

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

January 11, 2021

The **remote meeting** of the Marlborough Planning Board was called to order at 7:00 pm. Members present- Barbara Fenby, Matt Elder, Sean Fay, Phil Hodge, George LaVenture and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio, Assistant City Solicitor, Jason Piques and Planning Board Administrator, Krista Holmi.

First order of Business: Planning Board Organizational Meeting – Election of Clerk and Chairperson

Chair Fenby opened the organizational meeting. Mr. Elder opened the nominations for Clerk. Mr. Fay nominated Mr. George LaVenture to serve as Clerk of the Planning Board. There were no additional nominations. On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to elect Mr. George LaVenture to serve as Planning Board Clerk for the year 2021. Yea: Elder, Fay, Hodge, Russ, Fenby. Nay: 0. Abstained: Mr. LaVenture. Motion carried. George LaVenture opened the nominations for Planning Board Chairperson by nominating Dr. Fenby. There were no other nominations for Chairperson. On a motion by Mr. LaVenture, seconded by Mr. Hodge, the Board voted to elect Dr. Barbara Fenby as Chairperson of the Marlborough Planning Board for the year 2021. Yea: Elder, Fay, Hodge, LaVenture, Russ. Nay: 0. Abstained: Fenby. Motion carried.

1. Meeting Minutes

A. December 21, 2020

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the December 21, 2020 meeting minutes. Yea: Elder, Fay, LaVenture, Russ and Fenby. Nay: 0. Abstained: Hodge. Motion carried.

2. Chair's Business

A. Proposed 2021 Planning Board Meeting Calendar

Chair Fenby brought the proposed calendar to the Board's attention, requesting member feedback. The Board had no issues with the calendar. Mr. Fay indicated that he would be absent for the July 19 meeting, and Mr. Elder anticipated missing the June 21 meeting.

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports

A. Subdivision Status Report

City Engineer DiPersio provided brief project updates on Goodale Estates and 76 Broad Street, but those will be discussed in further detail in other agenda items. Engineering has exchanged emails with the Commonwealth Heights developer. Construction on the project hasn't begun. Two options are under consideration- selling the property or doing something on their own. The developer anticipates a preliminary construction schedule in the coming months.

B. Goodale Estates

i) Performance Bond (informational)

At the last meeting, the Board voted to approve the reduction of the bond securing the completion of the subdivision to \$123,000. The anticipated rider did not arrive in time for publication but will be forthcoming.

ii) Executed Second Amendment to Performance Agreement (informational)

The executed Second Amendment appeared in the agenda, which confirms an extension of the approval (completion) until 12-31-21. Final paving and landscaping were intentionally delayed due to extensive lot construction.

Mr. Hodge noted extensive jack hammering on the private lots. Mr. DiPersio acknowledged the considerable ledge on the property. This site work is unavoidable during the foundation work and laying of the utilities. Engineering has not received any neighborhood complaints, however.

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

7. Definitive Subdivision Submissions (None)

8. Signs

- A. Application for Sign Variance – Serrato Signs, LLC on behalf of St. Mary's Credit Union/Starbucks 133 S. Bolton St. Andy Serrato of Serrato Signs was online to introduce the variance request. It was the determination of the Building Department that the Digital Order Screen (DOS) was considered an electronic sign. Due to the sign's proximity to an existing residential zone, a variance is required from the Planning Board.

Mr. Serrato explained that the screen is only active when a driver is in front of the screen. The screen displays items ordered and the order cost. Chair Fenby inquired about the other signs surrounding the DOS, and Mr. Serrato indicated those static menu displays are allowed by right and have received approval. Members Fay and Elder visited the site. It does appear that the sign is visible from existing residential properties. Mr. Fay read from the ordinance.

