

CITY OF MARLBOROUGH MEETING POSTING

Meeting: **Planning Board**

Date: November 21, 2022

Time: 7:00 PM

Location: Memorial Hall, 3rd Floor, City Hall, 140 Main Street, Marlborough, MA 01752

RECEIVED
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CITY OF MARLBOROUGH
2022 NOV 17 PM 2:39

This meeting of the Planning Board will be held in Memorial Hall on Monday, November 21, 2022, at 7:00 PM.

PUBLIC ATTENDANCE IS PERMITTED

Agenda Items to be Addressed:

1. Draft Meeting Minutes

- A. November 7, 2022

2. Chair's Business

- A. Millham Estates – Request to amend 1995 special permit
- i. Correspondence from Assistant City Solicitor, Jeremy McManus
 - ii. Correspondence from Joseph P. Anderson, Esq. (Crowley & Cummings, LLC)
 - iii. Recorded special permit
- B. Unaccepted Streets – **No Updates**

3. Approval Not Required

- A. 57 Main Street, Marlborough, MA 01752, Map 70, Parcel 291
- Owner of Land: Marlborough TOTG, LLC (206 Ayer Rd. Suite 5, Harvard, MA 01451)
- Name of Applicant: JW Capital Partners, LLC (34 Washington St. Suite 230, Wellesley, MA 02481)
- Name of Surveyor: Bruce Saluk & Associates, Inc. (576 Boston Post Rd E, Marlborough, MA 01752)
- Deed Reference: Book: 74006 Page: 273
Book: 74006 Page: 276
- i. Form A
 - ii. Plan of Land Dated: November 9, 2022

4. Public Hearings (None)

5. Subdivision Progress Reports

- A. 342 Sudbury Street
- i. Correspondence from Kevin O'Malley

6. Preliminary/Open Space/Limited Development Subdivision

- A. Goodale Estates
- i. Correspondence from Kevin Gillis, Northborough Capital Partners, LLC
 - ii. Correspondence from City Engineer, Thomas DiPersio, Engineering Division

7. Definitive Subdivision (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

- A. Working Group
- i. Approval Not Required (ANR) Flowchart
 - ii. Preliminary Plan Flowchart

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns

- A. 2 Notices - City of Framingham

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

November 7, 2022

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. Meeting support provided by City Engineer, Thomas DiPersio. Members Absent: Sean Fay and William Fowler.

1. Draft Meeting Minutes

A. October 17, 2022

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the October 17, 2022, meeting minutes. Yea: Elder, Hodge, LaVenture, and Russ. Nay: 0. Abstained: Fenby. Motion carried. 4-0.

2. Chair's Business

A. Millham Estates – Request to amend 1995 special permit

i. Correspondence from Joseph P. Anderson, Esq. (Crowley & Cummings, LLC)

Mr. LaVenture read the November 3, 2022, correspondence from Mr. Anderson into the record.

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the correspondence. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

ii. Recorded special permit

Mr. DiPersio updated the Board on discussions he had with the Legal Department regarding this request and explained if the request is to amend the special permit, Chapter 40A would require a formal request along with a public hearing. He explained there has been an roughly 15-20 conveyances since the special permit was recorded and with no price restrictions.

On a motion by Mr. Elder, seconded by Mr. LaVenture, The Board voted to refer the 55 Gregoire Drive, Millham Estates special permit to the Legal Department for an opinion as to whether the restriction on the price for the homes applies to all the homes in the subdivision in perpetuity or if the language in the permit stating: "This restriction shall only apply to the original purchaser" was intended to apply to both items 5 and 6 under conditions on the recorded special permit. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

B. Unaccepted Streets – *No Updates*

Dr. Fenby informed the Board City Council would be referring a proposed zoning amendment to the Planning Board for mixed used and affordable housing. The Board set the public hearing date for December 5, 2022.

3. Approval Not Required (None)

4. Public Hearings

A. 7:05 - Council No. 22-1008679 – Proposed Amendment to Chapter 650, §40 – Location and Height of Buildings, relative to Attached Roofs for Entryway/Porches.

i. MISC supporting documents, including Plan Set

Chairperson Fenby opened the hearing. Mr. LaVenture read the public hearing legal 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 the Board members.

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MARLBOROUGH, MA 01752**

Presentation:

City Council President Michael Ossing (43 Varley Road, Marlborough, MA 01752) spoke on behalf of the proposed zoning amendment. Mr. Ossing provided a background on the proposed zoning change and explained in November of 2021 a resident submitted a plan to build a 5x7 foot portico at their front door which was denied in February of 2022 by the building department because it did not meet the setback requirements. In May of 2022 the resident applied for a variance with the Zoning Board of Appeals (ZBA) for relief, where the ZBA Chair advised the resident to work with City Council to identify a potential zoning change. The variance was withdrawn, and the resident contacted City Council. In the summer of 2022 Council members Sean Navin and Michael Ossing discussed the potential zoning change with the building department. The Building Department drafted the changes which have been reviewed and put in proper legal form by the Legal Department.

Mr. Ossing went over the following proposed zoning amendment:

- I. By amending Chapter 650 (Zoning), Section 650-40 (Location and Height of Buildings), Subsection F(5) to read as follows (new text shown as underlined):
 - (5) (a) Nothing herein shall prevent the projection of cornices or eaves not exceeding 18 inches in width or of uncovered steps, unroofed porches or windowsills into a required yard or other open space.
 - (b) For single-family and two-family dwellings, in all zoning districts: An attached roof covering an entryway or porch may project into the required yard setback, subject to compliance with all of the following requirements:
 - [1] Attached roof is permitted to project up to sixty (60) inches into the required yard setback;
 - [2] Attached roof shall not exceed forty (40) square feet;
 - [3] Attached roof shall not exceed allowable height per §650-41, Table of Lot Area, Yards and Height of Structures;
 - [4] Entryway or porch may not be enclosed nor living space or balconies erected above, excepting required elements such as railings;
 - [5] Space beneath the porch may not be occupied; and
 - [6] Minimum setback from any street or way for an attached roof authorized under this subsection shall be five (5) feet.

Questions and Comments from the Planning Board:

Mr. Russ addressed concerns regarding homes that are already situated close to the setback. Mr. Ossing explained they would have the limitation of 40 square feet and have a requirement to be 5 feet from the street.

