – Lot access discussion

Mr. Fay introduced the topic. He refreshed the Board on its previous discussions regarding ANR plans and lot access. Specifically, the Board previously deliberated whether a lot using frontage along an unimproved way meets the standard for an ANR endorsement. Attorney Aykanian had informally shared the Long Pond Estates case in support of his assertion that a previously submitted (and later withdrawn) ANR plan meets the standard for ANR endorsement.

Chair Fenby requested feedback from members. Mr. Fay would like to refrain from comment until other members have an opportunity to express their thoughts. Mr. Russ did not see the applicability of the Long Pond Estates case in establishing adequate access in the Concord Rd./Hemenway ANR plan. He paraphrased the Long Pond case findings "[P]lanning Boards are authorized to withhold ANR endorsements in those unusual cases where the 'access implied by [the] frontage is...illusory in fact.'" In the May ANR case, frontage is derived from an unimproved way (path) that has no usual vehicular traffic. In the Long Pond Estates case, the plaintiff prevailed since lot frontage was along an improved public way, albeit with occasional flooding. The discussion also noted that access was also available via another improved public way when flooding was present. Mr. LaVenture agreed that the Long Pond case does not appear to adequately represent the situation with the Concord Rd./Hemenway ANR Plan.

Mr. Russ noted the proponent's desired lot access is from Concord Rd., a scenic way with stone walls. He wondered if the walls would restrict access. City Engineer DiPersio stated that a public hearing is required to move the walls, but there is nothing prohibitive in the regulations. He also noted that houses may be accessed from a way other than their legal frontage. He stated there are several lots fronting Sudbury St, (an improved public way), but the access is from other ways.

Mr. Russ wondered if the property owner could build a driveway on Concord to his rear lot. Mr. DiPersio stated that that he would need to build a subdivision to create the necessary frontage. Mr. Russ wondered whether an ANR endorsement in this situation would make "rear lots" commonplace. Mr. Fay added the Board must always evaluate whether decisions are in the public's best interest. He anticipates the applicant will refile the ANR plan seeking the Board's endorsement. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file item 10A. Motion carried.

11. Calendar Updates

A. Public Hearing: Revised Plan Commonwealth Heights Definitive Subdivision Plan 03-23-20.

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

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,

A handwritten signature in dark ink, appearing to read 'George LaVenture', with a stylized flourish at the end.

George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1B

March 23, 2020

The Marlborough Planning Board did not conduct a regular meeting on March 23, 2020.

At 7:00 pm in Memorial Hall, 3rd Floor City Hall, 140 Main Street, Marlborough, MA., Planning Board Administrator, Krista Holmi, read the 3-19-20 communication from Chair Fenby authorizing Ms. Holmi to address items 4A and 4B. No public attendance was permitted.

1. Meeting Minutes (None)
2. Chair's Business (None)
3. Approval Not Required (None)
4. Public Hearings
 - A. **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).
THIS PUBLIC HEARING WAS OPENED WITH NO TESTIMONY FROM THE PUBLIC BEING HEARD AND CONTINUED UNTIL APRIL 27, 2020 AT 7:00 PM.
 - B. Continued Public Hearing - Proposed Zoning Amendment to Section 650 §17 & §18 – Livestock Farms.
THIS PUBLIC HEARING WAS REOPENED WITH NO TESTIMONY FROM THE PUBLIC BEING HEARD AND CONTINUED UNTIL APRIL 27, 2020 AT 7PM.
5. Subdivision Progress Reports (None)
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 (None)
12. Public Notices of other Cities & Towns (None)

Respectfully submitted,



Krista Holmi/Planning Board Administrator

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

April 06, 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. IT Director, Mark Gibbs, participated to provide technical backup.

1. Meeting Minutes

A. March 09, 2020

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the minutes of March 09, 2020. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

B. March 23, 2020

On a motion by Mr. LaVenture, seconded by Mr. Russ, the board voted to accept and file the minutes of March 23, 2020 with the correction of a typo in paragraph 4. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

2. Chair's Business

A. Communication from Solicitor Grossfield regarding signed Open Meeting Law Order- Discussion of how to proceed with Planning Board business.

Mr. LaVenture read from the March 13, 2020 email communication from City Solicitor Grossfield which summarized the 3-12-20 Executive Order issued by Governor Baker modifying certain requirements of the Open Meeting Law (effective immediately). If remote meetings require public participation, approaches may include:

- Providing a call-in conference number on the city website so members can deliberate in an "open session", and members of the public can have the opportunity to access and present/participate to the extent required by law.
- Use of video streaming/conferencing service
- Encouraging receipt of comments or public input via email in advance and/or real-time, which can be read by the public body.

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the correspondence. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

Ms. Fenby acknowledged the Board's ability to join the meeting but wasn't sure if the general public could participate without an invitation. Ms. Holmi explained that the meeting link and call-in phone number was available online at the Planning Board website. There were several people who either called in or used the website link to observe the meeting. The Board will use the Microsoft Teams application moving forward for remote meetings until the Governor's emergency order is lifted.

B. General Policy Discussion – Zoning and Variance Requests

Ms. Fenby requested that Mr. Fay introduce the policy discussion topic. Mr. Fay was not immediately available. He joined the meeting and indicated that he had dropped out for about 20 seconds. Mr. Fay said the Board has a tradition of not acting on sign variance requests and other matters if the property is out of compliance. He recounted two past examples. The first example was a tenant request for a sign variance. The property owner had utilized all available sign space for his own purposes and made no accommodation for tenants. The second variance request noted was for a gas station who had non-compliant signs on the property. The Board did not act on the variance request until the property owner removed the non-compliant signs. Mr. Fay suggested adopting a formal policy of not acting on a variance request when the property was not otherwise in compliance with City Code.

For other matters such as providing recommendations to the City Council regarding zoning changes, Mr. Fay suggested a policy of requesting that the City Council not act on a variance request until the property is brought into compliance. The example provided was a property that is the subject of a rezoning request that is not in compliance with the sign ordinance or that has businesses that are not allowed in the zone other than changes that are the subject of the variance request. Ms. Fenby asked if the Board should set a formal policy and inform applicants of the policy. Ms. Fenby polled the members. Mr. LaVenture likes the idea to require compliance with local ordinances. Mr. Hodge is in favor of establishing a policy. Mr. Russ and Mr. Elder also agree that properties should comply prior to making variance requests or requests for zoning amendments.

Mr. Fay discussed the mechanism for ensuring compliance. Should Code Enforcement be involved in the determination, or should the Planning Board make a judgement? Chair Fenby believes that Code Enforcement has a role. Mr. Russ expressed his preference for making the determination before the matter is presented to the Board. He preferred that the determination be part of the application process. Mr. LaVenture agreed with Mr. Russ and thinks Code Enforcement is the expert for determining compliance. Mr. Hodge and Mr. Elder agree. If an applicant knows that compliance is part of the application, there won't be any surprises.

Ms. Fenby said sign variances are straight forward since the requests are made directly to the Board. What about zoning amendments where matters are referred to the Board from the City Council? The Council will not provide a review prior to referring the matter to the Board. Mr. Fay believes that the Planning Board can encourage the Council to withhold action on the requested zoning amendment until the property is compliant. Ms. Fenby polled the Board. Mr. Elder was called but was muted. Mr. Hodge felt it was reasonable to advise the City Council. Mr. LaVenture concurred. Mr. Elder and Mr. Russ agreed. Chair Fenby asked how to proceed. Should the Board write a policy? Ms. Fenby suggested Mr. Fay draft a policy and forward it to Ms. Holmi for the Board's consideration at a future meeting.

- C. Set New 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 27, 2020 for the public hearing date. (Note: Due to the continuing executive order limiting public gatherings, this hearing will be advertised, opened without public testimony on April 27, and continued until May 18, 2020.)

Before moving on, Chair Fenby asked how the Board should proceed with ANRs? Ms. Holmi referenced a communication from Solicitor Grossfield that was distributed that afternoon. While not explicitly mentioning ANRs, the communication summarized points in a new order, Chapter 53 of Acts of 2020 "An Act to address challenges faced by municipalities and state authorities resulting from COVID-19". Section 17 of this law addresses land use permit applications and deadlines during the Governor's state of emergency. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the correspondence and request a Legal opinion on whether Chapter 53 of Acts of 2020 applies to matters before the Board. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

Chair Fenby also reminded the Board that the continued public hearing on the proposed zoning amendment on livestock farms is scheduled for April 27th. How should the Board proceed? Ms. Holmi indicated that the public comment portion is closed and that additional comments from the Board of Health and the Building Commissioner will be included on the April 27 agenda. Mr. Russ asked if the Leister ordinance was shared with the Board of Health and Building Commissioner. Ms. Holmi indicated yes. The Building Commissioner said that it's preferred to have Zoning deal with the authority of allowing the uses and let the Board of Health deal with how to keep and raise livestock.

3. Approval Not Required (None)

4. Public Hearings (None)

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

- A. Goodale Estates- City Engineer DiPersio updated the site work which included grading of detention basins and the installation of drainage structures and granite curbing. Most (if not all) lots have been sold. The subdivision is in good shape for completion on the existing timeline (June 30, 2020), but an extension on the completion of the subdivision will be required since there will be extensive construction site work on the lots. It is not advisable to finish the roadway until the heavy construction traffic is complete.
- B. Commonwealth Heights – The continuation of the public hearing is scheduled for April 27th. It is anticipated that the hearing will be again continued until a future date, since the state of emergency remains in effect, and no in-person testimony is allowed at this time. The applicant is still working on the required environmental report.
- C. 215 Simarano Drive - Ms. Fenby asked about the Simarano Drive project. Mr. DiPersio confirmed that the applicant had developed an approved site plan, and they will not move forward with the subdivision.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

- A. Communication from Assistant City Solicitor Piques – Forest Grove Subdivision - Approval of Lot Release Document
Mr. LaVenture read the email correspondence from Assistant City Solicitor Piques into the record. The correspondence indicates that the release is in proper legal form. Since the state of emergency, the Board is not meeting as a group. Requiring each member to sign the release is cumbersome. Ms. Holmi asked the solicitor's office if Chair Fenby could sign a revised release on behalf of the Board. The solicitor's office indicated yes, if the Board voted to allow the Chair to sign on their behalf. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the correspondence and to allow Chair Fenby to sign the Forest Grove lot release on behalf of the Board. Yea: 6 – Nay: 0; Yea: Fenby, Fay, Hodge, LaVenture, Russ and Elder.

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 27, 2020 (to be continued without testimony to May 18, 2020).

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

**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

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

May 18, 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 27, 2020

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the minutes of April 27, 2020 as amended. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

2. Chair's Business

- A. Set public hearing date: Proposed rezoning of land off Valley St. identified as Map 82, Parcel 125, presently zoned partly "Residence C" and partly "Industrial" to be rezoned entirely as "Residence C", Marlborough Hub, LLC. June 22 was selected for the public hearing. (Council Order #20-1007976)
- B. Set public hearing date: Proposed Zoning Amendment to Chapter 650 to add a new Section 38 creating the Large-Scale-Ground-Mounted Solar Photovoltaic Overlay District. Assessor's Map 30, Parcel 4 and Assessor's Map 30, Parcel 4C. June 22 was selected for the public hearing. (Council Order #20-1007975)
- C. Request for update on Livestock Farm proposed zoning amendment (Council Order #20-10079015)
Chair Fenby requested that Councilor Robey update the Board on the proposed zoning amendment. Ms. Robey said a City Council vote on the amendment could come that evening. She indicates the amendment will include two of the modifications proposed by the Planning Board 1) No sale of eggs 2) Restrictive language on the placement of the coops in the front yard of a property. The coop placement language was prepared by Jeffrey Cooke, Building Commissioner. She confirmed that chicken coops do fall into the "accessory structure" category and are subject to their associated regulations. Mr. Russ asked whether any of the Board's other recommendations were adopted, including restrictions in which zones coops are allowed and restrictions that coops be on owner-occupied properties. Ms. Robey said no, these changes were not deemed necessary and questioned the fairness of only allowing owners. Mr. Fay objected to allowing tenants keep chickens. Tenants come and go, and if chickens are left without care, it will only take 2-3 days before animals perish. Ms. Robey indicated the Board of Health is anxious for this zoning amendment. Ms. Robey is confident that Code Enforcement will take the necessary steps to ensure zoning compliance, and the Board of Health will have the ability through M.G. L. to enforce the regulations.

3. Approval Not Required

- A. 26, 34 MacQuarrie Drive – Applicant: Jon Sowa, 26 MacQuarrie Drive, Marlborough, MA 01752; Land Surveyor: Hancock Associates, 315 Elm Street, Marlborough, MA 01752; Description of Property: Middlesex South Registry of Deeds Book 19272 Page 170. J. Dan Bremser, Hancock Associates. Mr. Bremser indicated that while setting bounds in this neighborhood, a driveway on 26 MacQuarrie was found to be partially on a neighbor's lot. The ANR will remedy the encroachment by adding a small triangular parcel from 34 MacQuarrie Drive to 26 MacQuarrie Drive. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to refer the matter to Engineering for review and comment. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nay: 0. Carried 6-0.

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 June 8, 2020 at 7:00 pm. No public testimony was heard. The Board intends to take public testimony during the June 8 meeting, and abutters will receive notice. After moving on to item 4B, Ms. Holmi reminded the Board of a required vote on the extension for a decision on the subdivision application. (Following item 4B,) Mr. LaVenture read the May 14, 2020 email correspondence from Scott Weiss, Vice President of Development for The Gutierrez Company, who requested an extension of time for review and consideration of the definitive subdivision application until July 24, 2020. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence and approve the extension of time for a decision until June 24, 2020. Yeas: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nays: 0. Carried 6-0.

- B. Continued: 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.

After a brief introduction by Chair Fenby, Mr. LaVenture read the public hearing notice into the record. Councilor Robey began with an overview of the evolution of the proposed zoning amendment. She recounted the amendment's history beginning in December of 2018 with revisions and multiple public hearings taking place before an amendment was approved in August of 2019. It only addressed home offices and home occupations, but not contractor or landscaper storage yards. Code Enforcement began issuing citations for zoning violations resulting in contractor appeals to the ZBA. Following a denial on the contractor appeals, the ZBA decision was appealed to Land Court. Both Mayor Vigeant and Solicitor Grossfield indicated that this proposed zoning amendment is a culmination of the work toward a resolution, and the negotiated amendment before the Board is an all-or-nothing proposal. Mayor Vigeant spoke in favor of the amendment saying the amendment will assist in addressing issues throughout the City. He believes the earlier opposition was a result of misinformation which has been cleared up, and the City is ready to move forward. Councilor Robey indicated there were several letters of support that have been submitted to the Board, and she requested that the letters be read into the record.

Mr. LaVenture read the following letters into the record:

- 1) Communication from Solicitor Grossfield to Council President Ossing Re: Trombetta Family Limited Partnership vs. City of Marlborough Zoning Board of Appeals; DiMatteo v. Giunta et al as Members of the City of Marlborough Zoning Board of Appeals. The letter explains that the proposed zoning amendment is the result of a collaborative effort with both parties, and each party supports adoption of the amendment to address this type of land use as part of the city's zoning ordinances and each has agreed to dismiss their respective pending litigation if the zoning amendments presented are adopted.
- 2) Communication from Counselor Donald J. O'Neil Re: DiMatteo v. Giunta et al as Members of Marlborough Zoning Board of Appeals Case No. 1981CV03045. The letter confirms his client's support of the proposed negotiated amendments and confirms a dismissal with prejudice will be filed within 14 days of passage of the proposed zoning amendments.
- 3) Communication from Christopher J. Alphen, Esq. Re: 19 MISC 0000509 Trombetta Family Limited Partnership v. City of Marlborough Zoning Board of Appeals. His client fully supports the proposed amendment. If the zoning ordinance amendment is passed, Trombetta will file a stipulation of dismissal with prejudice within 14 days.
- 4) Communication from Paul Giunta, Chairman, Zoning Board of Appeals Re: Support for Proposed Zoning Ordinance Amendment Contractors' Yards and Landscape Contractor's Yards. The letter confirms the Board's 2-25-20 vote of support for the proposed zoning ordinance amendment.

On a motion by Mr. Russ, seconded by Mr Laventure, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0 Carried 6-0. With no further comment, Chair Fenby closed the public hearing.

Following a lengthy discussion by Board members, the following motion was made:

On a motion by Mr. Fay, seconded by Mr. Hodge the Board voted to make a generally favorable recommendation to the Marlborough City Council on the proposed zoning amendment. Yea: Fay, Hodge, LaVenture, Russ, Fenby Nay: Elder. Motion carried 5-1.

In its decision, the Board made the following comments:

The Board was instructed that the zoning amendment was to be evaluated "as is"; nonetheless, the Board applied its typical standard: Does the proposed zoning proposal benefit the City, is it otherwise consistent with the intent of zoning regulation, does the proposal fit into the neighborhood(s), and what is the potential impact on neighbors?

After consideration, the Board voted to provide a generally favorable recommendation on the proposed zoning amendment but expressed reservations that the existing proposal did not address practical areas of control including storage setbacks, limitations on stacked material storage, storage of refuse, storage of unregistered vehicles and the absence of the five-foot screening requirement for existing yards. The Board expressed concern that not enough was being done to protect the residential abutters to existing yards. In his opposition, Mr. Elder expressed concern with both the pre-negotiated amendment process and portions of the amendment content. Particularly concerning is the two-year timeframe for site plan review, which he deemed as far too long, feeling this could be accomplished in months, not years.

Regarding the proposal to rezone the specific parcel, the Board expressed concern about the habitual non-compliance on that parcel including multiple sign violations (banners affixed to a fence, etc.), the parking of trucks on grass adjacent to the street with screen printed advertising, and automotive uses on the property that may not be consistent with current or proposed zoning. The Board expressed a preference that the rezoning of the parcel be delayed until the property was brought into compliance. The Board agreed to refer the matter to Code Enforcement and encourage enforcement of the violations of applicable regulations.

With reservations as noted, the majority felt that the zoning amendment proposed was preferable to none.

5. Subdivision Progress Reports

A. Goodale Estates (Update from City Engineer - Subdivision Expiration – June 30, 2020)

City Engineering DiPersio informed the Board that there has been a lot of activity on the property and shared that a couple of construction issues surfaced. Utilities for one lot was installed in the wrong location. A stub was relocated to resolve the issue. There was no gas line installed to the lots. The developer has no control over Eversource's installation schedule. Based on discussions with Mr. Gillis, we anticipate a request for a bond reduction and request for an extension on the subdivision approval. Mr. DiPersio indicates that there is considerable site work on all house lots, and it is preferable to delay final paving. Mr. DiPersio said Mr. Gillis will share a new construction schedule at the next meeting.

Mr. Hodge asked about the frequent jack hammering noise from the development. Mr. DiPersio confirmed that there is a lot of ledge on the property, and the site work will continue for some time.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence

- A. Memo from City Engineer DiPersio Re: 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 reminded the Board of a special permit application for a proposed development within the floodplain overlay district. 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. Because abutting properties are prone to flooding, the City is suggesting adding additional safeguards. Mr. DiPersio indicated he had received a new plan set that afternoon, but he didn't have an opportunity to review it. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried. 6-0.

- B. Notice of Affordable Housing Lottery- SEB Housing for Modera Framingham

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried. 6-0.

10. Unfinished Business

- A. Draft Policy Discussion – Zoning and Variance Requests

The policy was referred to the City Solicitor for review following the 4-27 meeting. To date, no comment has been received from the Legal Dept. The Board continued the matter until June 8.

11. Calendar Updates

- A. 6-8-20 at 7:00 pm Continued: Commonwealth Heights Definitive Revised Sub. Plan
- B. 6-22-20 - Public hearing: Proposed Zoning Amendment to Chapter 650 to add a new Section 38 creating the Large-Scale-Ground-Mounted Solar Photovoltaic Overlay District. Assessor's Map 30, Parcel 4 and Assessor's Map 30, Parcel 4C. June 22 was selected for the public hearing. (Council Order #20-1007975
- C. 6-22-20 - Public Hearing: Proposed rezoning of land off Valley St. identified as Map 82, Parcel 125, presently zoned partly "Residence C" and partly "Industrial" to be rezoned entirely as "Residence C", Marlborough Hub, LLC. (Council Order #20-1007976)

12. Public Notices of other Cities & Towns

- A. Framingham Zoning Board of Appeals (6 Notices – See Electronic Agenda Packet)

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

Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

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

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Respectfully submitted,

George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
JUN 08 2020
2020 JUN 11 AM 8:55

Call to Order

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. May 18, 2020

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the minutes of May 18, 2020 as amended- 5A (revised *blasting to jack hammering*). Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

2. Chair's Business

A. Set public hearing date: Request to remove and reconstruct a stone wall along a scenic roadway. 684 Stow Rd. Bob Gentry.

