

CITY OF MARLBOROUGH MEETING POSTING

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CITY OF MARLBOROUGH

2023 MAR -9 AM 11:21

Meeting: **Planning Board**

Date: March 13, 2023

Time: **7:00 PM**

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

This meeting of the Planning Board will be held in Memorial Hall on Monday, March 13, 2023, at 7:00 PM.

PUBLIC ATTENDANCE IS PERMITTED

Agenda Items to be Addressed:

1. Draft Meeting Minutes

A. February 27, 2023

2. Chair's Business

A. Street Acceptance - No updates

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports

- A. Goodale Estates – Jenks Lane – Bond Update
i. Correspondence from Thomas DiPersio

6. Preliminary/Open Space/Limited Development Subdivision

- A. Stow Road, Open Space Development Special Permit Application
Map 20, Parcel 4A, Stow Road, Marlborough, MA 01752
Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)
Name of Owner: McCabe Family Irrevocable Trust and Judith McCabe (6 Erie Drive, Hudson, MA 01749)
Name of Engineer: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)
Deed Reference: Book: 66136 Page: 582, Book: 78814 Page: 590
i. Request for Extension
ii. Correspondence from Vito Colonna

7. Definitive Subdivision

- A. 689 Pleasant Street, Marlborough, MA 01752 – **No Discussion Required – Public Hearing Set for March 27, 2023**
Open Space Development Definitive Subdivision Plan
Owner of Land: Joyce Beauchemin Realty Trust, Timothy L. Beauchemin, Trustee
(P.O. Box 1067, Townsend, MA 01469)
Name of Engineer: Daniel Korvos, P.E., (59 Granite Lane, Chester, NH 03036)
Name of Surveyor: Hugo Findeisen, (P.O. Box 612 Sandown, NH 03873)
Deed Reference: Book: 45210 Page: 560

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

- A. Working Group
i. Draft Memo - Sign Ordinance Variance Procedures
ii. Draft Sign Variance Application Edits

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.

CITY OF MARLBOROUGH MEETING POSTING

11. Calendar Updates

- A. Stow Road, Open Space Development Special Permit Application – 90 days expires Sunday, March 19, 2023 – Vote on or before **March 13, 2023**, meeting
- B. Beauchemin Estates, 689 Pleasant Street Definitive Subdivision – 90 days expires Sunday May 14, 2023 – Vote on or before **May 8, 2023**, meeting

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

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

February 27, 2023

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 William Fowler. Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. February 13, 2023

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the February 13, 2023, meeting minutes with minor typo edits. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

2. Chair's Business

A. Street Acceptance

i. Council Order No. 22/23-1008767A – Jenks Lane be accepted as a public way

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

Mr. DiPersio notified the Board he would provide the bond amount to the Board at the next meeting.

The Board tabled item 2B. 215 Simarano Drive.

B. 215 Simarano Drive

i. Statutory Covenant

ii. Definitive Subdivision Plan

Dated: May 25, 2018

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports (None)

6. Preliminary/Open Space/Limited Development Subdivision

A. Stow Road, Open Space Development Special Permit Application

Map 20, Parcel 4A, Stow Road, Marlborough, MA 01752

Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)

Name of Owner: McCabe Family Irrevocable Trust and Judith McCabe (6 Erie Drive, Hudson, MA 01749)

Name of Engineer: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)

Deed Reference: Book: 66136 Page: 582, Book: 78814 Page: 590

i. Correspondence from City Engineer, Thomas DiPersio, Jr.

Mr. LaVenture read the February 21, 2023, correspondence into the record.

On a motion Dr. Fenby, second by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

ii. Plan Set

Dated: December 2, 2022

Revised: February 9, 2023

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

Mr. Russ asked for clarification on a dash line labeled “permanent buffer area” in front of abutters Gunter and Susan Baburins’ property. He argued buffer zone means “no disturb” but that the vegetation in this area would be cleared for the detention basin. Mr. Russ suggested planting something back since this abutter would be most affected by this subdivision/detention basin.

Mr. Vito Colonna suggested a condition that included one or a combination of the following:

- Replanting
- Screening
- Preserving the trees in the area

Mr. Russ suggested preserving as many trees as possible within Lot S3 specifically between Lot S2.