Mr. LaVenture addressed concerns regarding residents who wish to put a portico on the back of their home. Building Commissioner Tin Htway explained the intention for these are to be installed at their main entrance way and explained no matter which side of the house the portico is installed; it would only be permitted to project up to sixty (60) inches into the required yard setback and explained each side of a house has a required setback per the zoning code.

**MINUTES
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MARLBOROUGH, MA 01752**

The Board discussed general concerns and the Mr. Htway went over the current zoning code for accessory structures.

Speaking in Favor of the Amendment:

Michael Smith (257 Lakeshore Drive, Marlborough, MA 01752) spoke in favor and explained this zoning change would help enhance a project he is currently working on and address how difficult it is to present a hardship to the ZBA for relief.

Michael Carney (43 Bouffard Drive, Marlborough, MA 01752) spoke in favor and explained covered steps are safer than uncovered steps and argued it adds value and safety to the community.

Dr. Fenby closed this portion of the Public Hearing.

Speaking in Opposition to the Amendment:

No one spoke in opposition.

Dr. Fenby closed this portion of the Public Hearing.

Dr. Fenby closed the Public Hearing.

On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to send a favorable recommendation to the City Council without further guidance on the proposed Council Order No. 22-1008679. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. LaVenture, second by Mr. Russ the Board voted to move item 7.A. Definitive Subdivision, Tobin Drive, Definitive Subdivision Plan up. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

7. Definitive Subdivision

A. Tobin Drive, Definitive Subdivision Plan

Map 44, Parcel 148 (0 Stevens Street), Marlborough, MA 01752

Owner of Land: James & Rebecca Chaousis (283 Bolton Street, Marlborough, MA 01752)

Name of Applicant: Charles Bourque (P.O. Box 642, Weston, MA 02493)

Name of Engineer: Jason Lavoie, WSP, (100 Summer Street, 13th Floor, Boston, MA 02110)

Deed Reference: Book: 9742 Page: 148

i. Correspondence from Assistant City Solicitor, Jeremy McManus, Legal Department

Mr. LaVenture read the November 3, 2022, correspondence from Mr. McManus into the record.

The administrator informed the Board the tax document had been provided and the signature pages were given to the developer to be signed and notarized by the owners.

The developer requested lot 4 be retained as surety, as required by the regulations, and the Board agreed.

ii. Final Draft Certificate of Vote

iii. Final Draft Covenant

iv. Correspondence from City Engineer, Thomas DiPersio, Engineering Division

v. Correspondence from WSP – Response to Thomas DiPersio’s August 18, 2022, comments

vi. Revised Plan Set Dated: October 14, 2022

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On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to approve the Tobin Drive, map 44, parcel 148 (0 Steven Street, Marlborough, MA 01752) Definitive Subdivision Plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to endorse the covenant. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to endorse the plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

Carol Dennison, WSP, (100 Summer Street, 13th Floor, Boston, MA 02110) explained the plans would be delivered to the Planning Board office within the week and Dr. Fenby asked the administrator to inform the members when the plan was ready for endorsement.

On a motion by Mr. LaVenture, second by Mr. Russ, the Board voted to accept and file all the correspondence under 7.A. Definitive Subdivision, Tobin Drive, Definitive Subdivision Plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

The Board endorsed the covenant and certificate of vote.

5. Subdivision Progress Reports (None)

6. Preliminary/Open Space/Limited Development Subdivision

A. Howe's Landing Subdivision / Acceptance of Gikas Lane as a Public Way

i. Correspondence from City Engineer, Thomas DiPersio, Engineering Division

Mr. LaVenture read the November 3, 2022, correspondence from Mr. DiPersio into the record.

ii. Communication Assistant City Solicitor, Jeremy McManus

iii. Referral from City Council

Mr. DiPersio reminded the Board that City Council is waiting for comment back and updated the Board on previous correspondence that he has sent to the developer notifying them that the crack sealing would likely delay the acceptance process.

On a motion by Mr. Russ, second by Mr. LaVenture, the Board voted to notify the developer that the Board cannot give a favorable recommendation to the City Council for the acceptance of Gikas Lane as a public way until the crack sealing has been completed as indicated in City Engineer, Thomas DiPersio's correspondence. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. LaVenture, second by Mr. Russ, the Board voted to accept and file the November 3, 2022, correspondence from Mr. DiPersio. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

8. Signs (None)

9. Correspondence (None)

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

10. Unfinished Business

A. Working Group

i. Approval Not Required (ANR) Flowchart – See attached

Mr. LaVenture went over the flowchart and explained if the Board approves this flowchart its formatting would be used to generate other flowcharts for submissions, such a preliminary subdivision plan, definitive subdivision plan, open space developments, etc.

He updated the board on the Working Group's discussions regarding street acceptance language and their plans to further review the information.

The Board requested to leave the ANR Flowchart on the agenda for the November 21st meeting.

11. Calendar Updates

- A. Tobin Drive (F.K.A: Pettes Drive/Colchester Drive) (0 Stevens Street), Definitive Subdivision Plan, 135 days is Sunday July 24, 2022. Extension granted, vote by **November 7, 2022**, meeting.

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. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