With no objections and approval of the resident, Chair Fenby set the hearing date for July 20, 2020.

3. Approval Not Required

A. 26, 34 MacQuarrie Drive – Applicant: Jon Sowa, 26 MacQuarrie Drive, Marlborough, MA 01752; Land Surveyor: Hancock Associates, 315 Elm Street, Marlborough, MA 01752; Description of Property: Middlesex South Registry of Deeds Book 19272 Page 170. J. Dan Bremser, Hancock Associates.

Mr. LaVenture read the June 1, 2020 review letter by Assistant City Engineer Collins into the record.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept, file and endorse the above referenced plan as approval not required under the subdivision control law. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nay: 0. Carried 6-0.

B. Simarano Drive at Cedar Hill, Applicant: Post Road Realty, LLC, 111 Unquowa Road, Fairfield, CT 06824; Engineer, Michael Pustizzi, PLS, 32 Turnpike road, Southborough, MA; Description of Property: Assessor Parcel 116-5, 116-11, 116-12 Middlesex South Registry of Deeds Book 32163 page 598. John Shipe, Shipe Consulting Group – Presenter.

Mr. Shipe joined the remote meeting briefly and requested that item 3B be addressed later due to a timing conflict. With no objections, the Board proceeded to the next item.

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). Scott Weiss, The Gutierrez Company, presenter.

Chair Fenby reopened 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) Comments from the public 3) Comments and questions from Board members.

Presentation:

Mr. Weiss shared that the subdivision plan was revised to include a new shorter cul-de-sac roadway, which will increase the buffering between the Commonwealth Heights project and the abutting neighborhood. The revised project also includes additional screening and eliminates two lots at the end of the cul-de-sac for a total of 21 lots. Two waiver requests remain: 1) To allow a dead-end roadway longer than 500 feet and 2) To allow a typical roadway cross-section similar to the cross-section utilized at Mauro Farm.

5. Subdivision Progress Reports

A. Goodale Estates - Request for bond reduction and extension of approval.

Mr. Kevin Gillis of Northborough Capital Partners was present to discuss the project with the Board. Site progress has been demonstrated, and a request for bond reduction reflecting the progress is included in the packet. Proof of taxes paid, acknowledgement that the site is free from blight and proof that the bond is in place through year end was presented along with a new construction schedule. An additional 6-month extension until December 31, 2020 is requested. The project completion is delayed, since the gas line cannot be installed by Eversource until late in the year (or next). (The note in Mr. Gillis's 5-20-20 letter requesting a waiver of the requirement to install the gas line may be disregarded.)

Mr. Gillis would welcome an opportunity to walk the site to review the placement of trees and shrubs, as he states it appears to be impractical to plant trees the entire length of the south side of Jenks lane due to space considerations.

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to refer the matter of bond reduction and extension schedule to Engineering for report back on June 22. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nay: 0. Carried 6-0.

Mr. Shipe rejoined the meeting, and Ms. Fenby announced a return to ANR Item 3B.

3. Approval Not Required

B. Simarano Drive at Cedar Hill, Applicant: Post Road Realty, LLC, 111 Unquowa Road, Fairfield, CT 06824; Engineer, Michael Pustizzi, PLS, 32 Turnpike road, Southborough, MA; Description of Property: Assessor Parcel 116-5, 116-11, 116-12 Middlesex South Registry of Deeds Book 32163 page 598. John Shipe, Shipe Consulting Group – Presenter.

Mr. Shipe represents Post Road Residential. He has a long-term relationship with Andy Montelli, the project developer. The ANR before the Board facilitates the financing of the project by breaking the large 45 to 50-acre parcel into 5 smaller development lots. (4 lots in Marlborough, 1 lot in Southborough) The current owner, Boston Properties had a previous site plan approval for approximately 650,000 sq. ft of office space. The real estate market did not support that project. With the passage of the Executive Residential Overlay District (EROD), this residential development progressed. The purpose of the plan is to divide the large property into four approximately 10-acre chunks. (in Marlborough) Each resulting lot meets the required area, lot shape and frontage for properties in the EROD. Mr. Shipe thanked Assistant City Engineer Collins for his assistance. On a motion by Mr. Russ, seconded by Mr. Elder, the Board referred the plan to Engineering. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

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

7. Informal Discussion

A. 68-123 Broad Street – 4 Lot Subdivision Presentation Plan. Robert DiBenedetto-Hancock Assoc.

Mr. DiBenedetto indicates that Mr. White, the owner of the property at 76 Broad Street, intends to create a four-lot subdivision and a new dead-end right-of-way connecting to Broad Street. The 76 Broad St. property would be demolished to make room for the roadway. Abutting properties at #70-72 (to the south), and #84 (to the north), have agreed to land swaps to create the 50 ft. wide right-of-way. The proposed right-of-way requires 30-foot roundings. The intent is to create a plan without waivers. Two easements will be required to create the roundings. The proposed development is in the Residence C zone. Abutting properties are also zoned Residence C and are existing non-conforming lots. None of the proposed changes will increase the nonconformance of the lots.

Mr. Fay addressed Mr. DiBenedetto and suggested that the owner's attorney establish his rights to build the road with the two easements. Mr. Fay said the Board cannot give an answer on the easement issue until an official filing but said the matter should be researched by the applicant, not the City.

11. Calendar Updates

- A. 7-20-20- Public Hearing: Request to remove and reconstruct a stone wall along a scenic roadway. 684 Stow Rd. Bob Gentry.

12. Public Notices of other Cities & Towns

- A. City of Framingham 4 Notices

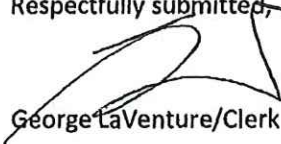
On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the notices.

Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

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

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Respectfully submitted,



George LaVenture/Clerk

/klh

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

June 22, 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. June 8, 2020

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the minutes of June 8, 2020. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

2. Chair's Business

A. Chair Fenby requested that the Board discuss Planning Board timelines.

With no objections, Chair Fenby requested that the Board move forward with the agenda and take this matter up later.

3. Approval Not Required

A. Simarano Drive at Cedar Hill, Applicant: Post Road Realty, LLC, 111 Unquowa Road, Fairfield, CT 06824; Engineer, Michael Pustizzi, PLS, 32 Turnpike road, Southborough, MA; Description of Property: Assessor Parcel 116-5, 116-11, 116-12 Middlesex South Registry of Deeds Book 32163 page 598.

Mr. LaVenture read the June 15, 2020 review letter by Assistant City Engineer Collins into the record.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept, file and endorse the above referenced plan as approval not required under the subdivision control law. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby; Nay: 0. Carried 6-0.

B. 174 and 184 Helen Drive – Applicant: William Shea, 184 Helen Drive, Marlborough, MA 01752; Land Surveyor: Bruce Saluk & Associates, Inc., 576 Boston Post Road East, Marlborough; Description of Property: City Assessor's Parcels 85-5 (174 Helen) and 85-6 (184 Helen); South Middlesex Registry of Deeds Book 65677 page 65 and 16257 page 99. Attorney Chris Flood, representative.

Attorney Flood explained that the purpose of the plan is to swap land between the two properties at 174 and 184 Helen Drive. The plan also corrects a previous error in lot area shown on the recorded plan of 1961. The resultant lots have adequate area, required frontage, proper setbacks and have present adequate access for lots in a Residence A-3 zone.

Mr. LaVenture read the June 11, 2020 review letter by Assistant City Engineer Collins into the record.

On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept, file and endorse the above referenced plan as approval not required under the subdivision control law. Yea: Elder, Hodge, LaVenture, Fenby; Nay: 0. Recused; Fay and Russ. Motion carried 4-0 with two members recusing.

C. 26 Jefferson St. – Applicant: Raimundo Coelho Araujo Neto, 36 Jefferson St., Marlborough, MA 01752; Land Surveyor: Dennis O'Brien, 480 West Central St., Franklin, MA 02038; Description of Property: Middlesex South Registry of Deeds Book 65099 Page 247. Assessor's Map 56-153. Owner's representative, Allen Limos.

Mr. Limos was not present when item 3C came up in the agenda. On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to continue with the agenda and return to item 3C should Mr. Limos join the meeting. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

4. Public Hearings

A. Public Hearing: Proposed Zoning Amendment to Chapter 650 to add a new Section 38 creating the Large-Scale Ground-Mounted Solar Photovoltaic Overlay District. Assessor's Map 30, Parcel 4 and Assessor's Map 30, Parcel 4C. City Council President, Michael Ossing.

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:

Council President Ossing, 43 Varley Rd., represented the proposed zoning amendment.

The proposed amendment would add Section 650-38 to the City's zoning code. The amendment details the construction, operation, maintenance and removal of the installation. The proposed overlay district is over two parcels (30-4, 24 acres, and 30-4C, 11 acres), the site of the former Hudson Street landfill. Councilor Ossing said councilors support the proposal and believe the site is a good fit for a solar facility. Mr. Ossing reviewed that the Board previously supported an alternate solar overlay district, but Urban Affairs did not act on the zoning request.

The state encourages solar development on landfills, and incentives exist for both municipalities and developers to install solar through the State Solar Massachusetts Renewable Target program (SMART). The solar vendor will perform all work, and R2 low income residential users may receive a rate reduction of 2 cents off their current electric rate. Since the City owns the land, the City controls how the parcel is used and where the installation is situated on the parcels. The City could carve out areas for solar and for a future recreation area, for example. The City could also site the panels to provide minimal visual distraction from the rail trail overlook. Mass DEP has permitted over 100 landfill sites in the Commonwealth and will need to approve the site. The overlay district would provide the City with a use for the old landfill, the opportunity to generate needed revenue, provide discounts for low income residential electric users and support the Commonwealth's efforts to reduce the carbon footprint through investment in renewable energy sources.

Those Speaking in Favor:

Councilor David Doucette, 17 Arcadia Circle, spoke in favor. He supports the zoning amendment as an opportunity for an investment in clean energy.

With no further input, Ms. Fenby closed that portion of the public hearing.

Those Speaking in Opposition:

No one spoke in opposition to the proposed amendment.

With no further input, Ms. Fenby closed that portion of the public hearing.

Questions and Comments from Board Members:

Mr. Fay indicated he is in favor of the proposed amendment. He feels it's a good utilization of the former landfill. One reservation is his sensitivity for the adjacent neighborhood, acknowledging that most favor solar power, but no one wants to look at it. He shared his preference for screening for any affected abutters on Gikas Ln. Mr. LaVenture hopes panels are placed without obstructing the view from the rail trail. He is also sensitive to hillside vegetation, which could be used by migrating butterflies (Milkweed). President Ossing reiterated that the City can structure its procurement proposal to dictate panel placement. He shared that the City received an unsolicited proposal for a 6 MW installation. Mr. Russ asked if the 6 MW potential is for the whole site, or a portion of the site? Mr. Ossing said the 6 MW installation is for the whole 35-acre area. The Council is eager to move forward, pending DEP approval. With no further comment, Chair Fenby closed the public hearing.

Mr. Fay began the discussion with a review of the Board's typical review criteria. Does the proposed zoning amendment benefit the City, is the proposed zoning amendment consistent with the City's zoning and does the proposed zoning have limited impact to abutters? Mr. Hodge, Mr. Russ and Mr. Elder commented that they have a favorable opinion of the proposed amendment and feel the solar overlay district is a good use for the land. Mr. Fay feels the Board's recommendation should include efforts to reduce any impact to surrounding neighborhoods, including Gikas Lane and the rail trail.

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to send a favorable recommendation to the City Council on the proposed zoning amendment with the following considerations: 1) That appropriate screening from abutting neighborhoods be included in the installation and 2) That the installation be sited in such a way to preserve the scenic view from the rail trail.

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried 6-0.

- B. Public Hearing: Proposed rezoning of land off Valley St. identified as Map 82, Parcel 125, presently zoned partly "Residence C" and partly "Industrial" to be rezoned entirely as "Residence C", Marlborough Hub, LLC. Mark Evangelous and Attorney Mark Bourbeau of Drohan, Tocchio & Morgan, P.C. 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:

Mr. Evangelous of 108 Kelber Drive represented the proposed zoning amendment. He reviewed the purpose of the zoning amendment, which cleans up a 50' wide, industrially-zoned railroad bed and includes the area in the adjacent "Residence C" zone. The proposed zoning amendment was previously presented and favorably recommended by the Board, but the matter was not acted on by the City Council. He explained that the Board felt the that the zone change fit into the character of the neighborhood and imposed minimal impact on abutters and cleans up an industrial zoning anomaly over the abandoned railroad bed. Mr. Evangelous also stated that the railroad bed was tested for chemical contaminants, and that the testing showed that the railroad bed is safe for residential use (a requirement of the Conservation Commission.) He also indicated that the lots are twice as large as any of the lots in the area (1/2 acre), so development is less dense.

Those Speaking in Favor:

No person spoke in favor, but Mr. Evangelous shared several letters of support from area residents. The letters were included in the agenda packet. The enclosed letters were from Nicholas Hassapas, 42 Framingham Rd., Luiz Bromomschenkef, 254 Howe St., and Michael Ferro, 112 Howe Street. Chair Fenby closed that portion of the public hearing.

Those Speaking in Opposition:

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

Questions and Comments from Board Members:

Mr. Fay asked Attorney Bourbeau how the zoning change would affect the overall plan for the Marlborough Hub project. He asked if more units are planned. Mr. Bourbeau explained that the entire area would be zoned residential. Setbacks can change and lots would be better. You can do more with what's available. It cleans up the zoning and eliminates an industrially zoned lot that is too skinny for any practical use. Mr. Fay asked if the zoning change would increase the number of units for the project. The attorney responded that they aren't looking to do anything inconsistent with zoning. The lots will be larger, and there is no rational use for the industrial parcel. The development design isn't finalized.

Mr. Russ felt the zoning change made sense. Mr. Elder thought there wasn't a lot of benefit for the City but agreed that the zone change is consistent. Mr. LaVenture said he saw no harm from the proposed amendment and could support the amendment. Mr. Hodge said there is no benefit in keeping an orphaned industrial lot. He supports the change. Ms. Fenby agreed that the amendment provided more consistent zoning in the area and would support the amendment. She does not support adding higher density development than the four duplex lots previously shown on the previous "site plan". On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to send a favorable recommendation to the City Council on the proposed zoning amendment. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

In its recommendation, the Board concluded that the zoning change fits into the character of the neighborhood, the zoning change imposes minimal impact on the neighborhood abutters, and the zoning change benefits the area by cleaning up a remaining zoning anomaly over the abandoned railway bed.

C. Continued: Commonwealth Heights Definitive Subdivision – Revised plan dated March 2, 2020.

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

Location – 10.6 Acres located on the corner of Forest Street and Ames Street. Middlesex Registry of Deeds Book 31932, page 445 (Lot 14).

Discussion of next steps. (Waivers, Engineering Review, Preparation of Covenant)

Ms. Fenby reopened the public hearing and stated that for the ease of Engineering review, Engineering can assume a favorable impression of the two requested waivers. (Roadway length exceeding 500' and the use of an alternate roadway profile modeled after the Mauro Farms development.) Mr. Weiss from The Gutierrez Company asked about the emergency access easement. Fire Chief Breen and City Engineer DiPersio indicated in their comments that the easement was not necessary. If the Board concurs, the easement could be removed from the plan. The Board was polled on their thoughts. All members were either neutral or supported removing the emergency access easement since the City Engineer and Fire Chief indicated no need for the emergency access easement.

Given the history on the property, Mr. Fay asked Mr. Weiss what reassurances he can give to the neighbors. Mr. Weiss recounted several changes that will reduce impact. First, the drainage structures are already in place on the property. Water will drain into those structures, not into surrounding neighborhoods. The elimination of two building lots also creates a buffer zone between the existing neighborhoods, and they have agreed to add additional screening. Mr. Fay said that Gutierrez has yet to identify a construction partner, so that unknown raises concerns for neighbors. Mr. Weiss agreed that a contingency fund could address any potential impacts to abutters. This gesture would provide some assurances to surrounding neighborhoods. Mr. Weiss suggested \$25,000 as an appropriate level. Members agreed that this was a fair value to address any potential damages.

Mr. DiPersio said that conditions for soil management and erosion control should be part of the covenant and the site will have oversight by experts. Mr. Weiss said that the draft covenant will be prepared and will incorporate the conditions presented by both the Conservation Commission and the Board of Health. Ms. Fenby directed Mr. LaVenture to read the submitted comments from Board of Health Director, John Garside. Director Garside placed two conditions on the developer 1) Hire an independent Licensed Site Professional to review all work performed relative to soil removal/site remediation, and 2) proof of Deed Notice on the parcel identifying where the disposition of contaminated soils is located. Chair Fenby declared the Commonwealth Heights public hearing closed.

Mr. Limos joined the meeting, so the Board returned to ANR Item 3C.

3. Approval Not Required

- C. 26 Jefferson St. – Applicant: Raimundo Coelho Araujo Neto, 36 Jefferson St., Marlborough, MA 01752; Land Surveyor: Dennis O'Brien, 480 West Central St., Franklin, MA 02038; Description of Property: Middlesex South Registry of Deeds Book 65099 Page 247. Assessor's Map 56-153. Allen Limos-Sovereign Design Associates.

Mr. Limos said he is helping the owner. He explained that the plan prepared by Dennis O'Brien separates one lot into two. The property owner has a landscaping business and uses part of the lot to park cars. The second created lot is on a hill and due to the elevation drop, there is some screening from the use. The owner plans to continue this use. The first lot contains a residence and is considered a pre-existing non-conforming use in the Commercial Automotive zone.

Mr. LaVenture read the 6-17-20 review letter from Assistant City Engineer Collins into the record.

Mr. Collins indicates that both lots have adequate area, frontage and can meet the Lot Shape requirement for lots in the Commercial Automotive Zone. Lot B-1 has a stone wall ranging in height from 1 foot to six feet along the entire frontage of Jefferson Street. This retaining wall impedes the ability to claim that the proposed lot has present adequate access. Citing a 1992 Land Court case, Lot B-1 does not have the present adequate access required for an ANR endorsement. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried 6-0. Since neither the applicant nor his engineer was present to request that the plan be withdrawn, on a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to deny endorsement of the ANR. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

5. Subdivision Progress Reports

- A. Goodale Estates – Correspondence from Assistant City Engineer Collins re: Request for Bond Reduction and Extension of Approval – Current Approval June 30, 2020; Request to extend to 12-31-20.

Mr. LaVenture read the June 11, 2020 correspondence from Assistant City Engineer Collins into the record. Given the quantity of work required to complete the subdivision and based on the cost to complete this work (based on the MassDOT weighted bid prices for roadway construction.), Mr. Collins has determined the cost to complete the remaining work for this subdivision is \$205,000, a reduction of \$147,000. Based on the work remaining to complete the subdivision and the schedule proposed by the developer, he concurred that the requested 6-month extension of the subdivision approval to complete the work was realistic. On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept, file and reduce the bond securing the completion of the subdivision from \$352,000 to \$205,000. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Mr. Russ asked about whether it was prudent to pave the top course now. City Engineer DiPersio stated that it wouldn't be ideal to pave the top course given the extent of site work required on the lots. He added that the utility stub rework has delayed the paving and helped preserve the roadway. He shared that he has no update from the developer on any date for the gas line installation. Engineering will follow up with Mr. Gillis to request an update.

On a motion by Mr. Elder Seconded by Mr. Russ, the Board voted to extend the subdivision approval until December 31, 2020. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

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

7. Informal Discussion (None)

8. Signs

- A. 431 Lincoln St. – Application for Sign Appeal to Planning Board. Applicant Steven Pedro-Ayoub Engineers.

Ms. Fenby announced that the Board received an email that day from Building Commissioner Cooke with an update on the sign variance application. She read the 6-22-20 email into the record. Assistant City Engineer Collins discovered that the plan submitted to the Inspectional Service with the sign application had an error. The plan misidentified the area as Business Zone District (B) when it should have been Identified as Neighborhood Business (NB) zoning district. Since the location of the new requested sign at 431 Lincoln Street is just outside the 200-foot radius of the nearest abutting "residentially zoned district", the sign does not need a variance from the Planning Board for 526 (12). The sign is not "As of Right" and still requires a special permit from the City Council. Mr. Pedro thanked the City for its consideration and determination by the Commissioner. On a motion by Mr. Elder seconded by Mr. LaVenture, the Board voted to accept and file the email correspondence from Commissioner Cooke. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

9. Correspondence (None)

10. Unfinished Business

A. Draft Policy Discussion – Zoning and Variance Requests

Mr. Fay gave the Board an update on his discussions with the City Solicitor's Office. He restated the purpose of the draft policy, which is to publicly state the Board's standards for the review of both zoning amendments and sign variance requests. Assistant City Solicitor Piques joined the meeting and said his office provided feedback on the draft policy to both Chair Fenby and Mr. Fay. Mr. Fay agreed with the Legal Dept. feedback and will work over the summer on a redraft the policy with the goal of completion in September.