*Setbacks from residential zoned areas. The sign must be set back a minimum distance of 200 feet from the nearest point of any abutting residentially zoned district. If, because of the shape, size and/or proximity of a commercial lot to a residentially zoned district it is not possible to place the sign more than 200 feet from the nearest point of an abutting residentially zoned district, then **the Planning Board may grant a variance for closer placement, provided that when located within 200 feet of a residentially zoned district, all digital display portions of the sign shall be oriented so that no portion of the sign is visible from an existing primary residential structure in that district.***

The project's site plan was displayed, and various screening options were discussed including shrubbery, fencing or polarized filters on the screen, which could potentially limit visibility. Mr. Fay asked Assistant City Solicitor Piques whether the Board had any other authority to grant the variance other than that explicitly mentioned in the referenced code section. Solicitor Piques will do some additional research and provide a review on that question. Councilor Robey addressed the Board and discussed another installation near City center that had requested a variance. In the end, zoning allowed the installation. There was a discussion as to whether the proposed wall on the corner of the property could provide adequate screening. Chair Fenby requested that Mr. Serrato explore possible screening options at the site. She said that Engineering may be used as a resource in exploring site screening options. Mr. Fay commented that small screen displays are commonplace and can facilitate street safety by avoiding order delays and vehicle backups onto roadways. Mr. LaVenture commented that it may be time for the City to look at an overarching policy on these types of signs. Chair Fenby solicited a motion. On a motion by Mr. Fay, seconded by Mr. Hodge, the Board voted to accept and file the correspondence and to refer to Legal. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: O. Motion carried.

Ms. Fenby asked Mr. Serrato if he understood his direction for the next meeting. He should determine how to best protect the abutting residences. Mr. Elder commented that he did not favor the lens option. Its effectiveness could not be evaluated until after the variance was granted. Chair Fenby invited members to view another DOS installation at the APEX Center Starbucks and to view the proposed site at 133 S. Bolton before the next meeting on January 25.

9. Correspondence (None)

10. Unfinished Business

A. Ongoing Review - Definitive Subdivision Application - 76 Broad St. 4-Lot Subdivision

Applicant: W.R.E., LLC, 319 Stow Road, Marlborough, MA 01752

Engineer: Hancock Associates, 315 Elm St., Marlborough, MA 01752. Robert DiBenedetto, Representative.
Attorney Sandra Austin, Counsel.

i. Letter from Attorney Sandra Austin re: Request for Extension of Decision

Mr. LaVenture read the January 5, 2021 letter from Attorney Sandra Austin into the record. On behalf of her client, W.R.E., LLC she requests an extension on the time to act on the 76 Broad St. subdivision application from January 22, 2021, until February 12, 2021. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the correspondence and to extend the time for decision on the 76 Broad St. definitive subdivision from January 22, 2021 until February 12, 2021. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

ii. Draft Certificate of Vote

Attorney Austin provided a draft certificate of vote for the 1-11-21 agenda. Mr. Russ questioned whether the applicant could build more units than proposed, since zoning could allow a greater density. City Engineer DiPersio commented that higher density would not be allowed by right but would need to be by special permit. A legal question was presented. If the plan contained a note restricting the number of units, is that enforceable? On a motion by Mr. Fay, seconded by Mr. Elder the Board voted to accept and file the correspondence and refer the draft certificate of vote and the question regarding enforcement of plan notations to Legal. Yea: Elder, Fay, Hodge, Elder, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

B. Working group discussion – Planning Board Rules and Regulations

i. Fees, Cross-Section, Forms – Update

Mr. LaVenture updated the Board on the working group developments. The group met on Friday, January 8th to continue its discussion of proposed fees. He noted several documents were distributed to members prior to the Planning Board meeting, which will illustrate the group's discussion. Mr. LaVenture worked through each document.

1) Proposed fee changes for Appendix K – Subdivision Regulation Fee Schedules.

He explained that fee changes were proposed after the following considerations:

- review of fees charged by 16 MA communities [Beverly, Billerica, Braintree, Everett, Fitchburg, Framingham, Holyoke, Hudson, Natick, Salem, Shrewsbury, Southborough, Westfield, Weston, Woburn, and Worcester],
- use of the Bureau of Labor Statistics Consumer Price Index inflation calculator to see the present buying power of the 1991 fees ; and
- sample calculations performed by Assistant City Engineer Collins and City Engineer DiPersio.