Respectfully submitted,

/kmm

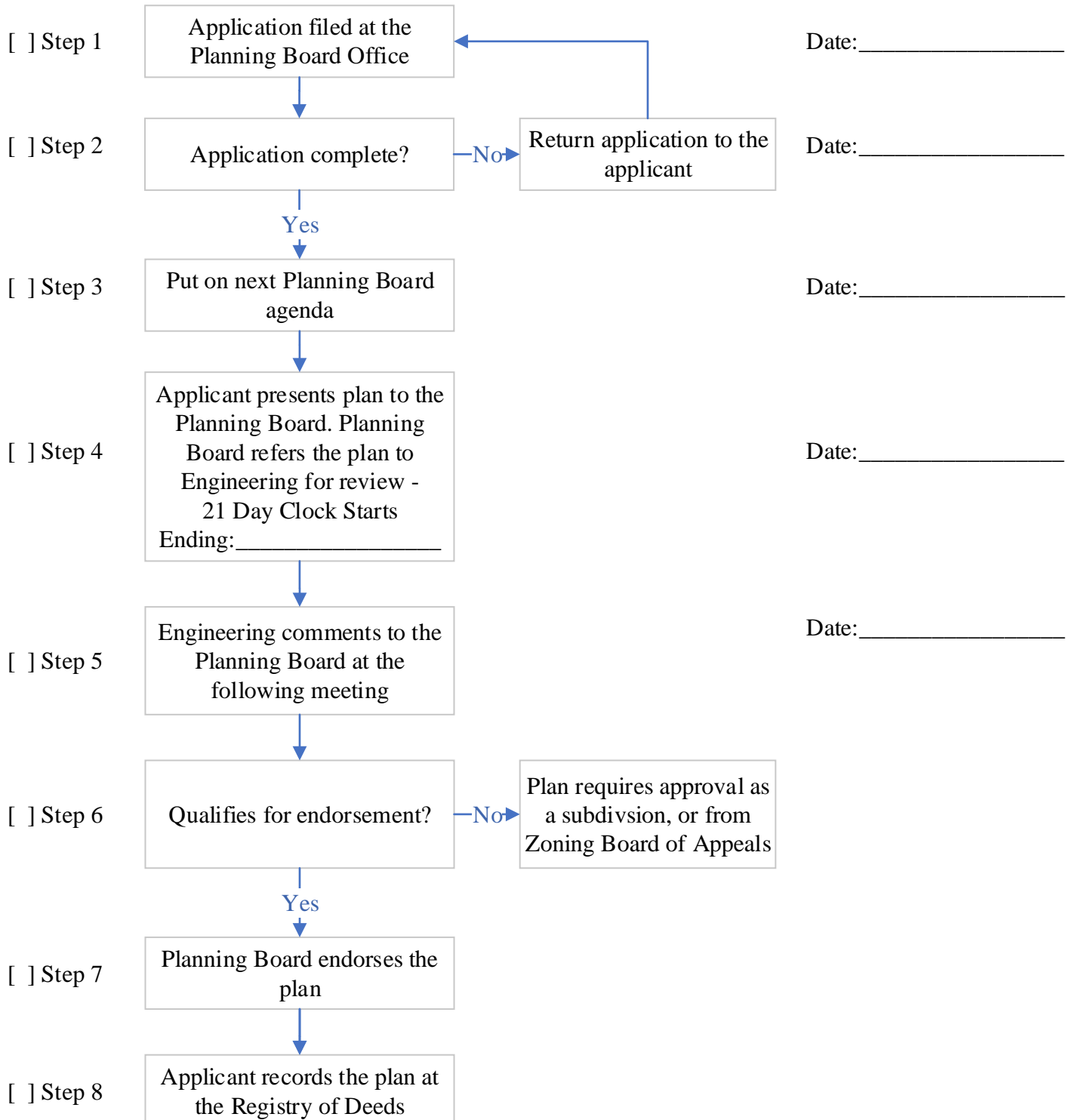
George LaVenture/Clerk



City of Marlborough Planning Board

10A

Procedure for Approval Not Required (ANR) Plans





City of Marlborough Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

JASON D. GROSSFIELD
CITY SOLICITOR

JEREMY P. MCMANUS
ASSISTANT CITY SOLICITOR

BEATRIZ R. ALVES
PARALEGAL

November 17, 2022

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

Dear Honorable Planning Board Members,

You requested an opinion on whether the restriction on the price for the homes in the Millham Estates subdivision special permit applies to all the homes in the subdivision in perpetuity or if the language in the permit stating: "This restriction shall only apply to the original purchaser" was intended to apply to both items 5 and 6 under conditions on the recorded special permit.

In my opinion, although it is unclear from the permit language that the maximum price restriction in the special permit (Condition 5) applies only to the original purchaser, the condition is practically unenforceable¹. This is because, to my knowledge, no limitations and safeguards have been imposed in the form of deed restrictions, resale monitoring, and the like, as required under the City's open space development ordinance and incorporated into the terms of the special permit. See Franklin v. Spadafora, 388 Mass. 764, 765 (1983).

Attorney Joseph Anderson's correspondence dated November 3, 2022 asked the Board for "written confirmation that the Special Permit neither restricts nor limits the maximum price for the sale of the Premises..."²

I suggest the following motion: Move that the Board declare that the maximum price restriction contained within Condition 5 of the Millham Estates Subdivision open space development special permit, granted by the Planning Board on February 27, 1995 and recorded at the Middlesex South Registry of Deeds in Book 25295, page 595, if applicable at all, is

¹ See Middleboro Park, LLC v. Middleborough Plan. Bd., 2013 WL 268707, at *5 (Mass. Land Ct. Jan. 14, 2013) (stating that "...interpretation of a special permit condition is a question of law, much like interpretation of a zoning bylaw").

² To the extent that Attorney Anderson's correspondence asked the Planning Board to amend the special permit, this request is not a legally sufficient application amend to the special permit. See Bobrowski, Handbook of Massachusetts Land Use and Planning Law § 10.03[D] (4th ed. 2018). To seek an amendment to the special permit, a complete application for an amendment using the Planning Board's form for a special permit application is required.

unenforceable relative to sales subsequent to the original purchaser. Additionally, any amendment to the special permit will require the submission of an application for an amendment using the Planning Board's form for a special permit application.

Please let me know if you have any questions.

Respectfully,

A handwritten signature in blue ink, consisting of a stylized 'J' followed by a horizontal line.

Jeremy McManus
Assistant City Solicitor

CROWLEY & CUMMINGS, LLC

980 WASHINGTON STREET
SUITE 123
DEDHAM, MA 02026

TELEPHONE: 781-760-9523
FACSIMILE: 781-394-1051

November 3, 2022

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

To Whom It May Concern:

I represent the buyer of real property located at 55 Gregoire Drive, Marlborough, Massachusetts 01752 (hereinafter, the "Premises"). Our closing date is Thursday November 10, 2022. Our original closing date was Friday November 4, 2022 but we unfortunately could not close because of the following matter. Encumbering the Premises is a Special Permit recorded on April 21, 1995 with the Middlesex South Registry of Deeds in Book 25295, Page 595 (hereinafter, the "Special Permit.") The fifth condition set forth on page six (6) at the top of Book 25295, Page 601 of the Special Permit restricts the maximum price for the sale of the Premises. Underwriting counsel for the title insurance company for the Buyer and Buyer's lender recommended that I contact the Planning Board to obtain written confirmation that the Special Permit neither restricts nor limits the maximum price for the sale of the Premises excepting the original sale thereof.

