

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

Call to Order

March 08, 2021

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

1. Meeting Minutes

A. February 22, 2021

On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the February 22, 2021 meeting minutes. Yea: Elder, Fay, Hodge, LaVenture, and Fenby. Nay: 0. Motion carried. (Note: Mr. Russ did not respond to the roll call vote.)

2. Chair's Business

A. Set Public Hearing Date - Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed-Use Overlay District (RMUOD)

April 5, 2021 7:00 pm was selected for the Planning Board's public hearing on the proposed zoning amendment.

B. Communication from Assistant City Solicitor (ACS) Piques re: Voting Requirements on Regulation Changes.

George LaVenture read the March 2, 2021 email communication from ACS Piques into the record. His email details that a simple majority of the Planning Board may adopt or amend subdivision regulations.

3. Approval Not Required

A. 181 Boston Post Road East

Applicant: Post Road Mobile Homes and Sales, Inc.

Surveyor: RJP Construction and Engineering, 21 Chapin St., Northborough, MA 01532

Deed: Book 11449, Page 675, Middlesex South Registry

Mr. LaVenture read the March 2, 2021 review letter from Assistant City Engineer Collins into the record. Mr. Collins details that the Feb. 7, 2021 plan, revised on Feb. 26, 2021 is a third version of previously endorsed plans (October 16, 2020 and again on December 21, 2020). Neither the Oct. 16 plan, nor the Dec. 21 plans were recorded at the South Middlesex Registry of Deeds. Per Assistant City Engineer Collins's letter, Lots 1 and 2 have adequate area, the required frontage, meet the Lot Shape requirement and have present adequate access for buildable lots within their respective zoning boundaries. (Mr. Russ spoke and indicated he had rejoined the meeting after having network issues earlier.) On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted accept, file, and endorse the Feb. 26, 2021 referenced plan as approval not required under the subdivision control law. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

4. Public Hearings (None)

5. Subdivision Progress Reports (None)

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

- A. Working group discussion – Planning Board Rules and Regulations
 - i. Rules and Regulations – Continued Recommendations

Mr. LaVenture provided an update to the Board on the Working Group's most recent meeting on March 3, 2021. He thanked the Engineering Division and Legal Dept. for their work and participation. Mr. LaVenture walked through each of the recommendations as shown in the summaries below:

Current regulation:

§ A676-10 Definitive plan. A. General. Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:

(3) (Reserved)

Proposed change:

§ A676-10 Definitive plan. A. General. Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:

(3) ~~(REMOVE)(Reserved)~~ (ADD) For the purpose of establishing the official submission date, said submission date shall be the date the plan was presented to the Planning Board at a regularly scheduled meeting of the Planning Board.

Current regulation:

§ A676-3 Plan believed not to require approval.

A. Submission of plan.

(1) Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan and application Form A (see Appendix A) to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. For the purpose of establishing the official submission date, said submission shall be made to the Planning Board at a regularly scheduled meeting of the Planning Board. The Planning Board requests the applicant to arrange for the Engineering Department to review the plans prior to said submission to the Planning Board as outlined above. Said person shall also file, by delivery or registered mail, a notice with the City Clerk stating the date of submission for such determination accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the City Clerk shall, if required, give a written receipt therefor.

Proposed change: Member discussion resulted in amending the pre-meeting posted language to the following:

(1) For the purpose of establishing the official submission date, said submission ~~(REMOVE) shall be made~~ (ADD) date shall be the date the plan was presented to the Planning Board at a regularly scheduled meeting of the Planning Board. The Planning Board ~~(REMOVE) requests~~ (ADD) suggests the applicant ~~to arrange for~~ (ADD) meet with the Engineering Department to review the plan (ADD) 's (ADD) format and completeness prior to said submission to the Planning Board as outlined above.

Current regulation:

§ A676-9 Preliminary plan. A. General.

(1) A preliminary plan of a subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and approval, modification, or disapproval, by each board. The submission of such a preliminary plan, which is not a binding commitment, will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. **For the purpose of establishing the official submission date, said submission shall be made to the Planning Board at a regularly scheduled meeting of the Planning Board.**

Proposed change:

(1) A preliminary plan of a subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and approval, modification, or disapproval, by each board. The submission of such a preliminary plan, which is not a binding commitment, will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. For the purpose of establishing the official submission date, said submission ~~(REMOVE) shall be made~~ ~~(ADD)~~ date shall be the date the plan was presented to the Planning Board at a regularly scheduled meeting of the Planning Board.

Reason for changes:

To clearly establish submission date and for uniformity of ANR, Preliminary, and Definitive Plans.

Current Regulation:

G. Performance guarantee.

Before endorsement of the Board's approval of a definitive plan of subdivision, the subdivider shall agree to complete the required improvements specified in Article V for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant with the written consent of the Planning Board.

(1) Approval with bonds or surety. The subdivider shall either file a proper bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Article V not covered by a covenant under Subsection G(2) hereof. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the City Solicitor and as to sureties by the City Treasurer and shall be contingent on the completion of such improvements within two years of the date of the bond.

(2) Approval with covenant.

(a) The subdivider shall file a covenant, executed and duly recorded in the Registry of Deeds by the owner of record, running with the land, whereby such ways and services as specified in Article V, not covered by bond or deposit under Subsection G(1) hereof, shall be provided to serve any lot before such lot may be built upon or conveyed other than by mortgage deed.