Ms. Fenby stated that the Board will continue to meet remotely for the August 24 meeting, and will evaluate the situation in September. It is unlikely than the Board will return to in-person public hearings in the near-term, but the Board may be able to meet in person with appropriate social distancing or meet in a "hybrid fashion" with some choosing to participate in-person, while others participate remotely.

Chair Fenby announced the Board will return to item 2A Chair's Business

2. Chair's Business

- A. Chair Fenby has asked for a Planning Board task force to create comprehensive subdivision process timelines. While the Board has timelines for preliminary and definitive subdivision submissions, Ms. Fenby would like to include open space subdivisions on the process timeline. She would also like to see defined process templates for performance bonds, covenants and street acceptance. She requested that Legal be consulted to inquire whether there are any changes to the subdivision approval or appeal periods due to the COVID state of emergency.

11. Calendar Updates

- A. 7-20-20- Decision due on the Commonwealth Heights definitive subdivision application.
- B. Goodale Estates Subdivision – Extension on the definitive subdivision approval until 12-31-20.

12. Public Notices of other Cities & Towns

A. City of Framingham 4 Notices

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

Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

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

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Respectfully submitted,


George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

July 20, 2020

After a brief delay due to a member connection issue, the **Remote Meeting** of the Marlborough Planning Board was called to order at 7:06 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. June 22, 2020

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the minutes of June 22, 2020. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

2. Chair's Business (None)

3. Approval Not Required (None)

4. Public Hearings

A. Public Hearing: Petition of Mr. Robert Gentry of 684 Stow Rd. to remove and replace a stone wall along a scenic roadway. (Ref. MGL c. 40, § 15C (The Scenic Roads Act) (Vote)

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:

Mr. Robert Gentry of 684 Stow Road joined the meeting remotely. His family purchased the home in December of 2018. They have been planning some renovations and wanted to include landscaping improvements, including replacement of the "highly unattractive stone wall" in front of the property. He was unaware of any restrictions to remove the wall that sits in the City's right of way of a designated scenic roadway. Photos of the existing conditions and several alternate wall designs were shown. They wish to remove the existing stone wall and replace it with a new cut stone and mortared 30" high x 18" wide wall running the length of the property and on one side of the driveway. He does not believe the current wall is in any historic condition, as a previous developer dumped a jumble of stones on top of the existing wall, including stones that could not have been part of any original wall. Mr. Gentry said the new wall will enhance the road and property and feels that there is no historic wall to preserve.

Those Speaking in Favor:

No person spoke in favor of allowing the tearing down or destruction of the stone wall.

With no further input, Ms. Fenby closed that portion of the public hearing.

Those Speaking in Opposition:

Mr. Robert Fagone of 132 Church St., Marlborough, identified himself as the Chairperson of the Marlborough Historical Commission. He opposes the destruction of the original stone wall. He acknowledged the poor state of the wall but pointed out that its condition is the result of the aftereffects of people damaging the wall. He explained that Stow Road is a scenic roadway and one of the oldest roads in Marlborough. Marlborough has both urban and rural elements and this wall and others in the area are representations of our rural past. The walls were built by farmers, not consistently by artisans. These walls should be preserved, he said, as historical artifacts. Without these regulations, these artifacts will disappear forever. As valid as Mr. Gentry's desire to beautify the property is, someone needs to consider the historic nature of these walls. He would like to come to some sort of mutual understanding to salvage the wall and incorporate the existing wall in the project.

Mr. Brendan Downey of 385 Simpson Rd. also joined the meeting remotely. He said he opposes the removal of the wall as both a resident and as a member of the Historical Commission. His opposition is in the same vein as Mr. Fagone. He also said it was regrettable that the wall was damaged, but he also believes that the wall should be preserved along this historic and scenic roadway. He pointed out that Sudbury St. is also a scenic roadway where the walls are inconsistent, because the walls were constructed in an ad-hock manner. He is interested in preserving their rural character, their real nature and what they represent. These walls are an important part of the fabric of the City, he said. With no further input, Ms. Fenby closed that portion of the public hearing.

Questions and Comments from Board Members:

Planning Board member, Chris Russ, asked Mr. Gentry whether the proposed wall was going to be used as a transitional retaining wall. Mr. Gentry replied no. Mr. Russ said that he preferred the stacked wall option shown in one of Mr. Gentry's photos. These historic stone walls can fall into disrepair, so he supports reworking the wall utilizing the historic stones and used 716 Stow Road (and 724 Stow Road) as similarly constructed yet maintained walls.

Mr. Hodge asked how long the wall has been there. Does the wall predate the home? The Board was shown a 1960 aerial photo of the property, which includes the stone wall. Ms. Fenby shared that the 1996 approved site plan for the 684 Stow Road home notes that the stone wall should be preserved.

Mr. Fay asked about the homeowner's landscaping plan showing grass paving stones along the roadway. Mr. Gentry acknowledged he was advised those will not be allowed. Mr. Fay commented that it is not the City's or Board's fault that he was unaware of the scenic roadway status along Stow Road. His attorney should have pointed that out.

Mr. LaVenture favors the protection and preservation of the wall. These regulations were put in place for a reason, he said. Mr. Fagone added that these stone walls are unique to this region. There are no natural, stone-lined roadways outside the northeast. Mr. LaVenture does not support destruction of what remains of the original wall just to make the wall more upscale or modern. He does not wish to set a precedent. Mr. LaVenture asked the members of the Historical Commission whether they believed the wall was salvageable. Mr. Fagone shared that the stone walls are historical remnants of farmers setting boundaries. While the wall is damaged, he believes a mason could build upon it with similar materials. Mr. LaVenture said he thought allowing the destruction and rebuilding with new materials would be defeating the purpose of state and local rules. Mr. Gentry reiterated his argument. He said Fossile (an area builder/developer) ruined the wall. He dumped rocks on the wall and added a lot of material that is not historical at all. Mr. Gentry believes that what remains of the wall is hideous and is not in any sense historic in nature. Chair Fenby said others may differ.

Mr. Elder said he is likely in the minority but said if Mr. Gentry's neighbors are not in opposition, he would support letting Mr. Gentry build a new wall. Mr. Downey said that as an area resident living at 385 Simpson Road, he disagrees with Mr. Elder that neighbors don't mind. With no further input, Ms. Fenby closed the public hearing.

Mr. LaVenture motioned to deny Mr. Gentry's request to tear down the existing wall and rebuild a mortared cut-stone wall at 684 Stow Rd. Mr. Fay seconded the motion as a courtesy. Yea: LaVenture, Fenby. Nay: Elder, Fay, Hodge, Russ. The motion did not carry. Mr. Elder initially motioned to allow the removal of the wall, but then withdrew the motion.

On a motion by Mr. Russ, seconded by Mr. Fay, the Board voted to consent to allow Mr. Gentry to rebuild a dry, stacked-stone wall utilizing existing stones and stones similar in nature to the former historic wall. Yea: Elder, Fay, Hodge, LaVenture (with reservation), Russ. Chair Fenby was in favor but added a condition that the wall be built with oversight by the City's Engineering Division to ensure the wall remained true to its original historic and scenic nature.

On a motion by Mr. Russ, seconded by Mr. Fay, the Board voted to consent to allow the petitioner to rebuild a dry, stacked stone wall utilizing the existing wall's original stones and, if necessary, stones similar in nature to the historical wall, with the following condition:

The City's Engineering Division shall review the wall's proposed construction plan to ensure the wall retains its scenic value. The Board recommends using 716 Stow Road and 724 Stow Road as models of maintained dry, stacked stone walls to restore the scenic and aesthetic characteristics of the wall along the scenic roadway.

The Board's consideration included the factors set forth in Ord. 497-3. In its decision, the Board heard testimony that the disrepair in the current wall is the result of past actions by other persons.

The roll call vote was taken once again. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0. The Board's vote confirmed that the remaining historical stones should be incorporated into the new design.

5. Subdivision Progress Reports

A. Subdivision Status Report

Mr. DiPersio said there isn't much to report beyond the second Goodale matter on the agenda. Mr. DiPersio said the easement paperwork for the gas line was executed, and gas line scheduling for the Goodale Estates subdivision was proceeding. Ms. Fenby asked about the status of the approved definitive subdivision at 215 Simarano Dr. Mr. DiPersio stated that the submission filing was procedural only for zoning purposes, and they had no intention of building the subdivision. There is already a constructed storage facility on the site.

B. Goodale Estates – First Amendment to Subdivision Performance Agreement Secured by Surety Bond (Vote)

Mr. LaVenture read the email correspondence to Goodale Estates attorney, Adam Clavell. The email requests execution of two sets of the first amendment to the performance agreement for the Goodale Estates subdivision. The amendment extends the Completion Date in the Agreement from June 30, 2020 to December 31, 2020. The document provides evidence that the Security is extended as noted. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the items and to authorize Chair Fenby to sign the "First Amendment to Subdivision Performance Agreement Secured by Surety Bond" on behalf of the Board. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

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

7. Informal Discussion (None)

8. Signs

- A. Sign Variance Request – Applicant: Greendale Physical Therapy, LLC, Property: 435 Lakeside Avenue Owner: EMAX LLC, Application: Signage Variance Pursuant to Section 526-6 (F) and Section 526-12.c (2) of the sign ordinance. Brian Grossman, representative, Bowditch & Dewey, LLP.**

Presentation:

Brian Grossman joined the meeting remotely to make the variance request. He stated that his client wishes to add two 60" x 67" window signs at Greendale Physical Therapy located at 435 Lakeside Ave. Both signs exceed the 50% allowance per window. He said there are other windows and doors that are not covered, so he believes there is plenty of unobscured window space. Overall, the signs would cover less than 50% of total available window space. The window signs will be used for both advertising and wayfinding, and the signs will provide consistent branding for the company. Both signs serve as privacy screening for the treatment and waiting areas.

The representative shared other sites that have sign applications in conflict with the ordinance. Mr. Grossman believes that relief may be granted without substantially derogating from the intent and purpose of the chapter.

Questions and Comments from Members:

Mr. Elder asked if any of the examples shown were legal? Ms. Fenby thanked Mr. Grossman for bringing these applications to the City's attention. Mr. Fay asked if there were any practical difficulty in providing wayfinding? Mr. Fay sees nothing unique, no hardship, special circumstances or any compelling reason to grant the variance. Matt Elder commented on the privacy element of the signs. He said that there are many other ways to achieve screening that didn't involve signage. He also added that the complex is small and other property signage is adequate to identify the business. Mr. LaVenture strongly concurs, as do Mr. Hodge, Mr. Russ and Ms. Fenby.

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to deny the variance for two signs in violation of **§526-6 F. Window signs**. *Permanent window signs shall not require a sign permit, provided that their aggregate display surface covers no more than 50% of the window or door on which they are placed.* Prior to the roll call vote, Mr. Fay clarified that a yea vote is a vote to deny the variance request. Roll call vote: Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0. The variance request was denied.

The applicant failed to convince the Board that granting variances in each instance would not substantially derogate from the intent and purpose of the chapter. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the application. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

9. Correspondence

- A. Transmittal of Environmental Notification Form (ENF) Allen & Major Associates re: 339 Boston Post Road East (Complete submission is filed and available at the Office of the Planning Board, 135 Neil St.)

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

10. Unfinished Business

- A. **Definitive Subdivision Application: Commonwealth Heights**

Applicant – Marlborough/Northborough Land Realty Trust (Scott Weiss, The Gutierrez Company); Project Engineer - Connorstone Engineering, Inc. Location – 10.6 Acres located on the corner of Forest Street and Ames Street. Middlesex Registry of Deeds Book 31932, page 445 (Lot 14).

- i. Engineering Review Letter

Mr. LaVenture read the July 16, 2020 review letter from Assistant City Engineer Collins into the record. The letter details the subdivision history as well as the refiling of the subdivision plan dated October 24, 2019, last revised July 16, 2020, which includes 5 requested waivers. During the reading, Mr. LaVenture adjusted his audio for better clarity.

On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

- ii. Definitive Subdivision Plan: **(Vote on waivers and vote on approval of definitive plan, Rev. 7-16-20.)**

Waiver Votes:

- 1) On a motion by Mr. Fay, seconded by Mr. Elder, it was duly voted:

To grant a waiver of Section IV. Design Standard § 676-12 for a Road Greater than 500 Feet.

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

- 2) On a motion by Mr. Russ, seconded by Mr. Elder, it was duly voted:

To grant a waiver of Section V. Required Improvements for an Approved Subdivision §A676-24, B2 to reduce pavement width from 32 feet to 28 feet. Yea: Elder, Fay, Hodge, LaVenture, Russ,

Fenby. Nay: 0. Carried 6-0.

3) On a motion by Mr. Fay, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Section V. Required Improvements for an Approved Subdivision §A676-26, A (1), to reduce the sidewalk width from 6 feet to 5 feet. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

4) On a motion by Mr. Fay, seconded by Mr. Elder, it was duly voted:
To grant a waiver of Section V. Required Improvements for an Approved Subdivision §A676-27, A, to allow for a grass strip between the granite curbing and the sidewalk. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

5) On a motion by Mr. Fay, seconded by Mr. Elder, it was duly voted:
To grant a waiver of Section V. Required Improvements for an Approved Subdivision §A676-28, A to allow for street tree plantings to be staggered Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Definitive Subdivision Vote:

On a motion by Mr. LaVenture, seconded by Mr. Russ, it was duly voted:
To approve the following definitive subdivision plan with each of the five waivers granted:

Definitive Subdivision Plan of Commonwealth Heights in Marlborough, Massachusetts

Owner: Marlborough/Northborough Land Realty Trust

Subdivider: Commonwealth Heights, LLC

Prepared by: Connorstone Consulting Civil Engineers and Land Surveyors

Date: October 24, 2019 (Last revised 7-16-20)

Plan to be endorsed after the twenty (20) day appeal period, provided no appeal has been filed.

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

iii. Draft Covenant (Refer draft covenant to Legal.)

Mr. Wiess submitted a draft covenant to the Board. Mr. Fay noted that a reference to the previous subdivision covenant should be removed from this document. Also, the conditions outlined in the June 7, 2020 Memorandum from the Conservation Commission and the June 18, 2020 email from the Board of Health should be explicitly incorporated into the covenant noting they are agreed conditions of the plan approval.

On a motion by Mr. Fay, seconded by Mr. Elder, it was duly voted:

To accept and incorporate conditions submitted by the Conservation Commission on June 7, 2020 and the Board of Health on June 18, 2020 in the Definitive Subdivision Covenant, and to refer to the Legal Department to certify as to proper legal form. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Mr. DiPersio indicated that Engineering is in contact with the Legal Department and will assist in preparing the covenant for signing (prior to endorsement, if no appeal) at the next meeting of the Planning Board on August 24, 2020. Mr. Fay asked City Engineer DiPersio when we can expect the construction schedule. Mr. DiPersio said that the construction schedule is part of the 1st performance agreement.

10. Unfinished Business (cont.)

B. Timeline working group discussion (George LaVenture, Christopher Russ)

Mr. LaVenture indicated he and Mr. Russ have scheduled a meeting of the working group with Engineering for later that week. The goal will be to create timeline and "decision tree" for Planning Board subdivision approvals.

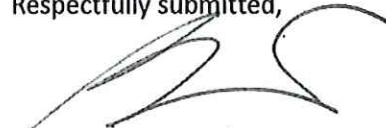
11. Calendar Updates

- A. 8-13-20- Provided no appeal, City Clerk Certification of Commonwealth Heights Definitive Subdivision Plan dated 7-16-20.

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: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. LaVenture', written over the text 'Respectfully submitted,'.

George LaVenture/Clerk

/kih

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

August 24, 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. July 20, 2020

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the minutes of July 20, 2020. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

2. Chair's Business

- A.** Chair Fenby updated the Board on her assessment of social distancing measures available in Memorial Hall, the Board's usual meeting venue. The current six members could socially distance in the room in a u-configuration, but the City Engineer and support staff would need to sit in the back of the room. Ms. Fenby polled members about their level of comfort meeting in person. While some members are OK with meeting in person, others prefer remaining remote or using a hybrid approach with some members meeting in person and others participating remotely. Mr. Russ added that if a topic had a lot of public interest, it would be difficult to accommodate many people in Memorial Hall. Chair Fenby asked Councilor Robey to comment on how things are going with City Council meetings in City Hall. Councilor Robey said the situation is different. There is much more space in Council Chambers, and the meetings are filmed and broadcast live. Some Council members have elected to join remotely. Since Memorial Hall is relatively small, has low ceilings and poor ventilation, Chair Fenby believes a hybrid or remote model remains the safest approach.

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports

A. Subdivision Status Report- Goodale Estates

City Engineer DiPersio provided an update on Goodale Estates. At the last meeting, an install date for the gas main and services had not been established. Eversource has since communicated with Mr. Gillis and estimated that the gas service would be installed by the end of August. Ms. Fenby asked for Mr. LaVenture to read the 8-5-20 email communication from Mr. Gillis into the record. Once the gas line is installed, the pavement can be completed along with sidewalks and as-builts prepared. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Informal Discussion

- A.** Sem Aykanian, Esquire. Discussion of removal of restrictions from an existing 1985 ANR plan-2 S. Bolton. Attorney Aykanian provided some background regarding the 74 Main St. property (John Cotting House), which he acquired along with 2 S. Bolton St. in 1987.

The 2 S. Bolton St. property, identified as parcel 22B in the presented exhibits A-D, contained the following deed restriction: Said Lot 22B shall be used to erect an accessory building or addition to the Grantee's other property located on Main Street described in the deed recorded in Book 14124, page 518-520 (74 Main), and said Parcel 22B cannot be transferred as a single parcel. The deed goes on to say that should there be a violation of this agreement, the property shall revert to the City of Marlborough Community Development Authority (CDA). Attorney Aykanian wishes to convey the 2 South Bolton property and building.

Attorney Aykanian has reached out to the CDA to determine whether the CDA will consent to forego the enforcement of the deed restrictions. His goal with the Planning Board is to obtain a recordable instrument to release parcel 22B from the plan restriction, which states parcel 22B is not to be considered a building lot. The plan notes the parcel is to be deeded to and used in conjunction with adjoining land of the Marlborough Knights of Columbus Building Corp, now or formerly. Attorney Aykanian described this as more of a housekeeping matter for the Planning Board, since 22B already has a building on it. These two actions are necessary for him to convey the property to a separate entity. As two separately owned entities, Attorney Aykanian surmised it would be less likely that the property would be combined to create "a noxious use" on the property and believes that it will be more likely that the Greek Revival property at 74 Main St. will be preserved. It would still be possible that two owners could work out an agreement to acquire the other property.

City Engineer DiPersio asked Mr. Aykanian the original intent of the ANR plan (Plan 528 of 1985). He asked if it was to separate parcel 22A (used as City parking) from the building on 22B. Mr. Aykanian didn't think the building was in existence then. Mr. DiPersio questioned whether the deed restriction was still in effect. Often these expire after 30 years. Attorney Aykanian said that was a good question and that this may be the case, but there is nothing written or cited from his past conversations with the City's previous Solicitor, Don Rider. The deed language is enough to spook any potential buyer, so he has agreed to take up the matter with the City.

Ms. Fenby noted that the "proposed lot line" on Exhibit D in the packet appears to encroach on the building shown on 22B. City Engineer DiPersio stated that the exhibit is not a surveyed plan. Mr. Fay said a lot has changed since 1985 when this plan was endorsed, and he supports removing the restriction. He would not be supportive of anything on the property that is not consistent with the existing footprint and scale as the existing building.

10. Unfinished Business

A. Definitive Subdivision Application: Commonwealth Heights

Applicant – Marlborough/Northborough Land Realty Trust (Scott Weiss, The Gutierrez Company);
Project Engineer - Connorstone Engineering, Inc. Location – 10.6 Acres located on the corner of Forest Street and Ames Street. Middlesex Registry of Deeds Book 31932, page 445 (Lot 14).