The Special Permit should please be amended so that any price restriction solely applies to the original purchaser of the parcels of land to which the Special Permit encumbers.

Please find enclosed herewith a copy of the recorded Special Permit for your reference.

I appreciate your assistance with this matter.

Sincerely,

Joseph P. Anderson, Esq.

RECEIVED 2A.iii

FEB 28 1995

CITY CLERK
MARLBOROUGHGRANTING OF SPECIAL PERMIT
CONCEPT PLAN OPEN SPACE DEVELOPMENT

DECISION

The Planning Board of the city of Marlborough voted to GRANT a Special Permit to Clifford O. Avey, Rene Joyal and Ralph Vigeant, Trustees of a Trust for the Youth of St. Mary's Parish on February 27, 1995 under Ch. 200, Section 25.3 of the Marlborough Zoning Ordinance, Open Space Developments.

NAME OF APPLICANT: Clifford Avey
200 Millham Street
Marlborough, MA 01752

NAME OF SURVEYOR: Central Mass. Engineering & Survey
45 River Street
Marlborough, MA 01752

LANDSCAPE ARCHITECT: Vincent Rico
203 Edgebrook Drive
Boylston, MA 01505

LOCATION OF PROPERTY: 19.9 acres of land located on the north side of Millham Street between Evalina Drive and Otis Street (paper street) and across from Maurice Drive.

VOTE: In Favor: 5
In Opposition: 0

DECISION FILED WITH CITY CLERK: *Filed February 28, 1995*
(City Clerk)

16.00 This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal thereto has been filed with this office.

95 Given at Marlborough this 21st day of March, 1995.

Given under Chapter 40A Sec.11 of the General Laws.

A TRUE COPY
ATTEST:

Jo Anne E. Reynolds
City Clerk

RECEIVED

FEB 28 1995

CITY CLERK
MARLBOROUGHGRANTING OF SPECIAL PERMIT
CONCEPT PLAN OPEN SPACE DEVELOPMENT

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200 Millham Street
Marlborough, MA 01752

NAME OF SURVEYOR: Central Mass. Engineering & Survey
45 River Street
Marlborough, MA 01752

LANDSCAPE ARCHITECT: Vincent Rico
203 Edgebrook Drive
Boylston, MA 01505

LOCATION OF PROPERTY: 19.9 acres of land located on the north side of Millham Street between Evalina Drive and Otis Street (paper street) and across from Maurice Drive.

VOTE: In Favor: 5
In Opposition: 0

DECISION FILED WITH
CITY CLERK:

APPEALS

Appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough.

Barbara L. Fenby
Barbara L. Fenby, Chairwoman

8. Some neighboring residents in the City of Marlborough raised concerns over the additional traffic generated by the project.
9. The Applicants presented a conventional subdivision plan entitled "'Millham Estates' Preliminary Subdivision Plan of Land in Marlborough, Massachusetts Owned By: St. Mary's Boys School Plate 65 Parcel 5 Central Mass. Engineering & Survey, Inc. 72 Hosmer St. Marlborough, MA 01752 Date: Jan. 4, 1988 Scale: 1"=40'". Said plan shows that 16 lots could be constructed on the site, if a conventional subdivision was to be developed.
10. Those in favor of the project expressed the need for reduced price housing units for families with moderate incomes.
11. A statistical summary of market conditions in the new construction market dated July 29, 1994 by Marilyn Green, Realtor, G.R.I. was presented and reflected in the record (attached as Exhibit "A"). The summary offered evidence that less than twenty percent of new construction homes in Marlborough are offered at a price under \$200,000.00.
12. The Applicants stated that their houses will have a target range of between \$140,000.00 and \$180,000.00.
13. The City of Marlborough Assessors Office has determined that the average value of a single family house in Marlborough is \$146,300.00.
14. Such a target range would provide housing to families with household incomes in the \$40,000.00 to \$70,000.00 range.
15. Those in favor of the project highlighted the benefits in the permanent preservation of natural resources and open space. They emphasized that the open space plan will provide additional protection to the watershed for Millham Reservoir than the conventional plan.
16. A report from the Conservation Commission was received and reviewed as required under Ch. 200-25.3H(c).
17. The Conservation Commission found that:
 - (a) The 11.62 ± acres of open space are appropriately located.
 - (b) This open space development will provide more protection to the City's Millham Reservoir watershed than a conventional subdivision.
 - (c) The open space development will provide protection to the wetlands and the North Branch of Millham Brook.

(d) The open space proposed in the Millham Woods Open Space Concept Plan is contiguous to the land purchased by the City of Marlborough from Hillside School for watershed protection purposes.

(e) This open space development will protect a scenic path along the brook.

(f) The proposed project meets the intent of the Open Space Development Ordinance and would be more environmentally compatible than a conventional design.

18. Written comments from the Police Chief, Fire Chief and City Engineer were received and reviewed.
19. The Chief of Police upon review of the plan recommends the following:
 - (a) The installation of a "Not a Through Way" sign at the intersection of the sub-division street and Millham Street.
 - (b) The installation of a "Stop" sign on the sub-division street at its intersection with Millham Street to control traffic exiting the sub-division.
20. The Fire Chief upon review of the plan recommends the installation of one additional fire hydrant 400' in from Millham Street.
21. The City Engineer reviewed the open space plans and has opined that the Open Space Concept Plan essentially conforms with the specific criteria of 200.VI.25.3.
22. The Applicants have applied for a density bonus pursuant to Section 200-25.3(E)(2)(c) which will result in two additional lots.
23. The Applicants will use the proceeds from the sale of the two bonus lots (\$65,000.00 x 2 = \$130,000.00) to reduce the price of the other 13 lots in the subdivision. This will result in a reduction of approximately \$10,000.00 per house lot. This further calculates to a reduction of approximately \$4,000.00 in household yearly income thereby qualifying additional moderate income purchasers.
24. The sale of 15 houses in the \$140,000.00 to \$180,000.00 range would not otherwise be provided for in the Open Space Development if the density bonus under Section 200-25.3 E(2)(c) were not approved.
25. The Household Income Distribution Tables from the 1990 Census (attached as Exhibit "B") show that 34% of the Marlborough Households earned more than \$55,000.00, which is the targeted

mean household income for this development. Bonus lots would increase the percentage of qualified households to 38%, a 12% increase.