Mr. Russ and Mr. Colonna discussed the scenic road public hearing that would be required to open the stone wall for the proposed roadway. Mr. Russ suggested repairing the stone wall and turning the stone wall in with the new roadway. Mr. Colonna confirmed this public hearing could be done in conjunction with public hearing for their future definitive submission. Mr. Russ also reminded the Board a scenic road public hearing would also be required for the two ANR lots if they were to gain access from Stow Road.

Mr. Fay explained to Mr. Colonna that it’s the developer’s responsibility to provide draft findings and a draft special permit, which the Board will refer to the Legal Department for review once completed. With the 90-day clock set to expire on March 19, 2023, Mr. Fay requested an extension request for the next meeting.

Mr. DiPersio reminded the Board that they need to compile any conditions they want to include within the special permit. Mr. Fay explained they plan to incorporate Conservation Commissions comments.

The Board discussed tabled item 2B. Simarano Drive.

- B. 215 Simarano Drive
 - i. Statutory Covenant
 - ii. Definitive Subdivision Plan
- Dated: May 25, 2018

Mark Bobrowski of Blatman, Bobrowski Haverty & Silverstein, LLC spoke on behalf of 215 Simarano Drive.

Mr. LaVenture asked for clarification regarding language within the statutory covenant. He asked if the covenant is saying, that even if any lot is transferred by mortgage or transferred in any other way, it is still restricted? Mr. Bobrowski said yes. He explained the only exception is the sale of the entire property.

Mr. Russ asked if the property was sold, would the approval and zoning freeze go with the property? Mr. Bobrowski said, yes and explained it lasts eight years from the date of endorsement of the plan.

Mr. Fay stated the covenant says the eight-year zoning freeze is back dated to September 10, 2018, which the developers had agree upon with the Legal Department.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to endorse the plan and sign the statutory covenant. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

The Board discussed who was at the public hearing on September 10, 2018, and who should endorse the plan and statutory covenant.

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

7. Definitive Subdivision

- A. 689 Pleasant Street, Marlborough, MA 01752 – **No Discussion Required – Public Hearing Set for March 27, 2023**
Open Space Development Definitive Subdivision Plan
Owner of Land: Joyce Beauchemin Realty Trust, Timothy L. Beauchemin, Trustee
(P.O. Box 1067, Townsend, MA 01469)
Name of Engineer: Daniel Korvos, P.E., (59 Granite Lane, Chester, NH 03036)
Name of Surveyor: Hugo Findeisen, (P.O. Box 612 Sandown, NH 03873)
Deed Reference: Book: 45210 Page: 560

8. Signs

- A. 230-266 East Main Street – Harbor Freight Tools
i. Application for Sign Appeal
ii. Denial letter from Chief Code Enforcement Officer, Pam Wilderman
Mr. LaVenture read the February 21, 2023, correspondence into the record.
On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

iii. Proposed Sign and Existing Conditions

Mike Cohen of Signs by J, spoke on behalf of the application and explained they are seeking a variance for a larger sign because the building is set back on the property.

Dr. Fenby asked if Harbor Freight is going to be the same size as Marshalls? Mr. Cohen said he wasn't sure. The administrator explained it was her understanding it would be smaller and that the neighbor store Ocean State Job Lot plans to expand.

Mr. Russ ask if there is a Harbor Freight sign on the pylon? Mr. Cohen said yes.

Mr. LaVenture asked what is the distance from the roadway to the proposed sign? The administrator used the measuring tool on GIS and provided a rough estimate of 625 feet.

Mr. Russ argued if they were to remove "Quality Tools Lowest Prices" from the proposed sign, simply leaving Harbor Freight, the proposed sign would be in compliance with the size regulations.

The Board determined they wanted a representative for the company at the meeting to present and to provide their reasoning on why they believe they should be granted a variance.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to table the 230-266 East Main Street – Harbor Freight Tools Sign Variance Application to the March 27, 2023, meeting. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

9. Correspondence (None)

10. Unfinished Business

- A. Working Group – no updates

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

11. Calendar Updates

- A. Stow Road, Open Space Development Special Permit Application – 90 days expires Sunday April 23, 2023 – Vote on or before April 10, 2023, meeting.

The Administrator explained these dates were incorrect. It should read 90 days expired Sunday March 19, 2023 – Vote on or before March 13, 2023, meeting.