Mr. LaVenture explained the working group was proposing the follow fee changes:

APPROVAL NOT REQUIRED PLAN

CURRENT: \$50.00 filing fee, plus \$50.00 for each lot described on the plan.

PROPOSED: \$100.00 application fee, plus \$100.00 for each lot altered and for each building lot created.

PRELIMINARY SUBDIVISION PLAN

CURRENT: \$200.00 filing fee plus \$1.00 per linear foot of proposed roadway. Plus \$100.00 for advertising for public hearing, if held.

PROPOSED: \$400.00 application fee plus \$2.00 per linear foot of proposed roadway.

DEFINITIVE SUBDIVISION PLAN

CURRENT: \$500.00 filing fee plus \$2.00 per linear foot of proposed roadway less 80 percent {80%} of all fees paid for preliminary subdivision plan if filed within seven (7) months of filing of preliminary plan. Plus, mailing costs.

PROPOSED: \$1000.00 application fee plus \$3.00 per linear foot of proposed roadway less 80 percent {80%} of the application and proposed roadway fees paid for preliminary subdivision plan if filed within seven (7) months of filing of preliminary plan.

CHANGES TO SUBDIVISION PLAN SUBSEQUENT TO APPROVAL

CURRENT: \$200.00 filing fee. \$100.00 advertising for public hearing, if any. Plus, mailing costs.

PROPOSED: \$400.00 application fee.

INSPECTION OF SUBDIVISION CONSTRUCTION

CURRENT: \$50.00 plus \$1.00 per linear foot of proposed roadway.

PROPOSED: None. Not previously charged

SUBDIVISION EXTENSION REQUEST

CURRENT: None.

PROPOSED: \$200.00 application fee.

SCENIC ROAD REQUEST

CURRENT: None.

PROPOSED: \$50.00 application fee.

SIGN VARIANCE REQUEST

CURRENT: None.

PROPOSED: \$50.00 application fee.

SPECIAL STUDIES BY CONSULTANTS

All expenses in connection with any special consultant's study, {such as a traffic, impact, ground water, or sub-surface study) considered necessary by the Planning Board shall be borne by the applicant in full and shall be in addition to the filing or other fee and paid directly to the consultant.

2) Mr. LaVenture discussed removing "process" from the Appendix K fee document, favoring "fee only" information. The Subdivision Rules and Regulation document would detail the process of fee payments.

3) Proposed language changes for the Appendix K – Subdivision Regulation Fee Schedules.

Mr. LaVenture reviewed proposed language changes to Appendix K that would implement the proposed fee changes and the following:

- reiterating that Planning Board fees are established to cover administrative costs borne by the City,
- defining the Filing Fee as consisting of a fixed Application Fee plus any variable Proposed Roadway Fee; and
- making the costs of public notice and advertising for hearings, including any processing and mailing costs, payable by applicant directly to the vendor.

The three documents were generally accepted by the Board but will need to be reviewed by Legal. Matthew Elder expressed his reservations about raising fees during these times.

City Engineer DiPersio shared numerous pictures from subdivisions around the City. Photos depict the various cross-sections including pavement width and right of way variations.

ii. Assignment of next tasks

For the next meeting of the Planning Board, Engineering will provide the proposed cross-sections for inclusion in the updated subdivision regulations.

Mr. LaVenture also asked Board members to begin reviewing the regulations for suggested changes. It will be more efficient if everyone can work ahead a bit and prepare for requested input. Please pass any comments including specific language recommendations to Ms. Holmi.

11. Calendar Updates

A. Extension of the time to act – 76 Broad St. Definitive Subdivision Application - Feb. 12, 2021. Decision is due by the February 8 meeting.

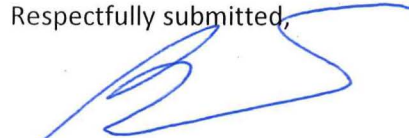
12. Public Notices of other Cities & Towns

A. City of Framingham – 7 Notices

B. Town of Berlin – 1 Notice

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and all file remaining items and to adjourn the meeting. Yea: Elder, Fay, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

Respectfully submitted,



George LaVenture/Clerk

/kih