GENERAL FINDINGS

26. The Open Space Concept Plan and the Conventional Subdivision Plan submitted with the application for a Special Permit meet the requirements of Article VI, Section 200-25.3 of the Code of the City of Marlborough.
27. The development meets the purposes and objectives of an Open Space Development listed in Sub-section B. of Section 200-25.3.
28. The development conforms to the general requirements set forth in Sub-section D of said section.
29. The development meets the dimensional and intensity requirements set forth in Sub-section E of said section.
30. The development meets the design criteria of an Open Space Development listed in Sub-section H(8) (b) of the said Section.
31. The development will not have a substantial or undue adverse effect upon adjacent property or the character of the neighborhood.
32. The Open Space Development is at least as beneficial to the City of Marlborough as a development using the conventional plan would be.
33. The Open Space Development is in harmony with the general purpose and intent of the City of Marlborough Zoning Ordinance.

DENSITY BONUS FINDINGS

34. The Applicants have applied for a density bonus under Section 200-25.3E.(2)(c) resulting in two additional lots.
35. The Applicants will use the proceeds from the sale of the two bonus lots to reduce the price of the other 13 lots in the subdivision.
36. The two bonus lots will act as an incentive for the developer to offer certain amenities which would not otherwise be provided in the Open Space Development, i.e., the sale of single family houses in the \$140,000.00 to \$180,000.00 range.

37. Based on the data presented in the letter prepared by Marilyn Green, Realtor, G.R.I., there are no subdivisions offering new single family homes in the \$140,000.00 to \$180,000.00 range ("Reduced Price Housing"). Consequently, households in the moderate income range (\$40,000.00 to \$70,000.00) are prevented from purchasing a new home in a family orientated subdivision.
38. These unusual circumstances have caused the Planning Board to recognize the need for new housing in said price range (moderate income range) and in order to facilitate the building of this type of Reduced Price Housing the Planning Board hereby authorizes a density bonus of two lots.

DECISION

The Planning Board grants a Special Permit under the provisions of Article VI, Section 200-25.3 to Clifford Avey, Rev. Rene Joyal and Ralph Vigeant, Trustees of a Trust for the Youth of St. Mary's Parish to construct 15 single family dwelling units on 15 lots (inclusive of density bonus) as provided in the Open Space Concept Plan known as "Millham Woods" dated November 7, 1994 subject to the conditions listed below. Further, the Planning Board finds unusual circumstances exist (the need for new housing in the moderate income range) to support the authorization of a density bonus of two lots.

CONDITIONS

1. The Applicants shall submit to the Planning Board a definitive subdivision plan under the rules and regulations of the Planning Board for subdivision control in accordance with the provisions of Massachusetts General Laws Chapter 41, Section 81(0).
2. Final decisions on the request for waivers from the Subdivision Rules and Regulations shall be made during the definitive subdivision plan approval process.
3. Perimeter buffers shall be maintained under the provisions of Section 200-25.3F.(7).
4. The areas shown as Open Space on the concept plan shall be incorporated into the definitive subdivision plan. Prior to the granting of building permits, the Applicants shall deed to the City of Marlborough the open space parcels as shown on said plan to be used for conservation and passive recreation purposes and shall deposit with the City of Marlborough Conservation Maintenance Trust five thousand (\$5,000.00) Dollars.

5. All improved lots in the development shall be made available for home ownership in accordance with the following table:

Square Feet of Living Space ¹	Maximum Price ^{2 3}
1,000 - 1,400	\$140,000
1,401 - 1,600	\$160,000
1,601 - 1,800	\$180,000 ⁴

6. All units shall be owner occupied. This restriction shall only apply to the original purchaser.
7. The restrictions set forth herein shall be binding upon the heirs, successors and assigns of the Applicants.

¹ All unfinished second floor space to be counted as 50% of living space.

² The maximum price shall be adjusted each month based upon the Consumer Price Index for all urban consumers using February, 1995 as the base month.

³ Extras or upgrades, as customarily termed in the new construction business, shall not be counted against maximum price; provided, however, said exemption shall not exceed \$10,000.00.

⁴ Additional sq. ft. over 1,800 the maximum price will be increased by \$70.00 per square foot.

Upon a vote of 5 to 0 taken on February 27, 1995, the Marlborough Planning Board (grants/denies) this Special Permit to Clifford Avey, Rev. Rene Joyal and Ralph Vigeant, Trustees of a Trust for the Youth of St. Mary's Parish for the Millham Woods Open Space Development.

Marlborough Planning Board

IN FAVOR of Special Permit:

OPPOSED to Special Permit:

Barbara L. Fenby
Barbara L. Fenby, Chairperson

Lawrence G. Union, Jr.
Lawrence G. Union, Jr.

Philip B. Hodge
Philip B. Hodge

Edward F. Coveney
Edward F. Coveney

Clyde L. Johnson
Clyde L. Johnson

Middlesex South, s.s.

On this twenty-seventh day of February 19 95, before me personally appeared the above named, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Denise H. Paul
Notary Public: Denise H. Paul

January 20, 2000
My commission expires

Take reference 7663 / 296⁷

MARKET CONDITIONS

A general overview of the Marlboro new construction market from November 1, 1993 through present shows a considerable amount of inventory sold from \$162,900 to \$250,000. The statistics are as follows:

SOLDS (AVG. PRICE)

32 \$221,978.

SOLD UNDER \$200

7 \$173,407.

CURRENT (AVG. PRICE)

15 \$224,604.

CURRENT UNDER \$200

3 \$169,767.

My overview of the local market is as follows:

- a. There is no one particular "player" in the area controlling market share. The majority of the new construction sites are ill-kept and lack creativity in both design and character of the neighborhood. There is no continuing "theme" used to stimulate the flash-back visions of a potential buyer.
- b. The majority of the lots run approximately 1/2 acre with a few between 1/2 acre and 1 acre.
- c. As you can clearly see from the statistics above, to target a sub \$200K price point with the right product would certainly set us apart in the local marketplace.