12. Public Notices of other Cities & Towns

- A. Town of Hudson – Legal Notice

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file 12A. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

Mr. Fay explained the new Planning Board members were being sworn in at the February 27, 2023 City Council meeting and that this would be Mr. Hodge's last meeting. He thanked Mr. Hodge for 30 plus years of service on the Planning Board and explained there would be a future gathering to celebrate.

On a motion by Mr. Fowler, seconded by Mr. Russ, the Board voted to adjourn the meeting. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

Respectfully submitted,

/kmm

George LaVenture/Clerk



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

March 7, 2023

Marlborough Planning Board

RE: Goodale Estates Subdivision
Jenks Lane

Chair Fay and Board Members,

The Marlborough City Council, by way of Order #22/23-1008767, voted to accept Jenks Lane as a public way as recommended by the Planning Board. The order was approved by the Mayor on February 17, 2023, completing the process. The developer's remaining construction bond being held by the City, in the amount of \$84,000.00, should be released in full.

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



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 13, 2023

ORDERED:

Suspension of the Rules requested –granted.

WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require:

that JENKS LANE be accepted as a public way

from GOODALE STREET at the westerly end of JENKS LANE to the cul-de-sac at the easterly end of JENKS LANE

and that the appurtenant easements be accepted as municipal easements,

as shown on plans thereof and as hereinafter described and as set forth in Schedule A and Schedule B attached hereto:

DESCRIPTION

Plan entitled, "Plan of Acceptance Goodale Estates LLC Jenks Lane, City of Marlborough, Middlesex County, Commonwealth of Massachusetts," Prepared By: Control Point Associates, Inc., 352 Turnpike Road, Southborough MA 01772; Dated: February 28, 2022, which plan is to be recorded herewith.

Title to the roadways shown as Jenks Lane on said plan, and title to all the municipal easements shown on said plan as "Drainage Easement" and set forth in "**Schedule A**" attached hereto, has been granted to the City of Marlborough in a quitclaim deed from Northborough Capital Partners, LLC, a Florida limited liability company with an address of 1236 Par View Drive, Sanibel, Florida 33957, said deed to be recorded herewith at the Middlesex County (South District) Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

JENKS LANE be accepted as a public way, and the appurtenant easements be accepted as municipal easements, in the City of Marlborough.

Be and is herewith **APPROVED**.

ADOPTED

In City Council

Order No. 22/23-1008767A

Approved by Mayor

Arthur G. Vigeant

Date: February 17, 2023

A TRUE COPY

ATTEST:


City Clerk

CONNORSTONE ENGINEERING, INC.

10 SOUTHWEST CUTOFF, #7
NORTHBOROUGH, MASSACHUSETTS 01532
TEL: 508-393-9727 FAX: 508-393-5242

Marlborough Planning Board
140 Main Street
Marlborough, MA

March 8, 2023

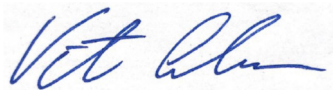
**Subject: Request for Extension
Open Space Special Permit Application
Stow Road, Marlborough, MA**

Dear Ms. LeBold,

On behalf of the Applicant, please accept this letter as a request for a 45-day extension to the approval process of the Open Space Special Permit related to the Subdivision off Stow Road.

Should you have any question, please feel free to contact our office at 508-393-9727.

Sincerely,
Connorstone Engineering, Inc.

A handwritten signature in blue ink, appearing to read "Vito Colonna", is shown on a light blue rectangular background.

Vito Colonna, PE

From: Katlyn LeBold
Sent: Friday, March 10, 2023 9:28 AM
To: Katlyn LeBold
Subject: Special Permit Document

Hi Katlyn,

Attached is the extension request. We requested a 45-day extension, which I think should get us past the April 24th meeting date. The applicant would not have the draft special permit ready discussion at the next meeting (3/13). So if possible, could we move the discussion to the March 27 meeting.