- i. Communication from Assistant City Solicitor Piques regarding Commonwealth Heights Covenant. Assistant Solicitor Piques began by requesting that Mr. Weiss communicate their recent discussion to the Board. Mr. Weiss proposes two changes to the Commonwealth Heights covenant that appeared on this evening's agenda. The first change adds clarity to paragraph 11. The proposed changes to paragraph 11 clarify the role of the Licensed Site Professional (LSP), the responsibility for payment to the LSP by the Covenantor as well as the City's role in approving the LSP. The second amendment relates to an agreement establishing a fund for the express purpose of providing compensation to abutting property owners for any arising property damage claims. This agreement was discussed at the June 22, 2020 meeting, but the terms of such agreement did not make it into the covenant.

Mr. Weiss acknowledged this omission and supports amending the covenant to include this condition as well as the new clarifying language in item 11. Assistant City Solicitor Piques was asked whether the Planning Board could vote on the covenant this evening. Mr. Piques indicated yes, provided the vote contained the language "as amended". Mr. Fay requested that the covenant include the specific language of the amendments, including where funds are held and the mechanism for evaluating and processing claims. Mr. Weiss recognized the importance of protecting the abutters and agreed to assist in preparing the new language. Ms. Fenby asked if there were any other comments on the covenant. There were no further comments. Chair Fenby requested that Mr. LaVenture read Assistant Solicitor Pique's 8-19-20 letter into the record. The letter confirmed that the covenant was in proper legal form. He also recommended that the Planning Board adopt rules for the imposition of reasonable fees for this purpose consistent with MGL c 44, x. 53G. Draft rules were provided for review.

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to table item 10A while the parties established the amended covenant language. Yay: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0. Member Fay and Mr. Weiss will send suggested edits to Assistant City Solicitor Piques. All communication will become part of the official record.

The Board moved on to the next agenda item.

10. Unfinished Business

B. Working group discussion (George LaVenture, Christopher Russ)

Mr. LaVenture lead the discussion and began by thanking the Engineering Division for taking the time to meet with him and his working group colleague, Chris Russ. Thanks to Assistant City Engineer Collins for his preparation of review documents and for Ms. Holmi's assistance in creating this package. He acknowledged Mr. Russ for his help with this effort. Below are goals established by the working group:

Finish Subdivision and ANR Decision Trees- Establish decision trees to provide quick references for subdivision applications (either preliminary or definitive or open space) along with ANRs. The process chart provided by Tim Collins provides a nice visual process or workflow to complement the timeline-based versions.

Replace Missing Table of Contents in Current Regulations- The current version of the Marlborough Rules and Regulations Governing the Subdivision of Land (RRGSL) does not include a table of contents. The 1991 rules and regulations' table of contents was included in the package for reference. Adding a table of contents will simplify finding desired topics for members of the public and Planning Board. The rules and regulations should be available as a text searchable pdf and available for download.

Review Past Regulation Change Recommendations for Possible Inclusion - The 2005 proposed changes to the RRGSL should be reviewed by Engineering for applicability along with more recent Board requirements. Prioritize recommendations for full board consideration and adoption.

Review and Update Dated Forms- Forms A, B, C, D, E, and G are draft replacements for existing Planning Board forms listed as Appendix A, B, C, D, E, and G. Form H is the proposed Street Bond/Lot Release Request. Since these are Engineering generated documents, they should be considered by the full board for adoption. This would provide standardization of forms.

Evaluate Subdivision Cross-Sections- Review which standard cross-sections and/or alternates to include in the subdivision rules and regulations.

Evaluate Planning Board Fee Schedule- The Rules and Regulation's Appendix K Fee Schedule was last amended in 1991. These fees do not accurately represent today's costs and should be reviewed. Mr. LaVenture suggested an approach to fee restructuring. Determine the person-hours required to conduct each of the anticipated services required of the City departments. For each service, multiply the estimated person-hours by the hourly rate[s] of the person[s] required to perform each task. This could become the new "book" fee for that service. If any expendable resources are used, they may be included in the fee as well. This approach works for auto mechanics and might work here. The working group stated the city should not bear the costs to perform services required by developers and other profit driven entities. The City should break-even, i.e., recoup their resource and expended costs. The Board should still have the discretion to waive or alter fees as determined. As recommended by Assistant City Solicitor Piques, the Board should consider adopting a fee schedule for the employment of outside consultants.

Mr. Fay thanked Mr. LaVenture and Mr. Russ for beginning this review process. There is a steep learning curve for the extensive amount of information Planning Board members must digest. Establishing process flow charts and improving the ability to easily access and reference relevant materials will enable members to become effective much more quickly. Providing better tools will benefit the general public and members alike. This process will establish best practices and reduce the possibility of mistakes. Chair Fenby asked City Engineer DiPersio for his thoughts on the review. He stated he was in favor of the review and commented this was long overdue. He said Engineering will make a first pass effort to review the 2005 recommendations and report back in September. The flow charts may take some additional time. Chair Fenby requested that members review the large packet on the agenda and begin to think about what areas of the regulations individual members may be interested in reviewing in greater detail. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to refer the 2005 Recommendations to Engineering for initial review and request a report back to the Board in September. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

The Board returned to item 10A.

10. Unfinished Business (Continued)

A. Definitive Subdivision Application: Commonwealth Heights

Attorney Piques instructed the Board that the emails he received from Mr. Fay and Mr. Weiss should be read into the meeting's record. He then shared the new covenant language, which is a conglomeration of Mr. Fay's, Mr. Weiss's and his suggested amended covenant language. Attorney Piques read the 7:42 pm email from Mr. Fay re: Commonwealth Heights Covenant Amendment into the record. Attorney Piques read the 7:46 email communication from Scott Weiss re: Version with Further Revisions into the record. On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to accept and file the communications. Yea: Elder, Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Carried 6-0.

Attorney Piques was asked to display both proposed amendments so that members and Mr. Weiss could read and verify the amended covenant language. There were no objections to the amended language. Attorney Piques responded to a question by Mr. LaVenture regarding the City Engineer serving as "Arbiter" and a potential exhaustion of funds. Attorney Pique said the amended language does not foreclose any future remedy available to the abutters. Mr. Weiss conveyed that the most efficient process is to allow the contractor working on site to immediately address concerns. Mr. Elder reminded Mr. Weiss that the previous effort to develop the site resulted in unsettled damages. Mr. Fay acknowledged Mr. Weiss and The Gutierrez Company for taking steps to protect abutters. He thanked Mr. Weiss for his efforts, cooperation and patience during this process.

On a motion by Mr. Elder, seconded by Mr. Hodge, the Board voted to approve the proposed Commonwealth Heights Covenant with the following amendments:

(Item 11 – Replace paragraph 2 with the paragraph below:)

The Covenantor shall pay for and engage the services of a Licensed Site Professional (LSP), to be approved by the City to advise the City and provide technical assistance on the review of construction of this project relating to dust and air quality monitoring. At the Pre-Construction Meeting, the LSP shall review Covenantor's construction protocols concerning dust control, vegetation removal, on-site soil management (including stockpiling, stabilization and permanent disposal), off-site soil removal (if any) and reporting requirements.

--
(Condition below inserted at Item 18:)

Covenantor shall establish a fund and deposit a sum no less than \$25,000.00, to be held in a mutually agreeable escrow account, for the express purpose of providing compensation to abutting property owners for cognizable property damage claims arising from the intentional or unintentional actions of the Covenantor, their contractors, employees, or other agents. Abutting property owners shall promptly provide notice of any claim of property damage to Covenantor and the City Engineer; and the City Engineer shall act as the arbiter for the validity of any such claim. This paragraph is intended to supplement any additional rights an abutting property owner may have and shall not be their exclusive remedy. Covenantor shall provide proof of compliance with this section, including deposit of these funds prior to construction.

Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

10. Unfinished Business

A. Definitive Subdivision Application: Commonwealth Heights

ii. Endorsement Commonwealth Heights Definitive Subdivision Plan

Ms. Holmi shared that Steven Kerrigan, City Clerk, City of Marlborough, certified that following notice of Planning Board approval and for twenty (20) days thereafter, no appeals were taken.

On a motion by Mr. LaVenture, seconded by Mr. Elder, it was duly voted:

To endorse the plan entitled "Definitive Plan of Land of Commonwealth Heights in Marlborough, MA" dated October 24, 2019 and revised through July 16, 2020.

Owner: Marlborough/Northborough Land Realty Trust 1 Wall Street, Burlington, MA 01803.

Engineer: Connorstone Consulting Civil Engineers and Land Surveyors, 10 Southwest Cutoff, Suite 7, Northborough, MA 01532. Subdivider: Commonwealth Heights, LLC 128 West Main Street, Wilmington, MA 01887. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0.

Carried. 6-0.

The Gutierrez Company will forward the signed covenant to the Planning Board. Members will sign the covenant and the Commonwealth Heights plan at the Planning Board's administrative office at 135 Neil St. Owner/Developer is responsible for presenting the Planning Board evidence that the approved covenant and endorsed plan has been filed with the Middlesex South Registry of Deeds or Land Court as applicable.

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns

- A. Town of Sudbury (4 Notices)
- B. City of Framingham (8 Notices)

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to accept and file the notices. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to adjourn the meeting of the Planning Board. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Carried 6-0.

Respectfully submitted,


George LaVenture/Clerk

/kih

Councilors-at-Large

Mark A. Oram
 Michael H. Ossing
 Samantha Perlman
 Kathleen D. Robey

**Ward Councilors**

Ward 1 – Laura J. Wagner
 Ward 2 – David Doucette
 Ward 3 – J. Christian Dumais
 Ward 4 – Robert J. Tunnera
 Ward 5 – John J. Irish
 Ward 6 – Sean A. Navin
 Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

**CITY OF MARLBOROUGH
 CITY COUNCIL
 MEETING MINUTES
 MONDAY, AUGUST 23, 2021**

The regular meeting of the City Council was held on Monday, August 23, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 9:57 PM.

City Council President Ossing asked all in attendance to stand for a moment of silence for Lawrence R. Foti former Clerk of Committees for the City Council who recently passed away.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, July 19, 2021, **FILE**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

Suspension of the Rules requested to allow the Mayor to speak – granted.

Mayor Vigeant provided the City Council with an update regarding COVID-19.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 123 Boston Post Road West, Pole #7, Order No. 21-1008355, all were heard who wish to be heard, hearing closed at 8:20 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 123 Boston Post Road West, Pole #7, **APPROVED**; adopted.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 493 Boston Post Road West, Pole #1, Order No. 21-1008356, all were heard who wish to be heard, hearing closed at 8:24 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 493 Boston Post Road West, Pole #1, **APPROVED**; adopted.

That the PUBLIC HEARING on the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on replacement Pole within the public right of way at 11 Atkinson Drive, Pole #22 (Pole located on Ames Street), Order No. 21-1008357, all were heard who wish to be heard, hearing closed at 8:26 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Tolling Agreement between Verizon Wireless and the City of Marlborough to extend time limitations to September 28, 2021 for approval of small cell wireless facility, 11 Atkinson Drive, Pole #22, **APPROVED**; adopted.

That the PUBLIC HEARING on the Application for Special Permit from Attorney Christopher Flood, on behalf of Post Road Mobile Home Park and Sales, Inc., to create a second mobile home park by dividing an existing permitted mobile home park at 181 Boston Post Road East, Order No. 21-1008354, all were heard who wish to be heard, hearing closed at 8:35 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Motion by Councilor Robey, seconded by the Chair to move up for action, agenda item # 15 and agenda item # 38, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: Communication from Solicitor Jason Grossfield, re: Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), in proper legal form, Order No. 20/21-1007995, **MOVED TO ITEM 38** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), Order No. 20/21-1007995, be approved, **DENIED**; adopted.

Yea: 5 – Nay: 6

Yea: Dumais, Tunnera, Landers, Ossing, & Robey.

Nay: Wagner, Doucette, Irish, Navin, Oram, & Perlman.

President Ossing called a recess at 9:17 PM and returned to open meeting at 9:23 PM.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$5,000.00 from BayPath Elder Services awarded to the Council on Aging to assist with the transportation needs for Marlborough Seniors; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$10,000.00 from the late Paul & Marie Winske to the Council on Aging to assist seniors that participate in Senior Center activities; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Linda Warren to the Council on Aging Board for a 3-year term from date of Council confirmation, referred to the **PERSONNEL COMMITTEE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Notification of Mayoral appointment of Kevin McLaughlin to the Cultural Council for a 3-year term effective September 1, 2021 pursuant to MGL Chapter 10 §58, **FILE**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendment to the City Code, Chapter 67 §11(A) amending "Tax Collector; appointment, terms and duties" and Chapter 125 §6 "Salary Schedule" along with a Proposed Job Description pursuant to Chapter 125 §5 for the position of Tax Collector/Assistant Director of Finance, referred to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. By amending Section 67-11(A), entitled "Tax Collector; appointment, term and duties.", by inserting the following sentences at the end of the existing paragraph: Alternatively, the Mayor may, subject to confirmation of the City Council, appoint a City Collector/Assistant Finance Director for a term of two years to expire the day following his/her approval by the City Council. The City Collector/Assistant Finance Director shall assist in the oversight of financial management operations and shall perform all duties of the Tax Collector and City Collector as delineated by City Code.
- II. By amending Chapter 125, entitled "Personnel", by adding to the salary schedule referenced in Section 125-6, the following:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
	Start	6 months of service	1 year of service	2 years of service	3 years of service	4 years of service	5 years of service
City Collector / Assistant Finance Director	\$79,668.17	\$81,261.53	\$82,886.76	\$84,544.50	\$86,235.39	\$87,960.10	\$89,618.17

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendment to the City Code, Chapter 7, Article IV "Department of Public Works" by adding a new §31(D) relative to the position of Assistant Commissioners, along with a Proposed Job Description pursuant to Chapter 125 §5 for the position of Assistant Commissioner of Facilities; referred to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. By amending Chapter 7, Article IV, entitled “Department of Public Works”, by inserting the following new section 7-31(D):

Section 7-31(D). Assistant Commissioners.

There shall be an Assistant Commissioner of Operations, an Assistant Commissioner of Utilities, and an Assistant Commissioner of Facilities, who shall perform their respective duties under the supervision of the Commissioner of Public Works. Each position shall be appointed by the Commissioner of Public Works, and the term of office shall be coterminous with the term of the Commissioner. These positions shall be compensated in accordance with the Salary Ordinance for the position of Assistant Commissioner - DPW.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Amendment to the City Code, Chapter 125 §6 “Salary Schedule” to amend the salaries for the Police and Fire Chiefs to be effective July 1, 2021, referred to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED “PERSONNEL,” AS FOLLOWS:

- I. By adding to the salary schedule referenced in Section 125-6, the following:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
	Start	6 months of service	1 year of service	2 years of service	3 years of service	4 years of service	5 years of service
Chief of Police							\$200,000.00
Fire Chief							\$200,000.00

- II. This ordinance shall supersede and replace any existing rate for said position (if applicable) in the current salary schedule.

- III. The effective date of these amendments shall be July 1, 2021.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Request for Special License for Temporary Charitable Purposes Sales – FEMARA, Inc., pursuant to MGL Chapter 101 §12A, **MOVED TO ITEM 23** and **FILE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on Pole #19 within the layout of Boston Post Road West (Route 20), in proper legal form, Order No. 21-1008294B, **MOVED TO ITEM 37** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That Request for Approval of a Free-Standing Sign, Local Roots, 910 Boston Post Road East, within the Wayside District, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Request for Approval of two (2) Flat Roof Signs, Val's Plaza, 561 Boston Post Road East, within the Wayside District referred to **URBAN AFFAIRS COMMITTEE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-5 (45-2) and permission for NGRID to solely install at 9-411, install three (3) 50K (120/208) transformers and 3-15k cutouts, install riser-perm connection to customer underground at 121 Bolton Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-15 at 181 Cedar Hill Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 13, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Massachusetts Electric, to replace direct buried cable with cable in conduit using directional drill method on Ferrecchia Drive, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Diane Nelligan of One Energy, Inc., re: Request for expedited processing of request from MA Electric and Verizon for the installation of a jointly owned pole, transformers, and underground riser-perm connection at 121 Bolton Street, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested –to remove from the Urban Affairs Committee, Order No. 21-1008293, Proposed Zoning Amendment – granted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the "Commercial Village Housing Overlay District", as amended by the Urban Affairs Committee, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 CITY COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communications from various residents in opposition of the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), Order No. 20-1007995, **FILE**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 101, §12A, the City Council hereby **GRANTS** FEMARA, Inc., for a three-day period, from September 10 through 12, 2021, inclusive, and consistent with the charitable purpose of FEMARA, Inc., a license to conduct under their control a temporary or transient business at their convention being held at the Best Western Royal Plaza Hotel & Trade Center in which transient vendors participating in such sale shall not be subject to the provisions of §§3 to 12 inclusive; adopted.

Motion by Councilor Oram, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Central MA Mosquito Control Project, re: Personnel will be in the community responding to residents' concerns about mosquitos on various dates in August & September 2021, **FILE**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid re: Approval of Deferral of major storm threshold amounts for calendar year 2020, DPU file # 21-75, **FILE**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Commonwealth of Massachusetts Division of Banks, re: Public comment period on a proposed license application filled by Marlboro Services, Inc., d/b/a Brasil Remessa, to operate a check casher location at 38 Main Street pursuant to MGL Chapter 169A §3, **FILE**; adopted.

Councilor Dumais recused.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from a resident of Forest Street, in support of the Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the "Commercial Village Housing Overlay District", Order No. 21-1008293, **FILE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) Conservation Commission, July 1, 2021.
- b) Cultural Council, June 30, 2021.
- c) Traffic Commission, May 26, 2021.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the following CLAIM, refer to the **LEGAL DEPARTMENT**; adopted.

- a) David Ringland, 77 Lincoln Street, Hudson, pothole or other road defect.

Reports of Committees:

Councilor Robey reported the following out of the Urban Affairs Committee:

**City Council Urban Affairs Committee
Tuesday, July 26, 2021; 6:30 PM–Council Chambers
Minutes and Report**

Urban Affairs & Housing Committee members present were Chairman Katie Robey, Councilor Landers, Councilor Wagner, Councilor Doucette, and Councilor Navin. Other councilors present in Chambers were Councilor Ossing and Councilor Dumais. Others attending this meeting are included with each order's information.

Order No. 21-1008328: Special Permit Application, Edgewood entertainment LLC to operate X-Golf, an indoor golf simulator recreational facility with bar area in an existing building at 229 Boston Post Road West.

Attending the meeting were Holly Irvine-Salvi, co-officer Edgewood Entertainment who with her husband plan to renovate an existing building into an X-Golf franchise. Due to its location in a Business Zone, a Special Permit is required, but Site Plan approval is not required from professional Site Plan Review members. The facility would provide family friendly indoor golf simulators for rent as well as food and beverages, both alcoholic and non-alcoholic. There would also be instruction by PGA pros, leagues, tournaments, golf camps and private parties.

The chair reviewed the draft Special Permit. There was discussion on the hours of operation proposed as 7 am to 12 am and the availability of liquor during all hours. The franchise requires a full, all service liquor license for the operation of the business. The petitioners stated they would be extremely cautious in serving alcohol to maintain their license in good standing. The committee agreed that the solicitor would be asked to review any conditions on hours for serving liquor that apply to Apex Entertainment and add appropriate conditions when putting the Special Permit in proper form. It was pointed out that the numbers in Item C need to be corrected to remove double #9 and the solicitor would fill in the yellow highlight of Decision filing as well as #13 in Findings of Facts.

Councilor Doucette moved to recommend approval of the Special Permit as amended; the motion was seconded by chair. The motion carried 5-0. The chair will ask for a Suspension of Rules at the August 23rd meeting to refer this to solicitor to be placed in proper form.

Order No. 21-1008293 (X18-1007134B): Petition from Attorney Robert Buckley on behalf of Marlborough/Northborough Land realty trust re Proposed Amendment to zoning code, Chapter 650 by adding to Article VI section 650-35 commercial Village Overlay District in accordance with exhibit A attached.

Presenting were Attorney Robert Buckley, Riemer and Braunstein and Attorney Scott Weiss, The Gutierrez Company. They stated that although a residential single-family housing subdivision was approved for this property by the Planning Board, the owner would prefer to develop the property as a transitional zone with this proposal designed to offer a buffer between a commercial property nearby and the existing housing to north of property. An attempt to do this was presented in 2018 with Planning Board sending a negative recommendation. The matter was never taken up by Urban Affairs.

The chair read the June 22, 2021 letter from Planning Board into the record with their negative recommendation on the proposed zoning amendment. It did include some suggested amendments if the council chose to approve the zoning change.