**HOUSEHOLD INCOME DISTRIBUTION
1990 U.S. CENSUS
INCOME IN 1989**

START OF INCOME RANGE	HOUSE- HOLDS	PERCENT IN RANGE
0	332	2.73%
5,000	608	5.00%
10,000	285	2.35%
12,500	281	2.31%
15,000	444	3.65%
17,500	394	3.24%
20,000	444	3.65%
22,500	440	3.62%
25,000	526	4.33%
27,500	418	3.44%
30,000	487	4.01%
32,500	239	1.97%
35,000	523	4.30%
37,500	401	3.30%
40,000	483	3.97%
42,500	283	2.33%
45,000	586	4.82%
47,500	265	2.18%
50,000	579	4.76%
55,000	519	4.27%
60,000	1,323	10.89%
75,000	1,442	11.87%
100,000	518	4.26%
125,000	195	1.60%
150,000	137	1.13%
TOTAL	12,152	100.00%

MEDIAN HOUSEHOLD INCOME \$41,315

SOURCE: 1990 U.S. CENSUS

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

*File one completed form with the Planning Board and then file a copy
with the City Clerk in accordance with the requirements of §A676-3.*

Marlborough, Massachusetts

Note: Use as many sheets as necessary to fully describe all
of the properties affected in this plan submission.

Date: November 14, 2022

To the Marlborough Planning Board:

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

1. Name of Applicant: JW Capital Partners, LLC
Address: 34 Washington Street, Suite 230 Wellesley, MA 02481
Email: wadams@jwcapitalpartners.com Telephone: 781-366-2436
2. Name of Owner (if different): Marlborough TOTG, LLC
Address: 206 Ayer Rd. Suite 5 Harvard, MA 01451
Email: markohagan@mcoassociates.com Telephone: 508-395-1211
3. Name of Surveyor: Bruce Saluk & Associates, Inc.
Address: 576 Boston Post Road East, Marlborough, MA 01752
Email: bruce@salukassoc.com Telephone: 508-485-1662
4. Property(ies) Information
Deed References (South Middlesex Registry of Deeds): BK 74006 PG 273
BK 74006 PG 276
Assessors Reference(s): Map: 70 Parcel: 291
Map: _____ Parcel: _____
Property Address(es): 57 Main Street, Marlborough, MA
Property Description: Former Rowe Funeral Home Property
5. Number of lots altered: 1 Number of lots created: 1

Signature of Owner: [Signature]
Print: Marlborough TOTG, LLC
Address: 206 Ayer Road, Suite 5 Harvard, MA 01451

Signature of Owner: [Signature]
Print: MARK C. O'HAGAN
Address: 206 Ayer Road - Suite 5 Harvard, MA 01451

PLANNING BOARD
DATE 11-16-2022 CHECK # 1296
AGENDA 11-21-2022
ACTION _____

1296

JW Capital Partners, LLC

11/15/2022

PAY TO THE
ORDER OF

City of Marlborough

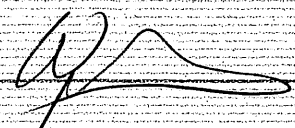
\$ **250.00

Two hundred fifty and 00/100*****DOLLARS

City of Marlborough

MEMO

57 Main ANR Filing Fees



JW Capital Partners, LLC

1296

11/15/2022

City of Marlborough

57 Main - City of Marlborough ANR Filing Fee

250.00

Checking

57 Main ANR Filing Fees

250.00

ZONE RB
ZONE MVD

SPRING HILL
AVE.

SPRINGHILL
CONDOMINIUMS

MARLBOROUGH PLANNING
BOARD

FOR REGISTRY USE

DATE:

THIS ENDORSEMENT BY THE PLANNING BOARD
IS NOT A DETERMINATION OF CONFORMANCE
WITH THE ZONING REGULATIONS.

NOTES:

1.) THE LAND SHOWN IS 38,505 SF (0.88 Ac.) CONSISTING OF THREE PARCELS OWNED BY MARLBOROUGH TOTG, LLC. LISTED AS ASSESSOR LOTS 291, 293 & 294 ON MAP 70, LOCATED IN THE MARLBOROUGH MARLBOROUGH VILLAGE DISTRICT (MVD), AND IS NOT LOCATED IN A FEMA SPECIAL FLOOD HAZARD AREA ACCORDING TO FEMA F.I.R.M. MAP #25017C0481F, DATED JULY 7, 2014.

2.) REFERENCES:

DEED BK 74006 PG 273
DEED BK 74006 PG 276

3.) THE INSTRUMENT SURVEY WAS PERFORMED DURING JANUARY 2018.

4.) THE SURVEY SHOWN WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE AND IS SUBJECT TO CHANGE THAT SAID TITLE MAY DISCLOSE.

OWNER:

MARK O'HAGAN
MARLBOROUGH TOTG, LLC
206 AYER ROAD, SUITE 5
HARVARD, MA 01451

APPLICANT:

WILLIAM D. ADAMS
JW CAPITAL PARTNERS, LLC
34 WASHINGTON STREET, SUITE 230
WELLESLEY, MA 02481

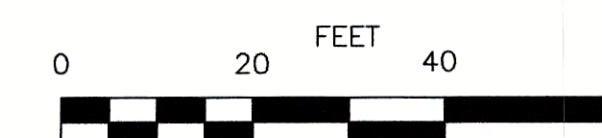
PREPARED BY:

BRUCE SALUK & ASSOCIATES, INC.
CIVIL ENGINEERING & LAND SURVEYING
576 BOSTON POST ROAD EAST
MARLBOROUGH, MA 01752

DATE: NOVEMBER 9, 2022

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

BRUCE M. SALUK
PROFESSIONAL LAND SURVEYOR #35415



GRAPHIC SCALE

FILE #2916ANR.dwg

Katlyn Miller

From: Katlyn Miller
Sent: Thursday, November 10, 2022 9:17 AM
To: Katlyn Miller
Subject: 342 Sudbury St

-----Original Message-----

From: kcoservice <kcoservice@aol.com>
Sent: Thursday, November 10, 2022 8:01 AM
To: Katlyn Miller <kmiller@marlborough-ma.gov>
Subject: 342 Sudbury St

Hi Katlyn,

No activity yet.

Thanks,
Kevin O'Malley

Sent from my iPhone

Katlyn Miller

From: Kevin Gillis <kevinagillis1@gmail.com>
Sent: Tuesday, November 8, 2022 4:06 PM
To: Thomas DiPersio
Cc: Katlyn Miller; Scott Adams
Subject: Goodale Estates Jenks Lane

Good afternoon, Thomas,

I believe all of the remaining items have been completed and I ask that you have it inspected for such. If all meets with your approval, I will seek an appearance before the Planning Board, to the extent that is necessary, and ask that the street be formally accepted by the City and the bind reserve be released.