Thank you,
Vito

Vito Colonna, PE
CONNORSTONE ENGINEERING, INC.
10 Southwest Cutoff Northborough, MA
Tel: (508) 393-9727

PLANNING BOARD

Sean N. Fay, Chair
Barbara L. Fenby
James Fortin
Dillon LaForce
George LaVenture
Christopher Russ
William Fowler

Katlyn LeBold, Administrator
(508) 624-6910 x33200
klebold@marlborough-ma.gov



City of Marlborough

Planning Board

Administrative Offices
135 Neil St.
Marlborough, MA 01752

MEMO

Date: March 9, 2023
To: Record
From: Marlborough Planning Board
Re: Sign Ordinance Variance Procedures

Due to the highly specific requirements for sign ordinance variances under 526.12.C.(2), the Planning Board requires that the applicant for a sign ordinance variance be the business owner or the responsible executive of the business requesting the variance. The applicant and/or their legal counsel will appear before the Planning Board at the agreed date and time to present their case for the variance. At a minimum the applicant must address:

- how they believe their proposed sign was not contemplated by the ordinance, and
- how enforcement of the existing ordinance requirements would involve practical difficulties, and
- how desirable relief might be granted without substantially derogating from the intent and purposes of the ordinance

Applicant must be specific in their responses as 526.12.C.(2) allows variances under these three conditions and none other.

The applicant might also have a representative from the sign vendor/installer attend to address any questions from the Planning Board regarding the construction, installation, and operation of the proposed sign.

Sincerely,

Sean N. Fay
Chairperson



CITY OF MARLBOROUGH
APPLICATION FOR SIGN APPEAL TO PLANNING BOARD

INSTRUCTIONS: Use this form if your sign permit application has been denied by the Building Inspector and your denial letter indicates your right to appeal to the City of Marlborough Planning Board. This application must be filed with the Planning Board within 30 days of the date of the decision of the of the Building Inspector. (See Number 7 below.) Applicant must attach a copy of the Building Inspector's decision letter (usually a denial of a sign permit.) This application form must be signed by the applicant or their authorized agent (and the property owner if the owner is not the applicant.) Send the completed form along with the \$50.00 filing fee to the Planning Board administrative offices at 135 Neil St. 2nd Floor, Marlborough, MA 01752. The Planning Board Administrator will sign this form and schedule an appeal hearing date at a future scheduled meeting of the Planning Board.

1. **Location of Proposed Sign: Street Address:** _____
What other signs exist on the property: (Type, Size, Location) _____

2. **Name of business or activity applying for sign:** _____
3. **Applicant:** _____
Applicant Address: _____
Applicant Contact Info: (name, email and phone) _____

4. **Building Owner:** _____
Owner Address: _____
Owner Contact Info: (name, email and phone) _____

5. **Applicant is** ☐ **Building Owner** ☐ **Business Owner**
6. **Date of Building Inspector's decision from which appeal is taken:** _____
(Attach copy of denial of sign permit.)
7. **Section of the Sign Ordinance from which appeal is requested: Chapter 650, Section(s)** _____
Section heading(s): _____
8. **Description of Sign:** _____
9. **Give a brief outline why permit was refused and the purpose of the sign:** _____

Other pertinent information may be submitted with this application or requested by the Planning Board.
I hereby request a hearing before the Planning Board with reference to the above noted application:

Signed: _____ **Date:** _____ **Owner:** _____
Applicant

Received: \$25 application fee - Check payable to City of Marlborough **Initials of Board agent** _____
Scheduled Hearing Date: _____ **Date of payment** _____

NEW SIGNS MAY NOT BE ERECTED UNTIL APPEAL HAS BEEN GRANTED AND PERMIT IS ISSUED

Variance Decision: ☐ **Approved** ☐ **Denied**
(attached)



CITY OF MARLBOROUGH
APPLICATION FOR SIGN APPEAL TO PLANNING BOARD

PLANNING BOARD SIGN VARIANCE DECISION:

Applicant: _____

At its regular meeting of the Planning Board on _____, on a motion by _____, seconded by _____, the Board voted the following:

☐

Appeal Granted.

The Board determined that this specific case appeared not to have been contemplated by the ordinance, that enforcement would involve practical difficulties, and to grant relief would not substantially derogate from the intent and purpose of this ordinance.

Special Conditions of Variance (If any):

The applicant must apply to the Building Inspector for a new sign permit in accordance with the decision of the Planning Board. Attach this decision to the new application.

☐

Appeal Denied.

Appeal was denied. The Board determined that the circumstances of this specific case appeared to have been contemplated by the ordinance, that enforcement would not involve unusual practical difficulties, and that to grant relief would substantially derogate from the intent and purpose of this ordinance.

Motion Carried.

Barbara L. Fenby, Chair
Marlborough Planning Board

Date