Reports of Committee Continued:

The chair read thru the draft noting that 650-35 has been used so the number should be amended. The chair questioned the ability to approve amending zoning by a petitioner that doesn't own land that would be affected. The chair read thru the draft and noted changes recommended by Priscilla Ryder and Tom DiPersio. The committee agreed with the following: B-Authority of Permit Granting Authority, *change Special Permit approval to Site Plan approval in last sentence*; C Master Plan (2) add a new (f) *Confirmation that the soil management plan for dealing with the contaminated soil related to this old apple orchard will be addressed.*

Councilor Doucette moved to amend E-Eligible Uses 1a from "up to 120 dwelling units" *to 90 units* and 2a from "120 units" *to 90 units*; the motion was seconded and carried 5-0.

Mr. DiPersio recommended adding at end of F-Dimensional requirements (3) the following: *Add minimum side yard and rear yard measurements shall be less than 150 feet with a vegetated or landscaped buffer of 100 feet to be provided.* Councilor Doucette moved to approve the changes; chair seconded. Motion carried 5-0.

Councilor Doucette moved to amend F-Dimensional requirements (5) "not to exceed 60 feet" to be *not to exceed 3 stories. The remainder of sentence would be deleted as we changed the setbacks in (3)*; chair seconded. Motion carried 5-0.

Priscilla Ryder recommended amending K-Amendments which currently reads in 2 places "approval by the City Code Enforcement Officer" to read *Building Commissioner*. The committee agreed to that recommendation.

Councilor Doucette brought up the issue of property that is not owned by Marlborough/Northborough Land Realty Trust. The petitioner will reach out to owner to make sure they are aware of the proposal. Issues still remain with the underlying zoning uses of this proposal for all Residence districts even though this parcel is zoned A-3, the language of "age restricted, or age targeted," what can be built by right for consumer service/retail establishments as well as single family housing vs proposed condominiums.

Although several changes to the draft Special Permit were approved, this matter remains in committee.

It was moved and seconded to adjourn. The vote was 5-0 and the meeting adjourned at 7:59 PM.

**City Council Urban Affairs Committee
Monday August 16, 2021; 6:30 PM–Council Chambers
Minutes and Report**

Urban Affairs & Housing Committee members present were Chairman Katie Robey, Councilor Landers, Councilor Wagner, Councilor Doucette, and Councilor Navin. Other councilors present were Councilor Ossing and Councilor Irish. Others attending this meeting are included with each order's information.

Order No. 21-1008307: Application for Special Permit from Attorney Brangwyn on behalf of Raising Cane's Restaurants, LLC to construct and operate a restaurant with two drive-thru service lanes on site at 141 Boston Post Road West.

Reports of Committee Continued:

Attending the meeting were Michael Brangwyn, Attorney w/Fletcher Tilton and Eric Dubrule, Bohler Engineering and Jason Adams, McMahon Association (traffic plan). Attorney Brangwyn briefly discussed the plans for the site and Raising Cane's operations. He brought up a letter received from William Squires, Attorney w/Mints on behalf of abutter, McDonald's Corporation. Mr. Dubrule discussed the letter in more detail.

The chair reviewed the comments from Department Managers as well as the letter from William Squires which asked that the committee continue the hearing to allow representatives of McDonald's to attend or if we vote on this to include the five conditions recommended in the letter. Committee members were comfortable with what we had for information and were ready to proceed.

The chair reviewed the draft Special Permit pointing out that this will go back to Site Plan review committee for their final sign-off if this Special Permit is approved. Discussion was held on the hours of operation, both at restaurant and the drive-thru but in end no changes were recommended.

Councilor Landers moved to recommend approval of the draft Special Permit as submitted; the chair seconded. Motion carried 5-0. The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

Order No. 21-1008345: Application for Special Permit by Attorney Falk on behalf of Dasilva Landscaping Inc. to construct and operate a landscaper's yard at the Airport Industrial Park, 685 Farm Road, Unit 17.

Presenting was Attorney Falk. He mentioned changes to conditions based on comments from the public hearing. The chair reviewed the comments received from Department Managers and then asked if anyone needed a full review of the conditions. Councilor Doucette asked for clarification of the Locus Map on the Proposed Site Plan; Attorney Falk clarified that Number 17 should be in the bottom row, 4th block from Farm Road. It will be corrected for Site Plan Review Committee's final approval. The dates on Findings of Fact #5 need to be filled in and will be updated to match the revision to the Site Plan.

Councilor Doucette moved to recommend approval of the Special Permit with the amended Site Plan; chair seconded. The motion carried 5-0. The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

Order No. 21-1008346: Application for Special Permit by Attorney Falk on behalf of Lourival Masonry, LLC to construct and operate a contractor's yard at the Airport Industrial Park, 685 Farm Road, Unit 18.

The chair read a Disclosure of Appearance of Conflict of Interest from Councilor Doucette. Presenting was Attorney Falk. He mentioned changes to conditions based on comments from the public hearing. The chair reviewed the comments received from Department Managers and asked if anyone needed a full review of the conditions.

Councilor Navin moved to recommend approval of the Special Permit; the chair seconded. The motion carried 5-0. The chair will ask for a Suspension of Rules at the August 23 Council meeting to have this referred to solicitor to be placed in proper form.

Reports of Committee Continued:

Order No. 21-1008353: Application for Site Plan Review and Approval from Attorney Falk on behalf of Global Montello Group Corp., to add a patio with seating next to its newly renovated Alltown Convenience Store, 656 Boston Post Road East within the Wayside Zoning District.

Attorney Falk introduced Kevin Doyle, VP Construction for Global and Zack Poisson, Bohler Engineering. He went through some slides describing the revised site improvements including a 12 seat outdoor patio and connecting the site to the city trail system with pedestrian/bike path, and adding a few seats indoors to comply with code requiring indoor seats if having outdoor seats.

The chair reviewed the draft Site Plan approval and the proposed amendments provided by Priscilla Ryder, Conservation Officer. Her recommended changes included: *B. Construction, #1 adding in City Engineer as member of preconstruction meeting; deleting #3 in its entirety as it is not needed and renumbering; D General Provisions, adding new #7 to read "As this trail will allow public to access through Alltown Fresh property and connect the city's public trail to the sidewalk, the applicant will allow for the city's appropriate trail signage to be attached to sign posts along the way. These shall be installed by the Conservation Officer in conjunction with the project team prior to the issuance of the occupancy permit."*

The petitioner met with professional Site Plan members for informal review, but the City Council has jurisdiction over final site plan approval in the Wayside Zoning District.

Councilor Doucette moved to recommend approval of the Site Plan with conditions as amended; the chair seconded. The motion carried 5-0. The chair will check to see if the site plan decision document should be forwarded to the Solicitor to place placed on the next agenda in proper form. If so, chair will ask for suspension of the rules at the August 23 Council meeting to do so. If not, she will ask for a suspension to approve the Site Plan as amended.

Order No. 20-1008046: request from William Camuso on behalf of Camuso enterprises, LLC to operate a gas station, Shell Station, 431 Lincoln St. on a 24-hour basis pursuant to Chapter 342, s2 of the Code of City of Marlborough.

Mr. Camuso was present as petitioner. The chair reminded members that this had been on hold since August 24, 2020 when the City Council approved a Message Board electronic sign for the station and held the 24-hour request in committee awaiting a photometric analysis due to concerns about the brightness of the lights at the station. The station lights have been changed to reduce the overall brightness of the site and were reviewed by city engineer. The chair read his email stating he had visited site, that he would defer to Commissioner Htway for a final zoning decision, but felt the lights were less bright and appear to be in compliance with general requirements of the city code.

If this waiver request is approved, it would be done as an order to grant an exemption to the city code which states gas stations are allowed to open for business no earlier than 6:00 am and close no later than 11:00 pm daily. Councilor Doucette asked if we could approve this 24-hour operation for a one-year test and extend if no issues; the chair said it was possible. The chair read thru a council order from 2002 which included multiple conditions. Discussion occurred around the need to have an employee available to help a handicapped customer if there was only one employee inside the store. It was felt the employee could lock the door, go help customer, and return to store.

Reports of Committee Continued:

Councilor Irish stated he was opposed to the 24-hour operation of this station. He did support a compromise for longer hours but not 24-hour.

Councilor Doucette moved to postpone this in committee so the chair can draft a document listing the conditions as discussed; the chair seconded. The motion carried 5-0.

It was moved and seconded to adjourn. The vote was 5-0 and the meeting adjourned at 7:45 pm.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules – granted.

ORDERED: That the Application for Special Permit as amended from Edgewood Entertainment, LLC, to operate indoor golf simulators and a bar area in the existing building at 229 Boston Post Road West, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Application for Special Permit from Attorney Michael Brangwynne, on behalf of Raising Cane's Restaurants, LLC, to construct and operate a restaurant with two drive-thru service lanes on the site at, 141 Boston Post Road West, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Application for Special Permit with the amended Site Plan from Attorney Brian Falk, on behalf of Dasilva Landscaping, Inc., to construct and operate a landscaper's yard at the Airport Industrial Park, 685 Farm Road, Unit 17 referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Application for Special Permit from Attorney Brian Falk, on behalf of Lourival Masonry, LLC, to construct and operate a contractor's yard at the Airport Industrial Park, 685 Farm Road, Unit 18, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Application for Site Plan Review as amended from Attorney Brian Falk on behalf of Global Montello Group Corp., to add a patio with seating next to its newly renovated convenience store within the Wayside District, 656 Boston Post Road East, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 13, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the City Council President establish a City Council Re-Precincting Committee consisting of three members to review the 2020 census data provided by the Secretary of State's office and report back to the City Council by October 4, 2021, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of William Fowler to the Planning Board for a 5-year term to expire on February 2, 2026, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Appointment of Marcia Waldman to the Cultural Council for a 3-year term from date of Council confirmation, **APPROVED**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the Reappointment of William Dunbar to the Conservation Commission for 3-year term to expire on February 2, 2024, **APPROVED**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Petition from Massachusetts Electric, to install a new Pole 45-2 within the public right of way approximately 103' west of Pole 25-1 on Forest Street, **APPROVED WITH THE FOLLOWING CONDITION**; adopted.

1. The new pole must be located behind the sidewalk and not within the sidewalk, and no excavation of the sidewalk will be allowed.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the Petition from Massachusetts Electric, to install 280' of 4-5" conduit from manhole #10 to pole #93 on Donald Lynch Boulevard near Bigelow Street, **APPROVED WITH THE FOLLOWING CONDITIONS**; adopted.

1. This work must be completed before the city commences with resurfacing work on that portion of Donald Lynch Boulevard. The proposed location is not within the section of Donald Lynch Boulevard which will be resurfaced this year.
2. The work will require a road opening permit from the Department of Public Works, Engineering Division. The exact location of the proposed conduit shall be approved of in the field as part of the permitting, and pavement and line painting repair requirements will be set forth in the permit.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That the City Council for the City of Marlborough, pursuant to MGL Chapter 166, §22 and Chapter 473, Article III of the City of Marlborough General Code entitled "Small Cell Wireless Facilities Within Public Rights-of-Way," does hereby approve the petition of Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") dated May 3, 2021, filed with the City Clerk on May 3, 2021, to grant a location on an existing utility pole located in the layout of State Highway Route 20 (Boston Post Road West) adjacent to 219-237 Boston Post Road West in Marlborough, which pole is designated as National Grid pole #19, in order for Verizon Wireless to deploy a small cell facility thereon by constructing and maintaining telecommunications wires and appurtenances, including a pole top canister antenna, remote radio heads and associated wires, cables, fiber demarc box, electric meter and associated equipment (the "Small Cell Facility"), all as depicted on plans submitted with Verizon Wireless' petition and in photo simulations submitted to the City Council and Public Services Committee, which plans are attached hereto and incorporated herein; subject, however, to the following conditions, which conditions shall be binding upon Verizon Wireless, its successors and/or assigns:

1. The Small Cell Facility shall be of such material and construction, and all work shall be done in such manner, as to be satisfactory to the City Council and the Engineering Division of the City's Department of Public Works (the "City Engineering Division").
2. Verizon Wireless shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of Verizon Wireless, its employees, agents and servants in any manner arising out of the rights and privileges granted herein to Verizon Wireless for its Small Cell Facility.
3. Verizon Wireless shall comply with the requirements of existing City ordinances, including but not limited to Chapter 473, Article III, entitled "Small Cell Wireless Facilities Within Public Rights-of-Way," as may be applicable, and such requirements as may hereafter be adopted governing the construction and maintenance of the Small Cell Facility.
4. Verizon Wireless shall not install its Small Cell Facility on double poles. If National Grid pole #19 becomes a double pole in the future, Verizon Wireless shall remove its Small Cell Facility to a single pole as expeditiously as possible within the guidelines then prescribed by National Grid, but in any event no later than December 31st of the year in which National Grid pole #19 becomes a double pole; provided, however, that if Verizon Wireless is unable to comply with the December 31st deadline for reasons fairly attributable to National Grid, Verizon Wireless shall submit to the City Council a letter, to be received by the City Council prior to such deadline, requesting that the Council extend the deadline to a specified date in the subsequent year and providing good cause in support of such request.

5. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of Verizon Wireless in conjunction with its Small Cell Facility is prohibited, as is all underground installation associated with the Small Cell Facility; provided, however, that the grounding rod proposed to be installed as part of the Small Cell Facility is permitted as long as 1) Verizon Wireless installs the rod immediately adjacent to National Grid pole #19 so as to cause minimal disturbance to the surface of the street or sidewalk, and 2) Verizon Wireless restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the City Engineering Division.
6. The Small Cell Facility shall be color-coordinated so as to best minimize the visual impact of the Facility.
7. The Small Cell Facility's remote radio heads and associated wires, cables, fiber demarc box, electric meter and associated equipment shall be mounted on the side of National Grid pole #19 facing away from the roadway.
8. Any future modification of the Small Cell Facility by Verizon Wireless shall require further City Council Approval.
9. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of National Grid pole #19 shall result in Verizon Wireless moving their Small Cell Facility to another pole in a timely fashion after having been notified by the City Engineering Division about the road project; provided, however, that any such relocation shall require further City Council approval.
10. Prior to the commencement of construction and/or installation of the Small Cell Facility, Verizon Wireless shall provide the City Engineering Division with a written construction and/or installation schedule satisfactory to the Division.
11. Prior to the commencement of construction and/or installation of the Small Cell Facility, Verizon Wireless shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the Small Cell Facility from National Grid pole #19 and for the repair and/or restoration of the public way, in the vicinity of National Grid pole #19, to the condition the public way was in as of the date of this order, said amount to be determined by the City Engineering Division. The amount of the bond shall be the total of the estimate by the Division plus an annual increase of 3% for the operating life of the Small Cell Facility. Verizon Wireless shall notify the City CPO and the Division of any cancellation of, or change in the terms or conditions in, the bond.
12. Each year on July 1st, Verizon Wireless shall submit an affidavit that the Small Cell Facility remains in use and that the Small Cell Facility remains covered by liability insurance naming the City as an additional insured.
13. Each year on July 1st, Verizon Wireless shall pay to the City of Marlborough an annual recertification fee of \$250.00 for each year that the Small Cell Facility remains in use.

14. If the Small Cell Facility is no longer in use, it shall be removed by Verizon Wireless, at its expense, within 60 days. If the Small Cell Facility is not removed by Verizon Wireless within 60 days of it no longer being in use, Verizon Wireless shall pay a fine of \$100.00 per day until such installation is removed by Verizon Wireless.
15. Failure by Verizon Wireless to comply with any of the above conditions to the satisfaction of the City Council or, as applicable, the City Engineering Division or the City CPO shall result in the City Council's review of Verizon Wireless' petition granted herein.

APPROVED; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 9:57 PM; adopted.

Councilors-at-Large

Mark A. Oram
Michael H. Ossing
Samantha Perlman
Kathleen D. Robey



Ward Councilors

Ward 1 – Laura J. Wagner
Ward 2 – David Doucette
Ward 3 – J. Christian Dumais
Ward 4 – Robert J. Tunnera
Ward 5 – John J. Irish
Ward 6 – Sean A. Navin
Ward 7 – Donald R. Landers, Sr.

Council President

Michael H. Ossing

Council Vice-President

Kathleen D. Robey

**CITY OF MARLBOROUGH
CITY COUNCIL
MEETING MINUTES
MONDAY, SEPTEMBER 13, 2021**

The regular meeting of the City Council was held on Monday, September 13, 2021 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Ossing, Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Perlman & Robey. Meeting adjourned at 9:21 PM.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of the City Council meeting, August 23, 2021, **FILE**; adopted.

Mayor Vigeant provided the City Council with an update regarding COVID-19.

That the PUBLIC HEARING on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-5 and permission for NGRID to install three (3) 50K (120/208) transformers and underground riser-perm connection to customer at 121 Bolton Street, Order No 21-1008373, all were heard who wish to be heard, hearing closed at 8:17 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

That the PUBLIC HEARING on the Petition from Massachusetts Electric and Verizon New England, to install a new jointly owned Pole #15-15 at 181 Cedar Hill Street, Order No 21-1008374, **CONTINUED UNTIL SEPTEMBER 27, 2021 AT 8:00 PM**, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

That the PUBLIC HEARING on the Petition from Massachusetts Electric, to replace direct buried cable with cable in conduit using directional drill method on Ferrecchia Drive, Order No. 21-1008375, all were heard who wish to be heard, hearing closed at 8:22 PM, adopted.

Councilors Present: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman & Robey.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Councilor Ossing and Councilor Tunnera, re: Municipal Aggregation – September 2021 Update, **FILE**; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$28,721.48 from Executive Office of Public Safety & Security, FY22 State 911 Grant Program, awarded to the Police Department to fund the purchase of equipment, conduct quality assurance reviews and offset overtime costs for Dispatch personnel; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$154,964.00 from Executive Office of Public Safety & Security, FY22 State 911 Grant Program, awarded to the Police Department to be used to offset personnel overtime costs in the Public Safety Dispatching Center; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$38,072.48 from Executive Office of Public Safety & Security, FY22 State 911 Grant Program, awarded to the Police Department to fund all mandated trainings for Dispatch personnel; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$7,000.00 from BayPath Elder Services, awarded to the Council on Aging which will be utilized to assist seniors to obtain "A Hoarding and Clutter Free Lifestyle"; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance in the amount of \$4,000.00 from BayPath Elder Services, awarded to the Council on Aging which will be utilized to have two (2) trained and certified staff members in PEARLS (Program to Encourage Active Rewarding Lives); adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Gift Acceptance in the amount of \$7,500.00 from Digital Federal Credit Union (DCU) to the Police Department to support the departments community outreach programs such as the Youth Academy and the Christmas Heroes for Helpers program; adopted.

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$93,243.00 which moves funds from Reserved for Salaries to Sick Leave Buy Back and Longevity to fund recent retirements in the Department of Public Works and Police Departments, referred to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS –									
DEPT:		Various				FISCAL YEAR:		2022	
FROM ACCOUNT:		TO ACCOUNT:							
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$1,075,817.00	\$93,243.00	11990006	57820	Reserve for Salaries	\$31,375.00	12100003	51920	Sick Leave Buy Back	\$142,155.10
	Reason:							Retirement payout	
					\$22,189.00	14001303	51920	Sick Leave Buy Back	\$0.00
								Retirement payout	
					\$2,040.00	14001303	51430	Longevity	\$22,188.78
	Reason:							Retirement payout	
					\$34,106.00	14001103	51920	Sick Leave Buy Back	\$0.00
	Reason:							Retirement payout	
					\$3,533.00	14001103	51430	Longevity	\$10,879.63
	Reason:							Retirement payout	
	\$93,243.00	Total			\$93,243.00	Total			

Motion by Councilor Irish, seconded by the Chair to adopt the following:

ORDERED: That the Transfer Request in the amount of \$70,645.00 which moves funds from Assistant Building Commissioner to Contract Services to fund additional resources to assist within the Building Department, referred to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		Inspectional Services				FISCAL YEAR:		2022	
FROM ACCOUNT:						TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$82,360.00	\$70,645.00	12410001	50095	Asst Bulding Commissioner	\$70,645.00	12410004	53140	Contract Services	\$0.00
Reason:		Vacant position				Outsourcing of inspectional services			
\$70,645.00		Total				\$70,645.00		Total	

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the "Commercial Village Housing Overlay District", in proper legal form, Order No. 21-1008293, **MOVED TO ITEM 28** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Michael Brangwynne, on behalf of Raising Cane's Restaurants, LLC, to construct and operate a restaurant with two drive-thru service lanes on the site at, 141 Boston Post Road West, in proper legal form, Order No. 21-1008307, **MOVED TO ITEM 29** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Edgewood Entertainment, LLC, to operate indoor golf simulators and a bar area in the existing building at 229 Boston Post Road West, in proper legal form, Order No. 21-1008328, **MOVED TO ITEM 30** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Brian Falk, on behalf of Dasilva Landscaping, Inc., to construct and operate a landscaper's yard at the Airport Industrial Park, 685 Farm Road, Unit 17, in proper legal form, Order No. 21-1008345, **MOVED TO ITEM 31** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Special Permit from Attorney Brian Falk, on behalf of Lourival Masonry, LLC, to construct and operate a contractor's yard at the Airport Industrial Park, 685 Farm Road, Unit 18, in proper legal form, Order No. 21-1008346, **MOVED TO ITEM 32** and **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Solicitor Jason Grossfield, re: Application for Site Plan Review from Attorney Brian Falk on behalf of Global Montello Group Corp., to add a patio with seating next to its newly renovated convenience store within the Wayside District, 656 Boston Post Road East, in proper legal form, Order No. 21-1008353, be **MOVED TO ITEM 33** and **FILE**; adopted.