Thank you for your patience and cooperation.

Regards,

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



City of Marlborough
Department of Public Works

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

SEAN M. DIVOLL, P.E.
 COMMISSIONER

November 17, 2022

Marlborough Planning Board

RE: Goodale Estates Subdivision
 Jenks Lane

Chair Fenby and Board Members,

The developer has completed the remaining items listed in my letter to the board dated October 12, 2022. As noted in that letter, if the board is in agreement, then the developer should now be instructed to make formal request to the City Council to accept the roadway as a public way. Upon completion of the acceptance process, which will include recommendations from the Planning Board and the Engineering Division to the City Council, the remaining bond will be released to the developer.

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

Sincerely,

Thomas DiPersio, Jr.

Thomas DiPersio, Jr., PE, PLS
 City Engineer

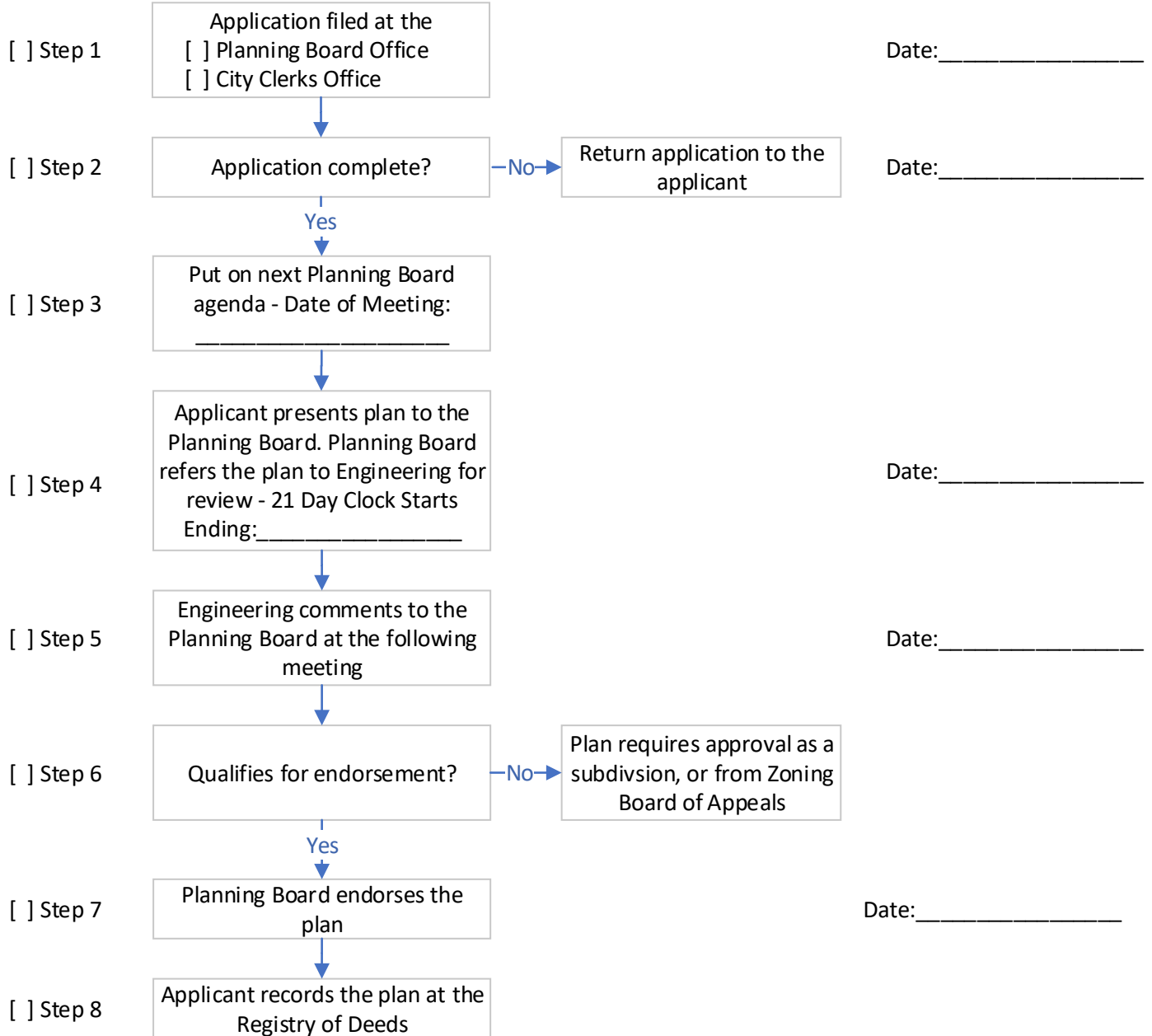
copy: Kevin Gillis



City of Marlborough Planning Board

10A.i

Procedure for Approval Not Required (ANR) Plans

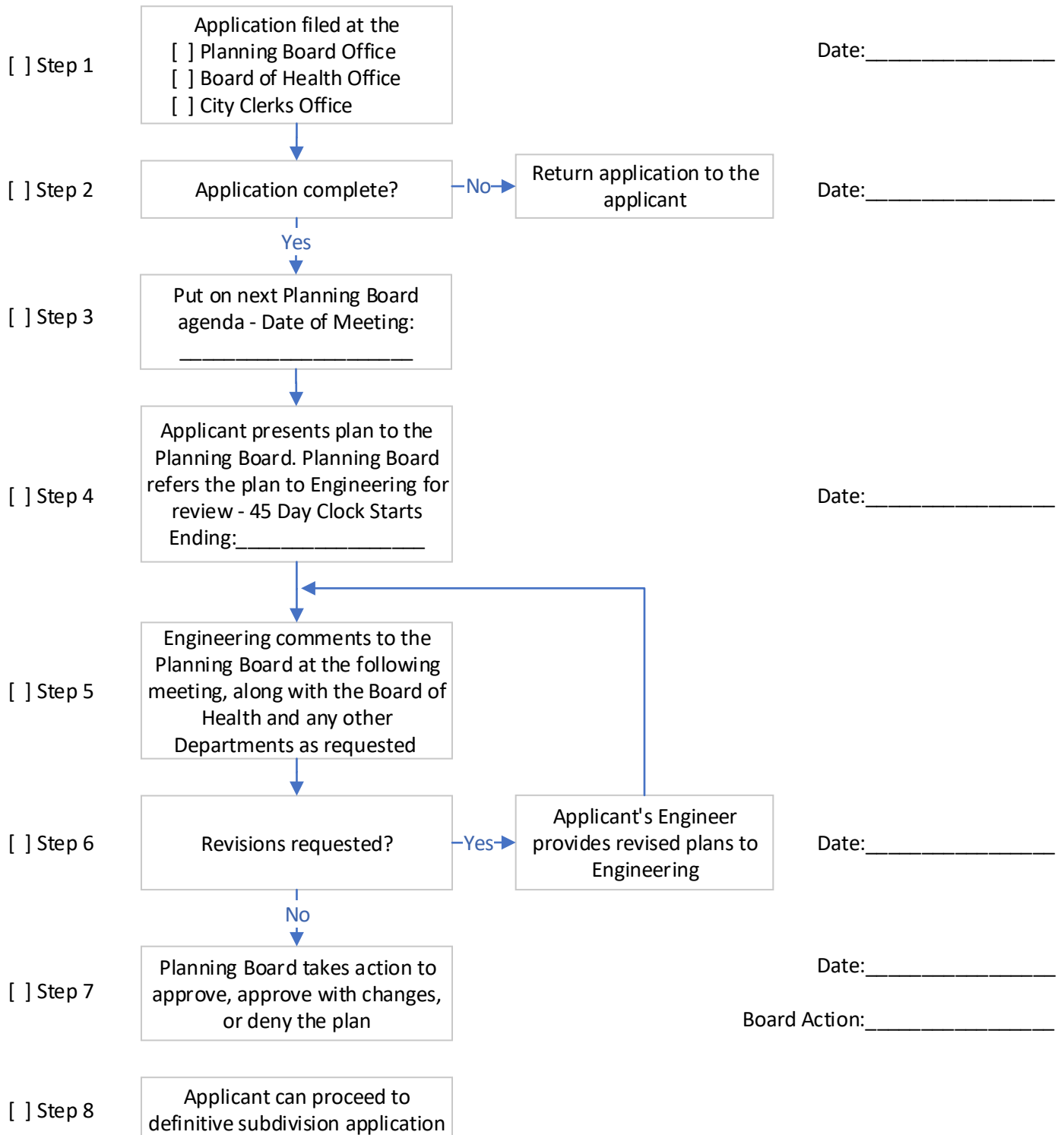




City of Marlborough Planning Board

10A.ii

Procedure for Preliminary Plans



FRAMINGHAM PLANNING BOARD**12A****NOTICE OF PUBLIC HEARING****ZONING AMENDMENTS TO SECTION II. USE REGULATIONS, I. CENTRAL BUSINESS DISTRICT & SECTION IV DIMENSIONAL REGULATIONS A- E. AND DIMENSIONAL REGULATION CHART**

The Framingham Planning Board will hold a public hearing on THURSDAY, NOVEMBER 17 AT 7:00 P.M. in the Blumer Room, Memorial Building, located at 150 Concord Street, Framingham, Massachusetts, to consider amendments to Section II.I. Use Regulations – Central Business District, relative to an increase in parking requirements; and amend Section IV. Dimensional Regulations A-E relative to parking requirements.

Further to amend the Dimensional Regulation Chart regarding parking.

A copy of the full text of the draft amendments to the ordinance may be inspected in the Planning Board Office, Room B14 and the City Clerk's Office, both located at 150 Concord Street, Framingham, Massachusetts, as well as online at the Planning Board Public Meeting Portal for the agenda with link to background information. Written comments should be submitted to PlanningBoard@framinghamma.gov by 4:00 p.m. on Monday, November 14, 2022.

