

**MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752**

Call to Order

January 9, 2017

The Meeting of the Marlborough Planning Board was called to order at 7:00pm in Memorial Hall, 3rd Floor City Hall 140 Main Street, Marlborough, MA. Members present included: Barbara Fenby, Colleen Hughes, Sean Fay, Shawn McCarthy, Brian DuPont & Philip Hodge. Also in attendance were Board Secretary Melissa Peltier & City Engineer Thomas DiPersio

Officer Selection:

Mr. DuPont acting as Chairperson Pro Tem opened the nominations for Clerk.

Mr. Fay nominated Ms. Hughes as Clerk, seconded by Mr. Hodge. Nominations were closed and Ms. Hughes was elected by unanimous vote.

Mr. DuPont acting as Chairperson Pro Tem opened the nominations for Chairperson.

Mr. Hodge nominated Dr. Barbara Fenby as Chairperson, seconded by Ms. Hughes. Nominations were closed and Dr. Fenby was elected by unanimous vote.

1. Meeting Minutes: None

2. Chair's Business:

A. Update regarding Planning Board Page – Calendar

This item was carried over to the next regularly scheduled agenda. (January 23, 2016)

B. Street Acceptance Continued Discussion

City Engineer DiPersio informed the Board that he had no updates regarding this matter other than Attorney Bergeron is currently working on the Bouffard Drive acceptance paperwork.

C. Board Member Term Expirations Discussion

Chairperson Fenby handed out the most current listing of Member term expiration dates. The following members have indicated their interest in seeking reappointment, Chairperson Fenby, Clerk Colleen Hughes, Mr. Sean Fay, and Mr. Philip Hodge. Mr. Brian DuPont's term is current until February 2018 and Mr. McCarthy has expressed his desire to not seek reappointment.

3. Approval Not Required: None

4. Public Hearings (7:15): None

5. Pending Sub Division Plans: Updates and Discussion:

A. Engineers Report

City Engineer DiPersio reported out in an effort to make the Board aware of a potential issue with the recently approved Goodale Estates Subdivision.

There appears to be an issue in the Woodland Drive area regarding the topography and the placement/requirement of a sidewalk. The developer may reappear in front of the Board.

B. Request for Extension Walker Brook Estates (Melanson) January 9, 2016

Ms. Hughes read the request into the record.

On a motion made by Ms. Hughes, seconded by Mr. Fay it was voted to allow the extension as requested until May 15, 2017 subject to receipt of the verification of no blight status from the Code Enforcement Officer and agreement of the construction schedule form the Engineering Department. Motion carried.

C. Mauro Farms Open Space Communication from P. Ryder Conservation Officer

On a motion made by Mr. DuPont, seconded by Mr. McCarthy it was voted to waive the reading of the entire communication with the exception of the final page. Motion carried.

Ms. Hughes read the communications final page into the record.

After discussion of the three (3) options that were laid out by the Conservation Officer in the communication the following action was taken.

On a motion made by Ms. Hughes, seconded by Mr. Fay it was voted to support Option #1 with the following modification: The Board is not in favor of “allowing” the owner of lot 29 to mow Parcel 30 on an annual or biannual basis. Motion carried.

D. Marlborough Hub (continued discussion)(April 1, 2014)

Ms. Hughes read the communication from Assistant City Engineer Timothy Collins into the record.

On a motion made by Mr. Fay, seconded by Mr. DuPont the communication was accepted and placed on file.

City Solicitor Donald Rider was available to the Board to attempt to clarify the outstanding issues/problems.

The development parcel in question consists of 2 parcels of land that had been previously combined together utilizing property conveyed to Mary Howe in 1896 and property formerly owned by a railway until the 1960s. The main issue involves a “contemplated street” conveyed in the same 1896 deed of the property conveyed to Mary Howe. The “contemplated street” was intended in 1896 to provide access to the Mary Howe property and it continues to exist as an easement appurtenant to her property. The current developer is intending to utilize the “contemplated street” as the roadway to access the proposed subdivision. Since the railway property was acquired by one of the developer’s predecessors in title in the 1960s, decades after the appurtenant easement had been conveyed to provide access to the Mary Howe property, the legal problem is that the after-acquired railway property cannot legally be added to the dominant estate, which is the former Mary Howe property, at least not without the consent of the owners of the properties abutting the other (west) side of the proposed subdivision road. Absent that consent, use of the easement to access the portion of the development parcel consisting of the after-acquired railway property would impermissibly ‘overload the easement.’

The second issue that the Board is waiting on is a plan from the developer showing a “waiverless” plan as required by the Board. The plan had not been provided as of the meeting date.

It was requested to keep this item on the agenda for the next regularly scheduled meeting (January 23, 2017).

6. Preliminary/Open Space Submissions/Limited Development Subdivisions: None

7. Definitive Subdivision Submission: None

8. Signs: None

9. Unfinished Business: None

10. Informal Discussion: None

11. Correspondence:

A. National Grid (Gas Transmission Pipeline Safety)

On a motion made by Ms. Hughes, seconded by Mr. Hodge it was voted to accept and place on file item 11A. Motion carried.

12. Public Notices of other Cities and Towns:

A. Town of Framingham, Planning Board, 3 Notices

B. Town of Framingham Zoning Board of Appeals, 9 Notices

C. Town of Southborough Planning Board, 1 Notice

On a motion made by Ms. Hughes, seconded by Mr. Hodge it was voted to accept and place on file items 12A-C. Motion carried.

Adjournment: On a motion made by Mr. DuPont, seconded by Ms. Hughes it was voted to adjourn at 8:05pm. Motion carried.

Respectfully submitted,

Colleen Hughes
Clerk

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