Motion by Councilor Dumais, seconded by the Chair to adopt the following:

ORDERED: That the request of the City Clerk to authorize In-Person Early Voting for the Municipal Election scheduled for Tuesday, November 2, 2021 beginning on Saturday, October 23, 2021 and ending on Friday, October 29, 2021 pursuant to Chapter 29 of the Acts of 2021 and that the hours be set according to the schedule below, **APPROVED**; adopted.

IN-PERSON EARLY VOTING HOURS:

Saturday, October 23, 2021	9:00 AM to 3:00 PM
Sunday, October 24, 2021	10:00 AM to 4:00 PM
Monday, October 25, 2021	8:30 AM to 7:00 PM
Tuesday, October 26, 2021	8:30 AM to 5:00 PM
Wednesday, October 27, 2021	7:00 AM to 5:00 PM
Thursday, October 28, 2021	8:30 AM to 5:00 PM
Friday, October 29, 2021	8:30 AM to 5:00 PM

Motion by Councilor Landers, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY SEPTEMBER 27, 2021** as the **DATE FOR PUBLIC HEARING**, on the Petition from Crown Castle NG East LLC, to install underground conduit on Crowley Drive and Fitchburg Street, referred to the **PUBLIC SERVICES COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from the Executive Office of Housing and Economic Development, re: Request for advisory opinion on 'Eligible Location' of proposed Commercial Village Housing Overlay District, **FILE**; adopted.

Motion by Councilor Oram, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Central MA Mosquito Control Project, re: Personnel will be in the community responding to residents' concerns about mosquitos on various dates in September 2021, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Scott Weiss of the Gutierrez Company, re: Proposed "Commercial Village Housing Overlay District", Order No. 21-1008293, **FILE**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED: That the Communication from Michele Guadagnino and Michael Tutterman, re: Request to transfer name and renew for an additional 5-year term the license for parking by the owners of 56 Emmett Street, referred to the **LEGISLATIVE & LEGAL AFFAIRS COMMITTEE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Communication from a resident in opposition of the Application for Special Permit to build a multifamily residential project in the Business District to be known as Walcott Heritage Farms, 339 Boston Post Road East (McGee Farm), Order No. 20/21-1007995, **FILE**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That there being no objection thereto set **MONDAY, OCTOBER 4, 2021** as **DATE FOR PUBLIC HEARING**, on the Application for Special Permit from Attorney Brian Falk, on behalf of Aubuchon Realty Company, Inc., for two drive-through facilities associated with a new Starbucks and a bank at the Wayside Crossing Plaza, 661 Boston Post Road East referred to **URBAN AFFAIRS COMMITTEE & ADVERTISE**; adopted.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the Minutes of following Boards, Commissions and Committees, **FILE**; adopted.

- a) School Committee, June 22, 2021.
- b) Conservation Commission, July 22, 2021, August 5, 2021 & August 19, 2021.
- c) Historical Commission, June 17, 2021.
- d) Planning Board, June 7, 2021 & June 21, 2021.

Motion by Councilor Doucette, seconded by the Chair to adopt the following:

ORDERED: That the following CLAIM, refer to the **LEGAL DEPARTMENT**; adopted.

- a) Gloria Oliveira, 30 Main Street, Marlborough, other property damage and/or personal injury.
- b) Cloves Freitas, 15 Briarwood Lane, Marlborough other property damage and/or personal injury.
- c) Richard Lamy, 76 Phelps Street, Marlborough, residential mailbox claim (2a).

Reports of Committees:

Councilor Landers reported the following out of the Urban Affairs Committee:

**City Council Public Services Committee
Report and Minutes
September 8, 2021**

The Public Services Committee convened its meeting at 7:00 PM in the City Council Chamber, 2nd floor, City Hall, 140 Main Street. Public Services Committee members present were Chair Landers, Councilor Perlman and Councilor Irish. Other Councilors present were Councilors Navin and Doucette. Others Present: Daniel Klasnick, Counsel for Verizon Wireless, addressed the three petitions for small cell wireless facilities.

By email dated 9/8/21, City Engineer DiPersio submitted petitioner has addressed his questions and he has no further concerns with these three requests.

Order No. 21-1008355: Application submitted by Daniel D. Klasnick on behalf of Cellco Partnership, d/b/a Verizon Wireless, for Small Cell Wireless installation to be located on existing Pole #7 within public right of way at 123 Boston Post Road West, Pole height 36.75 feet; proposed Antenna height 39.92 feet.

The first small cell wireless installation will be located in the public right of way in the vicinity of the Embassy Suites hotel. Chair Landers read through the proposed, draft conditions submitted by Atty. Klasnick. No changes were suggested to the draft.

Motion by Councilor Perlman, seconded by Councilor Irish, to recommend approval of the petition as submitted to locate a small cell facility on Pole #7 within public right of way at 123 Boston Post Road West. Vote 3-0

Order No. 21-1008356: Application submitted by Daniel D. Klasnick on behalf of Cellco Partnership, d/b/a Verizon Wireless, for Small Cell Wireless installation to be located on existing Pole #1 within public right of way at 493 Boston Post Road West, Pole on Boundary Street, Pole height 43.0 feet; proposed Antenna height 46.17 feet.

The second small cell wireless installation requested by Verizon Wireless will be located on existing Pole #1 located on Boundary Street. Chair Landers noted the draft conditions for all three sites are very similar. Atty. Klasnick submitted the draft petition is based on requirements set forth in the city's ordinance governing small cell wireless facilities.

Motion by Councilor Irish, seconded by Councilor Perlman, to recommend approval of the petition as submitted to locate a small cell facility on Pole #1 within public right of way at 493 Boston Post Road West. Vote 3-0

Order No. 21-1008357: Application submitted by Daniel D. Klasnick on behalf of Cellco Partnership, d/b/a Verizon Wireless, for Small Cell Wireless installation to be located on a replacement Pole #22 within public right of way at 11 Atkinson Drive, Pole on Ames Street, Pole height 38.5 feet; proposed Antenna height 41.50 feet.

Motion by Councilor Perlman, seconded by Councilor Irish, to recommend approval of the petition as submitted to locate a small cell facility on replacement Pole #22 within right of way at 11 Atkinson Drive. Vote 3-0

Reports of Committee Continued:

Motion by Councilor Perlman, seconded by Chair, to adjourn; Adjourned at 7:38PM

Chair will request suspension of the Rules to refer to the City Solicitor to place all (3) three draft petitions on the September 27, 2021 agenda for final votes by the City Council.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

Suspension of the Rules – granted.

ORDERED: That the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 123 Boston Post Road West, Pole #7, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 27, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on the existing Pole within the public right of way at 493 Boston Post Road West, Pole #1, referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 27, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Landers, seconded by the Chair to adopt the following:

Suspension of the Rules requested – granted.

ORDERED: That the Petition of Verizon Wireless for the installation of a small cell wireless facility to be located on replacement Pole within the public right of way at 11 Atkinson Drive, Pole #22 (Pole located on Ames Street), referred to the **CITY SOLICITOR TO BE PLACED IN PROPER LEGAL FORM FOR THE SEPTEMBER 27, 2021 COUNCIL MEETING**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

That the Proposed Zoning Amendment to Chapter 650 of the Code, to add a new section to create the “Commercial Village Housing Overlay District”, be amended in Section F “Dimensional Requirements” (7) by adding after the words “three (3) stories”, the following “or 45 feet in height” and further in the same section by adding after the words “two and on-half (2 ½) stories in height”, the words “or 38 feet”, **APPROVED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the Proposed Zoning Amendment as further amended by Councilor Robey to Chapter 650 of the Code, to add a new section to create the “Commercial Village Housing Overlay District”, Order No. 21-1008293, **DENIED**; adopted.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
RASING CANE'S RESTAURANTS, LLC**

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008307E**

The City Council of the City of Marlborough hereby **GRANTS** the application for a Special Permit to Raising Cane's Restaurants, LLC for the installation of a new restaurant with dual lane drive through service at 141 Boston Post Road West (Route 20), Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Raising Cane's Restaurants, LLC, has offices located at 6800 Bishop Road, Plano, Texas, and is hereinafter referred to as the "Applicant."
2. The Applicant is party to a lease agreement with RK Associates Marlborough, Inc., which owns the premises known and numbered as 141 Boston Post Road West (Route 20), Marlborough, Massachusetts and further described on Marlborough Assessor's Maps at Map 78, Parcel 15A (hereinafter, the "Site"). In accordance with Article V, Sections 650-14(B)(2) and 650-17 of the Zoning Ordinance of the City of Marlborough, Applicant is seeking the approval of a new restaurant with dual lane drive through service at the Site (hereinafter, the "Project").
3. The Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application").
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled "Proposed Site Plan Documents for Raising Cane's Proposed Restaurant with Drive-Thru. Location of Site: 141 Boston Post Road West, City of Marlborough, Middlesex County, Massachusetts, Map #78, Lot 15A", prepared by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=80', dated April 9, 2021, most recently revised July 12, 2021 (hereinafter, the "Plans") as **Attachment "A"**.
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the Application on Monday, June 21, 2021, which was continued to Monday, July 19, 2021.
9. Applicant, through its counsel, traffic consultant and civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.
10. At the public hearing, no members of the public spoke in favor of the Project and one member of the public indicated they were not in opposition and raised certain traffic concerns with respect to the Project.
11. The Applicant submits that the Project will provide an added benefit to the community in the form of desired quality food services provided in an efficient manner. The Applicant further submits that the Project is in harmony with the general purpose and intent of the City Zoning Code as required for the issuance of a Special Permit.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** Applicant a Special Permit to construct a restaurant with dual lane drive through service as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on Applicant, its successors and/or assigns:
 1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
 2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications, or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed, and approved by the City Council as the Special Permit Granting Authority. Any changes to the Plans which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.

3. Compliance with Applicable Laws. Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's Project.
4. Signage. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough. It is a further condition that the location of the signage shall not be substantially different than that shown on the Plans submitted herewith, allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. Pavement Markings/Traffic Signage. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. No Overnight Parking. There shall be no overnight parking at the Site.
7. Landscaping. Applicant, its successors and/or assignees agrees to maintain the Project landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee, as may be amended during Site Plan Review.
8. Noise. The drive through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and in full compliance with the noise ordinance of the City of Marlborough. The drive through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential zoning district, in accordance with the noise ordinance of the City of Marlborough.
9. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
10. Engineering Changes. Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, or increase the size of the building shown on the Plans.
11. Parking Areas. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.
12. Hours of Operation. The hours of operation for the restaurant will be Sunday through Thursday, 9:00 AM to 1:00 AM and Friday to Saturday, 9:00 AM to 3:30 AM. The hours of operation for the drive through facility will be Sunday through Thursday, 9:00 AM to 1:00 AM and Friday to Saturday, 9:00 AM to 3:30 AM.

13. Trenching; Staging. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works. During construction, no vehicles shall be staged on public ways.
14. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 10 – Nay: 1

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Ossing, Perlman, & Robey.

Nay: Oram.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
EDGEWOOD ENTERTAINMENT LLC**

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008328C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Edgewood Entertainment LLC (hereinafter "Applicant Tenant"), as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. Applicant Tenant is a duly organized and existing Massachusetts LLC with its principal place of business at 48 Edgewood Road, Southborough, MA 01772.
2. The landlord is RK Associates-Marlboro, Inc., a duly organized and existing Massachusetts corporation with its principal place of business located at 50 Cabot Road, Needham, MA 02494.
3. The landlord is the title owner of the property located at 229 Boston Post Road West, Marlborough, MA, being shown as a portion of Parcel 2A on Assessors Map 78 (the "Site"). The landlord and Applicant Tenant have executed or will execute a lease regarding the Site, and its use pursuant to the terms of this special permit regarding the Site.
4. The Applicant Tenant seeks permission to utilize a portion of the Site as a commercial indoor recreation establishment and place of amusement that will include various golf entertainment features and bar area features for playing, training and entertaining patrons (the "Use") on the Site as shown on the Plans referenced below.
5. The Applicant Tenant, on June 7, 2021, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of § 650-17 and pursuant to the procedures specified in § 650-57 of the Marlborough Zoning Ordinance (the "Application").

6. In connection with Application, the Tenant Applicant submitted a certified list of abutters, filing fees, a site plan entitled “ALTA/NSPS Land Title Survey Plan” – labeled “Overall Building Plan” by Kelly Engineering Group, with the last revision date of October 2, 2019, a plan entitled “Lease Outline Drawing” and labeled “Current Unit Interior and Exterior” by DSH Design Group with a last revision date of December 11, 2019, and a sketch floor plan entitled “X-Golf Marlborough” (collectively, the “Plans”) as “Attachment A.” The Site contains an existing commercial building. The Use and subject portion of the Site are shown in that building on the Plans.
7. No modifications are proposed to the exterior of the building, no structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.
8. The Application has been certified by the Building Commissioner, acting on behalf of the City Planner, as being complete in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a special permit.
9. The Site is located in the Business Zoning District.
10. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
11. The Marlborough City Council pursuant to MGL Chapter 40A held a public hearing on July 19, 2021, concerning the Application. The hearing was opened and closed at that meeting.
12. The Applicant Tenant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
13. At the public hearing, Holly Irvine-Salvi, representing Brian Salvi who will be managing the operation of the business and is the Applicant Tenant, described the proposed business as being one that would provide an indoor venue that will include various golf entertainment features and bar area features for playing, training, and entertaining patrons. In response to questions from city councilors, he indicated that: a) generally, customers will reserve golf bays online and/or will schedule events in advance. Walk-ins will be allowed based on golf bay availability; b) a full kitchen is not required; express ovens will be used for warming; and c) liquor license is a requirement of the franchise. No member of the public spoke, either in favor or in opposition to the Use.
14. Following the public hearing, the Urban Affairs Committee held a meeting on July 26, 2021 during which this Application was discussed.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant Tenant, its successors and/or assigns, a Special Permit to operate an indoor recreation establishment and place of entertainment as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
 - 1. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 2. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.
 - 3. Compliance with Local, State and Federal Laws: The Applicant Tenant agrees to comply with all rules, regulations and ordinances from the City of Marlborough, the Commonwealth of Massachusetts, and Federal Government as they may apply to the construction, maintenance of equipment and operation of the Use and public peace and good order if the Chief of Police determines that either the business or the Applicant Tenant are acting contrary to public peace and good order. The Chief shall notify the applicant in writing and deem corrective measures be put into effect in seven days. Upon the failure or inability of the applicant tenant to correct such measures, the Police Chief may require the applicant tenant to employ one or more police detail officers during such hours or days that the Police Chief in exercise of the sole discretion deemed to be necessary for the purpose of correcting the conditions.
 - 4. Public Peace and Good Order: Applicant Tenant shall obtain appropriate CORI information regarding all employees of Applicant Tenant and shall keep said information available for inspection by local police upon request.
 - 5. Parking: Per the Building Commissioner, 40 off-street parking spaces in the plaza are required for the Use.
 - 6. Hours of Operation: The hours of operation of the Use shall not be earlier than 7:00 AM or later than 12:00 AM on any day. If the Ward Councilor, Chief of Police or other Councilor has not heard of any complaints in a year's time, then the hours of operation can remain the same. Service of alcohol shall not take place earlier than 10:00 AM and shall cease by 12:00 AM Monday-Saturday, and on Sundays shall take place not earlier than 11:00 AM and cease by 12:00 AM and shall be subject to the requirements of the Licensing Board.

7. Limits of Use: The proposed Use is to provide an indoor recreation area that will include various golf entertainment features and bar area features for playing, training and entertaining patrons.
8. Food Preparation: Applicant Tenant shall obtain a permit and any other approvals from the Director of the Marlborough Board of Health and pay the accompanying fees.
9. Certificate of Occupancy Required: No use of the premises will be made pursuant to this special permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner.
10. No Expansion of Use Area or Change in Area Configuration: Only the area of Unit 6, containing approximately 9,075 square feet, which has been specified in the Plans attached hereto, will be used for the Use. To the extent that a substantial increase in, or a change in the configuration of, the area used for this use is desired, the Building Commissioner shall determine whether such increase or change constitutes a substantial change of the permitted use, and if so, no such area increase, or configuration change shall be permitted unless and until this special permit has been modified by the City Council.
11. Subsequent Users: Before any successor tenant uses Unit 6 for the uses allowed in this special permit, the Director of the Marlborough Health Department shall determine in writing that any permit required of Applicant Tenant, and any other permit determined by the Director to be necessary, has been obtained.
12. Required Approval Regarding Sanitary Conditions: Prior to the beginning of operation of the business, the Director of the Marlborough Health Department shall determine in writing what, if any, special sanitary requirements are necessary to assure that the facility does not cause unusual health risks to those using the facility or to the public. The Director may later, in writing, amend and/or add to said requirements as he deems necessary. Such determination, and any such amendments and/or additions, shall be provided by the Director to the City Council. Any failure to comply with said sanitary requirements shall be a violation of this permit.
13. Recording of Decision: In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant Tenant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
DASILVA LANDSCAPING, INC.**

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008345C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Dasilva Landscaping, Inc. (the "Applicant") for a landscape contractor's yard at 685 Farm Road, Unit 17, also known as 49 Airport Boulevard, in the Limited Industrial Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Dasilva Landscaping, Inc., is a Massachusetts corporation with an address of 110 Dartmouth Street, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 685 Farm Road, Unit 17, Marlborough, Massachusetts, also known as 49 Airport Boulevard, being shown as a portion of Parcel 52 on Assessors Map 73 (the "Site").
3. In accordance with Article V, Section 650-17 and Section 650-18(A)(48), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a landscape contractor's yard at the Site (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a building, accessory parking, outdoor storage areas, and landscaped areas.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Proposed Site Plan of Use Area #17 Airport Boulevard" by Connorstone Engineering, with the last revision date of August 10, 2021, a landscaping plan entitled "Proposed Landscape Plan of Use Area #17 Airport Boulevard" by Connorstone Engineering, with the last revision date of July 13, 2021, and a site plan for the overall Airport Industrial Park entitled "Proposed Site Plan for Driveway, Drainage & Landscaping of 677-681 Farm Road" approved by the Site Plan Committee on October 24, 2019 (collectively the "Plans") as **"Attachment A."**
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site is located in the Limited Industrial Zoning District.
8. The Site has an area of 30,000 square feet +/- as shown on the Plans.

9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, July 19, 2021. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on July 19, 2021.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, no members of the public spoke in favor of the Use and no members of the public spoke in opposition to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.
- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit for a landscape contractor's yard at 685 Farm Road, Unit 17, also known as 49 Airport Boulevard, as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
 1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
 2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications, or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed, and approved by the City Council as the Special Permit Granting Authority.

3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.
6. Fencing. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the Applicant shall install solid fencing to screen areas of the Site used for the storage of vehicles, equipment, and materials from the street and adjacent properties, and shall maintain the fencing in good repair. The fencing shall comply with the requirements of all applicable City Ordinances.
7. Outdoor Storage Areas. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the outdoor storage of vehicles, equipment, and materials shall be located on impervious and otherwise dust-free surfaces. Materials shall be stored with sufficient protections to avoid damage to landscaped areas and to avoid interference with the proper functioning of stormwater infrastructure. Lawn areas shall be separated from adjacent parking/storage areas with curbing. The bulk storage of bark mulch at the Site shall be subject to fire safety conditions approved through the Site Plan Review process. The Site shall not be used to store grass clippings or similar debris.
8. Indoor Storage Areas. Building areas used to store vehicles, equipment, and materials indoors shall be equipped with floor drainage systems designed to prevent fuel, oil, and other hazardous materials from entering the stormwater or sewer systems, approved through the Site Plan Review process.
9. Vehicle Repairs and Maintenance. The Site may not be used for major repairs of vehicles and equipment, but minor maintenance of vehicles and equipment which are exclusively operated as part of the Use may be performed indoors only, subject to Condition #10.
10. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.

11. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
12. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
13. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED:

**DECISION ON A SPECIAL PERMIT
LOURIVAL MASONRY, CO., LLC**

**DECISION ON A SPECIAL PERMIT
ORDER NO. 21-1008346C**

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Lourival Masonry Co., LLC (the "Applicant") for contractor's yard at 685 Farm Road, Unit 18, also known as 37 Airport Boulevard, in the Limited Industrial Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

FINDINGS OF FACT

1. The Applicant, Lourival Masonry Co., LLC, is a Massachusetts limited liability company with an address of 24 Hager Street, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 685 Farm Road, Unit 18, Marlborough, Massachusetts, also known as 37 Airport Boulevard, being shown as a portion of Parcel 52 on Assessors Map 73 (the "Site").
3. In accordance with Article V, Section 650-17 and Section 650-18(A)(48), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a contractor's yard at the Site (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a building, accessory parking, outdoor storage areas, and landscaped areas.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.

5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Proposed Site Plan of Use Area #18 Airport Boulevard" by Connorstone Engineering, with the last revision date of August 10, 2021, a landscaping plan entitled "Proposed Landscape Plan of Use Area #18 Airport Boulevard" by Connorstone Engineering, with the last revision date of July 13, 2021, and a site plan for the overall Airport Industrial Park entitled "Proposed Site Plan for Driveway, Drainage & Landscaping of 677-681 Farm Road" approved by the Site Plan Committee on October 24, 2019 (collectively the "Plans") as **"Attachment A"**.
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site is located in the Limited Industrial Zoning District.
8. The Site has an area of 30,000 square feet +/- as shown on the Plans.
9. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, July 19, 2021. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on July 19, 2021.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, two members of the public spoke in favor of the Use and no members of the public spoke in opposition to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

- A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.
- B. The City Council finds that the proposed Use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

- C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby **GRANTS** the Applicant a Special Permit for a contractor's yard at 685 Farm Road, Unit 18, also known as 37 Airport Boulevard, as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts and shall be built according to the Plans as may be amended during Site Plan Review.
 2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, in accordance with the City of Marlborough Site Plan Review Ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications, or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.
 3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
 4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s) credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

6. Fencing. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the Applicant shall install solid fencing to screen areas of the Site used for the storage of vehicles, equipment, and materials from the street and adjacent properties, and shall maintain the fencing in good repair. The fencing shall comply with the requirements of all applicable City Ordinances.
7. Outdoor Storage Areas. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the outdoor storage of vehicles, equipment, and materials shall be located on impervious and otherwise dust-free surfaces. Materials shall be stored with sufficient protections to avoid damage to landscaped areas and to avoid interference with the proper functioning of stormwater infrastructure. Lawn areas shall be separated from adjacent parking/storage areas with curbing.
8. Indoor Storage Areas. Building areas used to store vehicles, equipment, and materials indoors shall be equipped with floor drainage systems designed to prevent fuel, oil, and other hazardous materials from entering the stormwater or sewer systems, approved through the Site Plan Review process.
9. Vehicle Repairs and Maintenance. The Site may not be used for major repairs of vehicles and equipment, but minor maintenance of vehicles and equipment which are exclusively operated as part of the Use may be performed indoors only, subject to Condition #10.
10. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance and shall comply with all state and federal requirements governing air quality and emissions.
11. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
12. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of the Use.
13. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the Applicant, its successors and/or assigns, at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

Yea: 11 – Nay: 0

Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.

Motion by Councilor Robey, seconded by the Chair to adopt the following:

ORDERED: That the City Council of the City of Marlborough does hereby approve the Site Plan Permit, which sets forth an Approval with conditions of the site plans submitted by Global Montello Group Corp., to add a patio with seating at 656 Boston Post Road East, Marlborough, **APPROVED**; adopted.

Motion by Councilor Tunnera, seconded by the Chair to adopt the following:

ORDERED There being no further business, the regular meeting of the City Council is herewith adjourned at 9:21 PM; adopted.

Thomas DiPersio

From: Kevin Gillis <kevinagillis1@gmail.com>
Sent: Tuesday, October 12, 2021 12:31 PM
To: Frank Quigley; marcel maillet; Thomas DiPersio
Cc: Scott Adams; Jonathan O'Brien; ashleydowney162
Subject: Goodale Estates

All,
I have heard from Brox that, once again, their schedule dictates a change to the paving planned for this Friday. The preparation will now be performed on Tuesday, 19 October with the paving the following day. The weather looks fine for those dates.

Marcel,

It is imperative that the mailbox at the end of the cul de sac be removed before next week.

Feel free to contact me if you have any questions or concerns in these regards.

I certainly apologize for any inconvenience and appreciate your continued patience and cooperation.

Kevin

--

Kevin A. Gillis
Managing Director
Northborough Realty Holdings, LLC
4 Courthouse Lane, Suite 16
Chelmsford, MA 01824
Tel. Bus. 781-771-8519
Mobile 781-771-8519

APPENDIX C
(Amended 11/19/74)

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN

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

Marlborough, Massachusetts

Oct 15, 2021
(Date)

To the Planning Board:

The undersigned herewith submits the accompanying Definitive Plan of property located in the City of Marlborough for approval as a subdivision under the requirements of the Subdivision Control Law and the Rules and Regulations governing the Subdivision of Land of the Planning Board of the City of Marlborough.

1. Name and Record Owner of Land: THE 342 SADBURY STREET TRUST

Address: 342 SADBURY ST, MARLBOROUGH, MA (Amended 11/19/74)

2. Name of Subdivider: THE 342 SADBURY STREET TRUST

Address: 342 SADBURY ST - MARLBOROUGH, MA

3. Name of Engineer: Robert Parente

Address: 21 Chapin St., Northboro, MA 01532

4. Deed of property recorded in MIDDLESEX SOUTH Registry of

Deeds Book 77825 Page(s) 110.

5. Location and description of property: 3.35 AC OF

LAND ON THE WEST SIDE OF SADBURY
ST

6. Date of completion of ways, public utilities, and other

facilities: 2 years FROM APPROVAL OF PLAN.

Signature of Owner [Signature]

Address of Owner _____

PLANNING BOARD
DATE 10/15/21 KM
AGENDA 10/18/21
ACTION _____

APPENDIX E

Date: OCT 15, 2021

To the Marlborough Planning Board:

In preparing the plan entitled DEFINITIVE SUBDIVISION PLAN
IN MARLBOROUGH, MA. - 342 SUDBURY ST.

my source of information about the location of boundaries shown on said plan were one or more of the following:

1. Deed from Judith Courtney 1999 ^{TRUS} to THE 342 SUDBURY STREET TRUST

Dated _____ and recorded in the Middlesex South District

Registry of Deeds Book 77825 Page 110.

2. Other plans as follows: Plan # 1503 OF 1961
Plan # 656 OF 1986
1963 LAYOUT OF SUDBURY ST

3. Oral information furnished by: _____

4. Actual measurement on the ground from a starting point established by: MONUMENTS ON HASLER LANE

5. Other sources: _____

Signed

Ray Pante

342 SUDBURY STREET TRUST
NEAL G. VIGEANT TRUSTEE

MAIN STREET BANK
81 GRANGER BLVD, MARLBOROUGH, MA 01752
83-7075/2113

10/14/2021

PAY TO THE
ORDER OF

City of Marlborough
one thousand twenty $\frac{00}{100}$

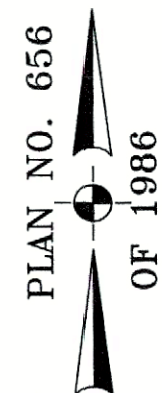
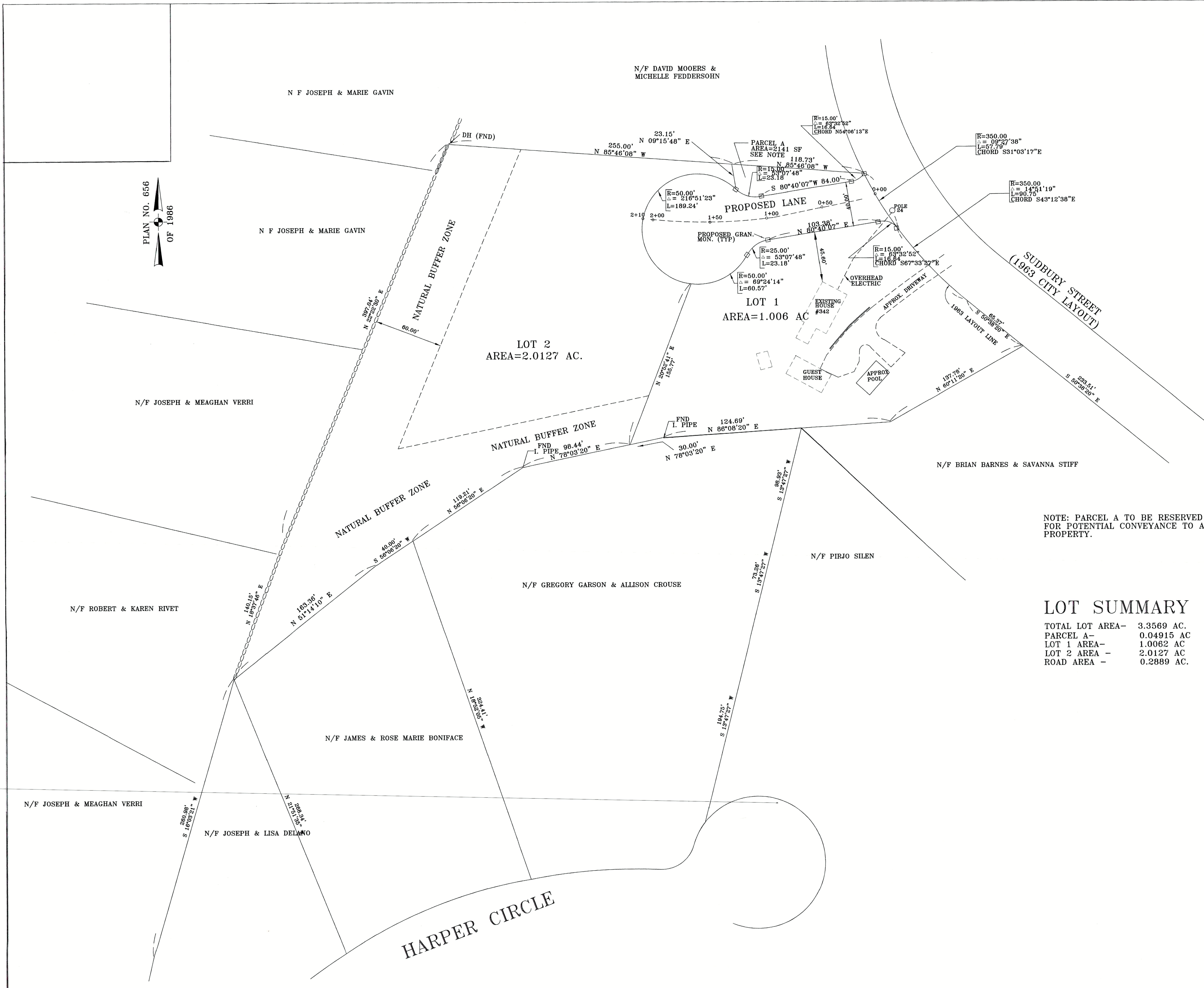
\$ 1,020.⁰⁰

DOLLARS

MEMO

342 Sudbury St Subdivision


AUTHORIZED SIGNATURE



ZONING DISTRICT- RURAL RESIDENCE
MARLBOROUGH PLANNING BOARD

MEMBER _____

DATE; _____

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

DATE _____ CITY CLERK _____

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS IN PREPARING THIS PLAN.


ROBERT J. PARENTE, PROF. LAND SURVEYOR
 10/15/21
DATE

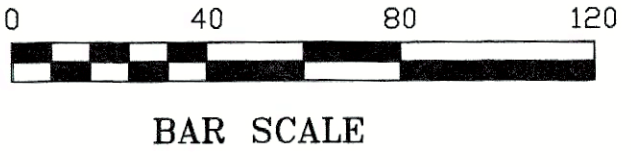
NOTE: PARCEL A TO BE RESERVED FOR POTENTIAL CONVEYANCE TO ABUTTING PROPERTY.

LOT SUMMARY

TOTAL LOT AREA-	3.3569 AC.
PARCEL A-	0.04915 AC
LOT 1 AREA-	1.0062 AC
LOT 2 AREA -	2.0127 AC
ROAD AREA -	0.2889 AC.

REQUEST FOR
WAIVERS FROM SUBDIVISION REGULATIONS
1. REDUCE ROAD LAYOUT WIDTH TO .40'
2. REDUCE PAVEMENT WIDTH TO 18'
3. NO SIDEWALKS
4. NO CURBING.
5. TO CONSTRUCT THE ROAD IN ACCORDANCE WITH THE CROSS SECTION SHOWN ON THE PROFILE SHEET.

NOTE:
PROPOSED LANE SHALL REMAIN A PRIVATE WAY AND THE AREA OF THE ROADWAY LAYOUT SHALL BE OWNED AND MAINTAINED BY THE OWNER OF LOT 2.



DEFINITIVE SUBDIVISION PLAN
IN
MARLBOROUGH, MASSACHUSETTS

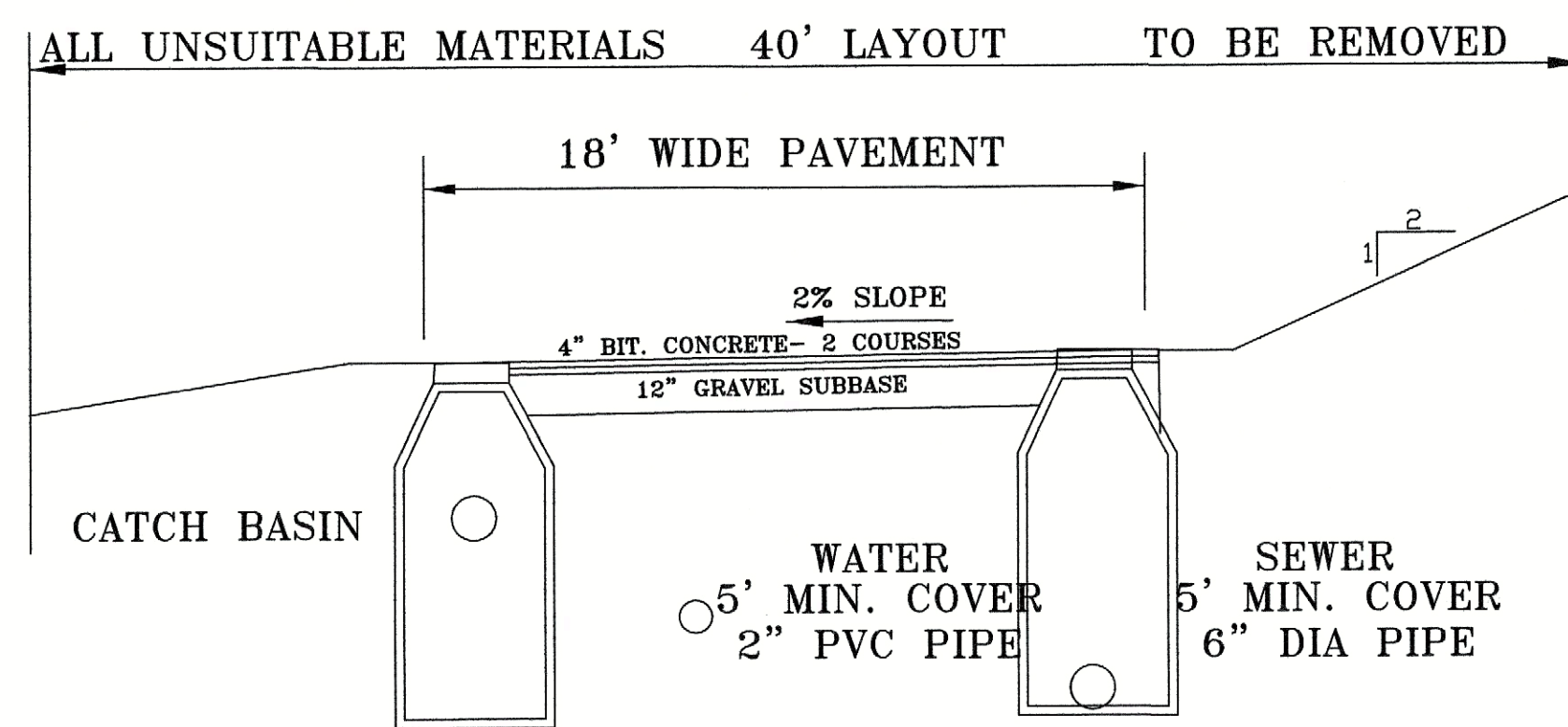
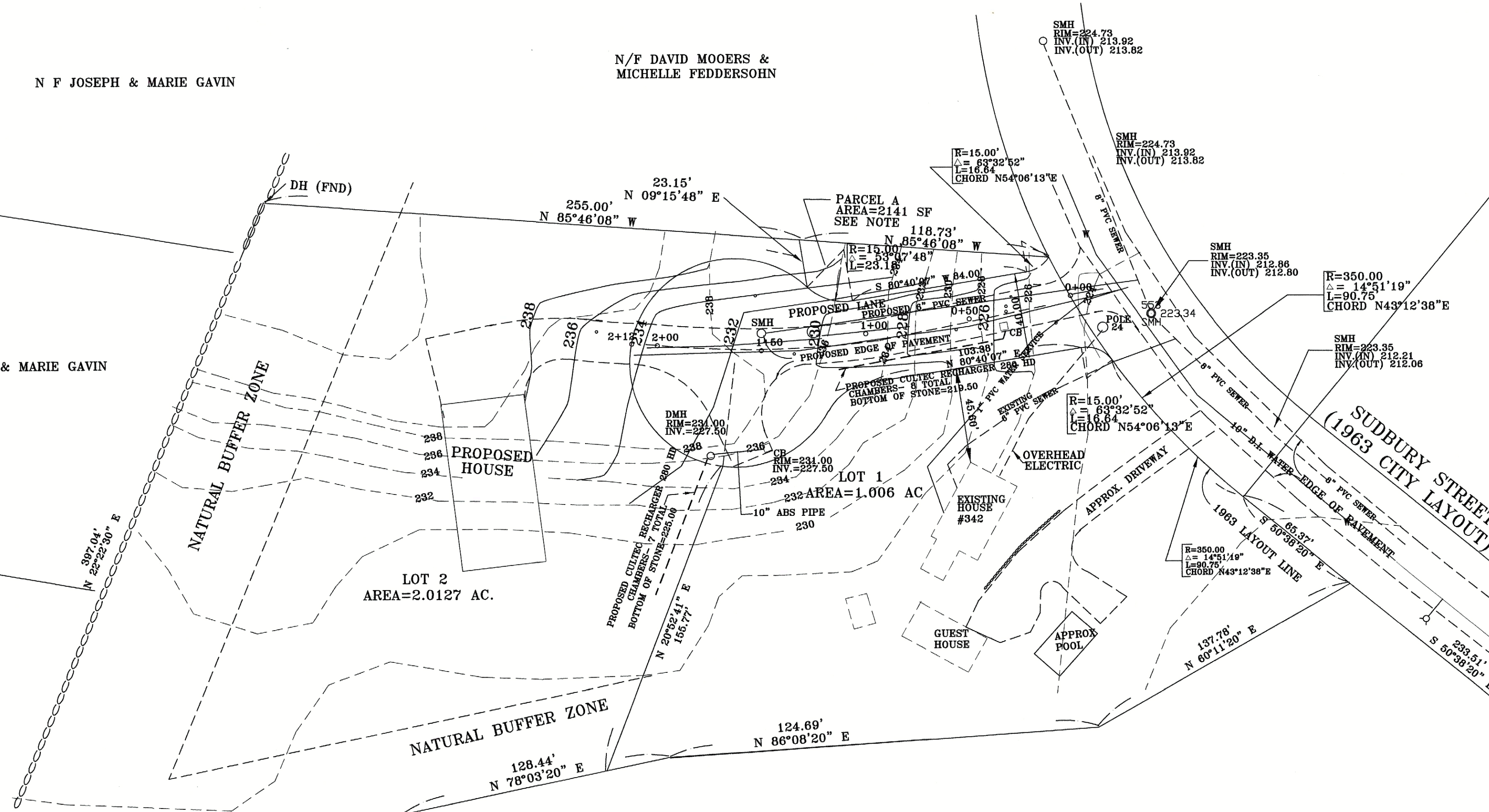
LOCATION: 342 SUDBURY ST.
OWNED BY: THE 342 SUDBURY STREET TRUST
PREPARED BY: ROBERT PARENTE, P.E. 01532
21 CHAPIN ST., NORTHBORO, MA.
DATE: OCTOBER 15, 2021
SCALE: 1"=40'
SHEET 1 OF 3