Please see the Framingham Public Meeting Portal for remote teleconferencing participation information. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association (MNPA) website.

**Kristina Johnson, Chair
Framingham Planning Board**

Publish, MetroWest Daily Newspaper: November 2, 2022 and November 16, 2022

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

FRAMINGHAM PLANNING BOARD**NOTICE OF PUBLIC HEARING****ZONING AMENDMENTS TO SECTION V. & SECTION I. E. AND DIMENSIONAL REGULATION CHART**

The Framingham Planning Board will hold a public hearing on THURSDAY, NOVEMBER 17 AT 7:00 P.M. in the Blumer Room, Memorial Building, located at 150 Concord Street, Framingham, Massachusetts, to consider amendments to Section V. Special Regulations relative to an increase in affordable and workforce housing requirements to 15% – amend Sections V.G.3.d.; V.H. 3.a, V.L.3.b.ii; add new section V.K.3.f; to amend the increase to reflect a combined workforce and AHU requirement to 15% in Special Regulations Section V.H., V.K., and V.I. and further to add and increase workforce housing requirements in the Special Regulations section V.H., V.K, and V.I.; Further to amend by deleting Section V.I. 6.d. Payment-in-lieu in its entirety; Further to amend the dimensional regulation Chart Section IV.E.2 to amend the minimum side setback to read “minimum rear/side setback” to provide clarity to the setback regulations that currently are omitted; add the definition of “Affordable Housing Units (AHU)” to Section I.E. definition section of zoning ordinance, to be inserted after “Adult Video Store” and before “Agriculture and/or Farm.”

A copy of the full text of the draft amendments to the ordinance may be inspected in the Planning Board Office, Room B14 and the City Clerk's Office, both located at 150 Concord Street, Framingham, Massachusetts, as well as online at the Planning Board Public Meeting Portal for the agenda with link to background information. Written comments should be submitted to PlanningBoard@framinghamma.gov by 4:00 p.m. on Monday, November 14, 2022. Office Hours: M,W,TH: 8:30am-5pm, T: 8:30am-7pm, F: 8:30am-2pm.

Please see the Framingham Public Meeting Portal for remote teleconferencing participation information. The legal notice can be found in the MetroWest Daily Newspaper and on the Massachusetts Newspaper Publishers Association (MNPA) website.

Kristina Johnson, Chair, Framingham Planning Board

Publish, MetroWest Daily Newspaper: November 2, 2022 and November 16, 2022

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