PLAN NO. 656
OF 1986

N/F JOSEPH & MEAGHAN VERRI

N F JOSEPH & MARIE GAVIN

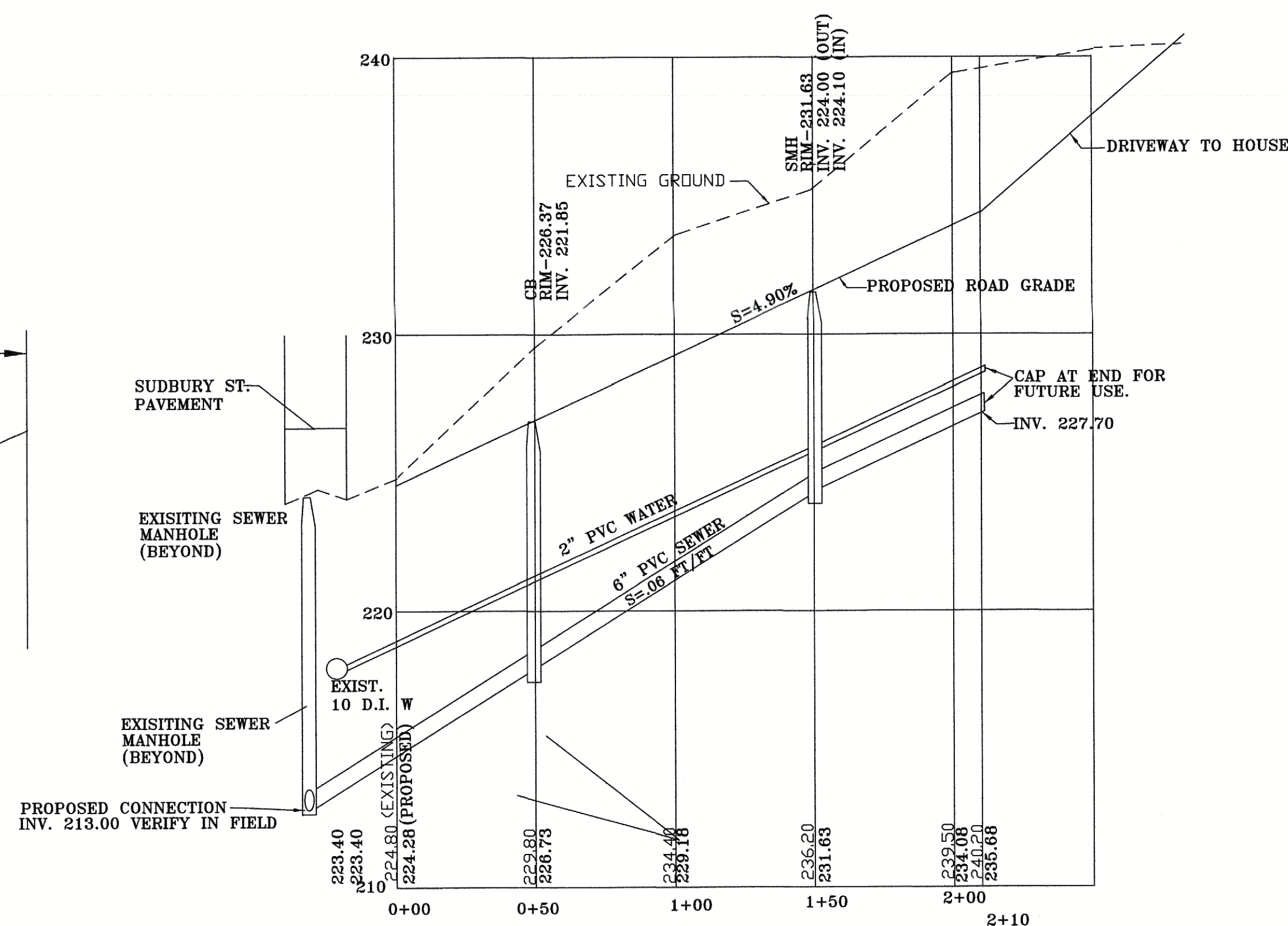
N/F DAVID MOOERS &
MICHELLE FEDDERSOHN



TYPICAL ROADWAY CROSS-SECTION

CONSTRUCTION NOTES:

1. ALL SEWER, DRAINAGE AND CATCH BASIN STRUCTURES SHALL BE CONSTRUCTED TO CITY OF MARLBORO STANDARDS.



PROFILE

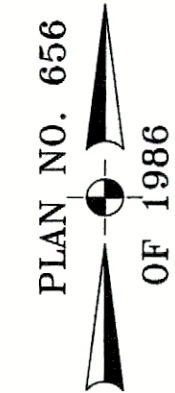
SCALE: 1"=40' HORIZ.
1"=4' VERTICAL

NOTE: PROFILE HAS BEEN ROTATED
180° TO PLAN VIEW.



PLAN AND PROFILE
IN
MARLBOROUGH, MASSACHUSETTS

LOCATION: 342 SUDBURY ST.
OWNED BY: 342 SUDBURY ST TRUST
PREPARED BY: ROBERT PARENTE, P.E.
21 CHAPIN ST., NORTHBORO, MA. 01532
DATE: OCTOBER 15, 2021
SCALE: 1"=40'
SHEET 2 OF 3



N F JOSEPH & MARIE GAVIN

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0.2889 84620
1.9426

N/F JOSEPH & MEAGHAN VERRI

N/F ROBERT & KAREN RIVET

N/F JAMES & ROSE MARIE BONIFACE

N/F JOSEPH & MEAGHAN VERRI

N/F JOSEPH & LISA DELANO

N F JOSEPH & MARIE GAVIN

N/F DAVID MOOERS &
MICHELLE FEDDERSOHN

N/F GREGORY GARSON & ALLISON CROUSE

N/F PIRJO SILEN

N/F BRIAN BARNES & SAVANNA STIFF

NATURAL BUFFER ZONE

NATURAL BUFFER ZONE

NATURAL BUFFER ZONE

LOT 2
AREA=2.0127 AC.

23.15' N 09°15'48" E
255.00' N 85°46'08" W

PARCEL A
AREA=2141 SF
SEE NOTE

118.73' N 85°46'08" W
L=23.18'

SMH PROPOSED LANE
1+00

PROPOSED EDGE OF PAVEMENT
1+00

PROPOSED CULTEC RECHARGER
1+00

PROPOSED CULTEC RECHARGER
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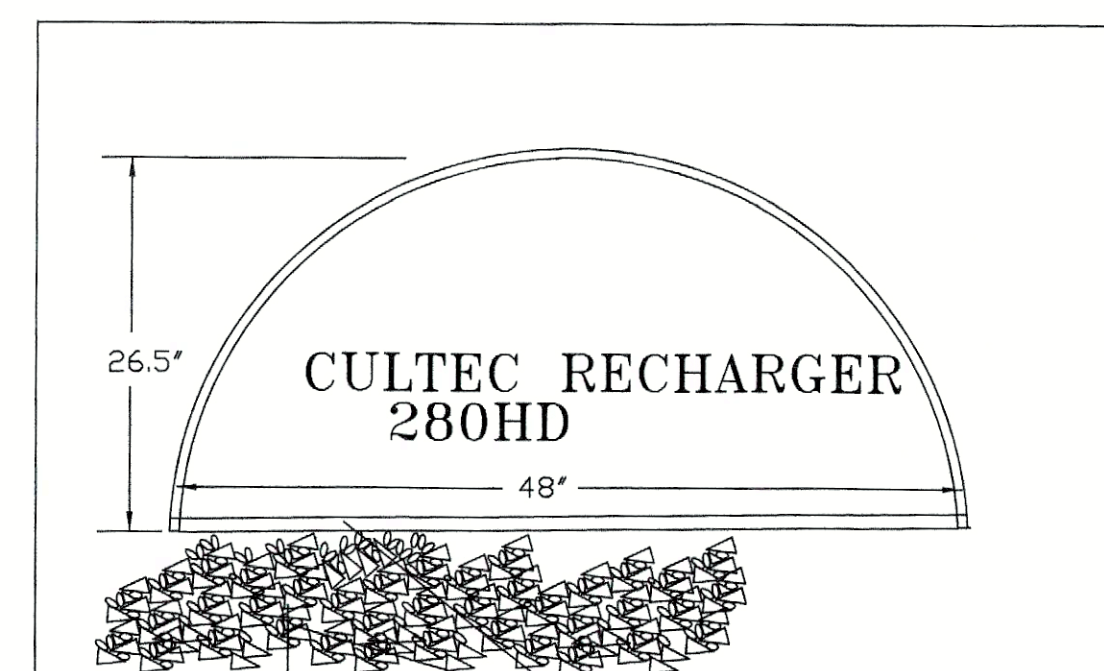
PROPOSED CULTEC RECHARGER
1+00

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PROPOSED CULTEC RECHARGER
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PROPOSED CULTEC RECHARGER
1+00



6" OF 3/4" WASHED
UNDER EACH CHAMBER
AND SIDES AND OVER
TOP.

CULTEC DETAIL

BOTTOM OF STONE

REQUEST FOR
WAIVERS FROM SUBDIVISION REGULATIONS

1. REDUCE ROAD LAYOUT WIDTH TO 40'
2. REDUCE PAVEMENT WIDTH TO 18'
3. NO SIDEWALKS
4. NO CURBING
5. TO CONSTRUCT THE ROAD IN ACCORDANCE WITH
THE CROSS SECTION SHOWN ON THE PROFILE SHEET.



0 40 80 120
BAR SCALE

GRADING & DRAINAGE PLAN
IN
MARLBOROUGH, MASSACHUSETTS

OWNED BY: THE 342 SUDBURY STREET TRUST
PREPARED BY: ROBERT PARENTE, P.E.
21 CHAPIN ST., NORTHBORO, MA. 01532
DATE: OCTOBER 15, 2021 SCALE: 1"=40'
SHEET 3 OF 3

Framingham Zoning Board of Appeals - Notice of Hearing

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing on **Wednesday, October 13, 2021** in the **Blumer Community Room** of the Memorial Building, Lower Level, 150 Concord Street, Framingham, AND/OR via remote conference, to consider:

11-25 | 7:00 PM

Petition of **Damon Cooper** for a **Variance** to replace an old 12'x14' shed with a new 12'x8' shed within the side yard setback, pursuant to §IV.E.2. of the Zoning Ordinances, on the premises located at **617 Winter Street**, Parcel ID: 126-26-6870-000, Zoning District: Single Family Residence (R-1).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

Framingham Zoning Board of Appeals - Notice of Hearing

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing on **Wednesday, October 13, 2021** in the **Blumer Community Room** of the Memorial Building, Lower Level, 150 Concord Street, Framingham, AND/OR via remote conference, to consider:

21-23 | 7:00 PM

Petition of **Mark D. Smith** for a **Finding** to allow the construction to raise the roof, renovate & expand second floor bedroom & bathroom, pursuant to §I.D.5.b of the Zoning Ordinances, on the premises located at **19 Morse Road**, Parcel ID: 092-05-7923-000, Zoning District: Single Family Residence (R-1).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

Framingham Zoning Board of Appeals - Notice of Hearing

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21-21 | 7:00 PM

Petition of **Middlesex Savings Bank** for a **Special Permit** to allow the install of a temporary trailer to be used as bank location during the renovation of the bank for a period exceeding 30 days, pursuant to §II.H.b. of the Zoning Ordinances, on the premises located at **899 (aka 901) Edgell Road**, Parcel ID: 037-35-5085-000, Zoning District: General Business (B-4).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

Framingham Zoning Board of Appeals - Notice of Hearing

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing on **Wednesday, October 13, 2021** in the **Blumer Community Room** of the Memorial Building, Lower Level, 150 Concord Street, Framingham, AND/OR via remote conference, to consider:

21-22 | 7:00 PM

Petition of **911-921 Waverly Properties, LLC** for a **Variance** to allow the use of the property for one (1) residential unit whereas residential use is not allowed in M zone, pursuant to §II.B.1.E. of the Zoning Ordinances, on the premises located at **911 Waverly Street**, Parcel ID: 133-34-5969-000, Zoning District: General Manufacturing (M).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

FRAMINGHAM PLANNING BOARD
NOTICE OF PUBLIC HEARING – 25 PROSPECT STREET, 571 & 575 WORCESTER ROAD
APPLICATION OF CROSSPOINT ASSOCIATES, INC.

Pursuant to sections VI.F.2.b.3, VI.F.10, IV.B.1.e, VI.E.2.i, II.B.5.M, V.J and VI.E of the Framingham Zoning Ordinances, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for a Modification to Site Plan Approval decision dated June 10, 1997 as previously and further modified, Modification to a Special Permit Decision for Reduction in Parking dated June 10, 1997 as previously and further modified and a Special Permit for Accessory Drive-Thru Facility for a Financial Institution. The applicant proposes to construct a bank and ATM drive-thru facility as well as to make parking and landscape modifications. The property is zoned Business (B) and located in the Highway Corridor (HC) Overlay District. The property is listed as Framingham Assessor's Parcel IDs: 101/73/8821, 101/73/4822, and 091/74/3090. The application and plans submittal are available for review in the Planning Board Office, Room 814 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October 6, 2021 and October 13, 2021

Por favor, póngase en contacto con nuestra oficina para asistencia de traducción.
Entre em contato com nosso escritório para assistência com tradução.

Framingham Zoning Board of Appeals - Notice of Hearing

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing on **Wednesday, October 13, 2021** in the **Blumer Community Room** of the Memorial Building, Lower Level, 150 Concord Street, Framingham, **AND/OR via remote conference**, to consider:

21-26 | 7:00 PM

Petition of Gentry Menzel for a Variance to allow the construction of a screen porch within side yard setback, pursuant to §IV.E.2. of the Zoning Ordinances, on the premises located at **19 Carter Drive**, Parcel ID: 015-98-9071-000, Zoning District: Single Family Residence (R-4).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

FRAMINGHAM PLANNING BOARD
NOTICE OF PUBLIC HEARING – 1 WORCESTER ROAD
APPLICATION OF SITE CENTERS CORP.

Pursuant to VI.F, VI.E, and V.F of the Framingham Zoning Ordinances, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for a Modification to a Planning Board decision dated January 10, 1994 for Special Permits for Site Plan Review, Off-Street Parking Plan Approval and a Special Permit for Reduction in the Required Number of Parking Spaces, last modified on July 22, 2021, Modification to a Planning Board Decision dated August 10, 1994 for a Sign Review Approval in conjunction with a Special Permit Site Plan application before the Planning Board (also modifying the above-referenced Jan 10, 1994 decision, as subsequently modified on February 22, 2019 and April 11, 2019, a Special Permit for Land Disturbance and Stormwater Management, and Waivers per Section III.E.10.c from the Highway Overlay District Standards and Section III.E.8.i for landscaping adjacent to building. The applicant proposes a redevelopment at the southwest corner of Shopper's World including demolition of existing retail and construction of new retail and grocery space. The property is zoned Business (B) and in the Regional Center (RC) Overlay District. The property is listed as Framingham Assessor's Parcel ID: 094/55/1386/000. The application and plans submittal are available for review in the Planning Board Office, Room 814 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October, 6 2021 and October 13, 2021

Por favor, póngase en contacto con nuestra oficina para asistencia de traducción.
Entre em contato com nosso escritório para assistência com tradução.

Framingham Zoning Board of Appeals - Notice of Hearing

Notice is hereby given that the Zoning Board of Appeals will hold a public hearing on **Wednesday, October 13, 2021** in the **Blumer Community Room** of the Memorial Building, Lower Level, 150 Concord Street, Framingham, **AND/OR via remote conference**, to consider:

21-24 | 7:00 PM

Petition of Virginia Ndoro for a Finding to allow the renovation of a pre-existing, non-conforming duplex in the "B" zone including addition of one bedroom on the first floor and two bedrooms & a bathroom on the second floor, pursuant to §I.D.5.b. of the Zoning Ordinances, on the premises located at **33 Richwood Street**, Parcel ID: 093-14-7064-000, Zoning District: Business (B).

Visit www.FraminghamMA.gov/meetings for more information.

Legal notice can be found in the MetroWest Daily News or on MassPublicNotices.org.

Stephen E. Meltzer, Chair

Office: 508-532-5456, ZBA@FraminghamMA.gov

FRAMINGHAM PLANNING BOARD

NOTICE OF PUBLIC HEARING – 350-382 WAVERLY STREET & 16 SOUTH STREET

APPLICATION OF BOGHOS PROPERTIES, LLC

Pursuant to M.G.L. c. 41, and the Rules and Regulations Governing Subdivision of Land in the City of Framingham most recently updated as of November 2019, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for a three lot Preliminary Subdivision located at the parcel at 350-382 Waverly St & 16 South St. The property is zoned Central Business (CB) and listed as Framingham Assessor's Parcel IDs: 135/95/1392, 135/95/1913, 135/95/2818, 135/95/2932, and 135/95/3915. The application and plans submittal are available for review in the Planning Board Office, Room B14 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October 6, 2021 and October 13, 2021

Por favor, póngase en contacto con nuestra oficina para asistencia de traducción.
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FRAMINGHAM PLANNING BOARD

NOTICE OF PUBLIC HEARING – 25 PROSPECT STREET, 571 & 575 WORCESTER ROAD

APPLICATION OF CROSSPOINT ASSOCIATES, INC.

Pursuant to sections VI.F.2.b.3, VI.F.10, IV.B.1.e, VI.E.2.j, II.B.5.M, V.J and VI.E of the Framingham Zoning Ordinances, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for a Modification to Site Plan Approval decision dated June 10, 1997 as previously and further modified, Modification to a Special Permit decision for Reduction in Parking dated June 10, 1997 as previously and further modified and a Special Permit for Accessory Drive-Thru Facility for a Financial Institution. The applicant proposes to construct a bank and ATM drive-thru facility as well as to make parking and landscape modifications. The property is zoned Business (B) and located in the Highway Corridor (HC) Overlay District. The property is listed as Framingham Assessor's Parcel IDs: 101/73/8821, 101/73/4822, and 091/74/3090. The application and plans submittal are available for review in the Planning Board Office, Room B14 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October 6, 2021 and October 13, 2021

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FRAMINGHAM PLANNING BOARD

NOTICE OF PUBLIC HEARING – 162 HOWARD STREET

APPLICATION OF VERNON WOODWORTH ON BEHALF OF FABIO SILVA

Pursuant to MGL, c. 40A, Section 3 and Article 20: Regulations Governing Applications for Site Plan Review for Dover Amendment Uses, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for a Limited Site Plan Review under the Dover Amendment. The applicant is proposing to convert a portion of the existing building into a church. The property is zoned Central Business (CB) and listed as Framingham Assessor's Parcel ID: 128/96/2347/000. The application and plans submittal are available for review in the Planning Board Office, Room B14 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October 6, 2021 and October 13, 2021

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FRAMINGHAM PLANNING BOARD

NOTICE OF PUBLIC HEARING – 300 PLEASANT STREET

APPLICATION OF NEXTGRID, INC. ON BEHALF OF TEMPLE BETH AM

Pursuant to MGL, c. 40A, Section 3 and Article 20: Regulations Governing Applications for Site Plan Review for Dover Amendment Uses, and section VI.F.2.a.5 of the Framingham Zoning Ordinances, the Framingham Planning Board will hold a public hearing on Thursday October 21st, 2021 at 7:00 p.m. in the Blumer Community Room in the Memorial Building, located at 150 Concord Street, Framingham, Massachusetts and will also be held online via Zoom, unless otherwise specified in the agenda. The public hearing will be held to consider the application for Limited Site Plan Review under the Dover Amendment. The applicant is proposing the installation of roof mounted solar panels on two of the existing buildings, and installation of one (1) solar canopy within the existing parking lot area. The property is zoned Single Family Residence (R-3) and listed as Framingham Assessor's Parcel ID: 089/95/0612/000. The application and plans submittal are available for review in the Planning Board Office, Room B14 of the Memorial Building and available online at <https://www.framinghamma.gov/69/Planning-Board>. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association's (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: October 6, 2021 and October 13, 2021

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