(b) The developer shall also note on his definitive plan that any and all lots within the subdivision are subject to the restrictions of the covenant.

Proposed change: None.

Assistant City Solicitor Piques explained this language comported with MGL c. 41, §81U and should remain unchanged.

Current Regulation: § A676-10 Definitive plan.

A. General. Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:

(2) A properly executed application Form C (see Appendix C) and Petition for Approval of Final Plan, Form D (see Appendix D), including the name of the record owner of the land and the time within which the subdivider or applicant agrees to complete the ways and install the public utilities in the subdivision, and approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two years of the date of approval of his definitive plan. If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Board, no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until a new application is filed with and approved by the Board. Ways not completed or portions thereof within two years from the date of approval by the Board shall thereafter be completed in accordance with the then-in-force construction standards of the Planning Board and the Department of Public Works of the City of Marlborough.

Proposed change: Mr. LaVenture noted the words “and until” also needed removal to clarify the sentence. This resulted in amending the pre-meeting posted language to the following:

(2) A properly executed application Form C (see Appendix C) and Petition for Approval of Final Plan, Form D (see Appendix D), including the name of the record owner of the land and the time within which the subdivider or applicant agrees to complete the ways and install the public utilities in the subdivision, and approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two years of the date of approval of his definitive plan. If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Board, no such way shall thereafter be laid out, constructed, completed or opened for public use unless ~~(REMOVE) and until a new application~~ (ADD) an extension of the approval of the Definitive Subdivision Plan is filed with and approved by the Board. (ADD) Any surety securing the completion of the subdivision must be extended to run concurrently with the extension of the Definitive Subdivision Plan approval. Ways not completed or portions thereof ~~(REMOVE) within two years from the date of approval by the Board~~ (ADD) when the approval of the Definitive Subdivision Plan has expired shall thereafter be completed in accordance with the then-in-force construction standards of the Planning Board and the Department of Public Works of the City of Marlborough.

Reason for change:

Conformity with current practice.

>> Addition to A676-2 Definitions changing “the singular includes the plural” to “the singular includes the plural and the plural includes the singular”

Current regulation: §A676-2 Definitions.

As used in **this chapter**, the following terms shall have the meaning indicated.

§ A676-2 Definitions. As used in this chapter, the following terms shall have the meanings indicated:

Proposed changes: Based on a comment by Mr. Fay at the last meeting the language was amended:

As used in ~~(REMOVE) this chapter~~ (ADD) these Rules and Regulations, the following terms shall have the meaning indicated ~~(REMOVE):~~ (ADD). The word "shall" is intended to be mandatory, the word "may" is merely permissive, the singular includes the plural, (AMENDED) the plural includes the singular, and the present tense includes the future and other words and phrases have the following meanings.

§ A676-2 Definitions. As used in this chapter, the following terms shall have the meanings indicated:

(ADD) SHADE TREE

Any tree which casts a shadow large enough for an individual to enjoy passive recreation while being protected from the effects of the sun or, in the opinion of the Tree Warden, will cast such a shadow when mature.

(ADD) STREET TREE

Any existing tree located within 15 feet from the edge of the roadway layout that casts a shadow upon the sidewalk area or a tree planted in the required landscape easement that will, in the opinion of the Tree Warden, casts a shadow on the sidewalk area when mature.

Reason for change:

Stated with more clarity.

Mr. LaVenture reminded the Board that at the last meeting he mentioned a number of Editor's Notes throughout the document might be replaced with a single statement. After discussion, the working group decided to recommend removing all occurrences of Editor's Notes, such as [1] *Editor's Note: Appendix B is on file in the City Clerk's office* and add language to the General Provisions section of Article I.

Current Regulation:

Article I
General Provisions

§ A676-1 Authority. Under the authority vested in the Planning Board of the City of Marlborough by MGL c. 41, § 81O, said Board hereby adopts these rules and regulations governing the subdivision of land in the City of Marlborough. These regulations shall be effective after approved and certified by the Register of Deeds and Recorder of Land Court.

Proposed change:

(ADD) The current version of the Planning Board Rules and Regulations were adopted by the Marlborough Planning Board on _____ and have been recorded at the South Middlesex Registry of Deeds, Book _____ Pages _____. A copy of the current version of the Planning Board Rules and Regulations are available at the Marlborough City Clerk's Office and the City Engineer's Office or may be obtained on the City of Marlborough's website: www.marlborough-ma.gov.

Reason for change:

Stated with more clarity.

Current regulation:

§ A676-10: Definitive Plan

B. Contents

(n) Hydraulic and hydrologic calculations shall be prepared by a registered professional engineer in accordance with the requirements of the City Engineer. (ADD) A Stormwater Management Design Report showing that measures to mitigate stormwater impacts of the proposed subdivision have been designed, and that such measures meet the requirements set forth in the Stormwater Management Standards promulgated by the DEP under the Clean Water Act, M.G.L. c. 21, Sections 26-53 and its accompanying regulations 314 CMR 9.0 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters within the Commonwealth; and 310 CMR 10.0 Wetlands Protection Act Regulations.

(ADD)

(s) An Erosion Control Plan showing that construction erosion and sediment controls have been designed to ensure that no off-site impacts to abutting properties or wetland resource areas will result during construction of the project, and that such controls have been designed to the satisfaction of the City Engineer and, if applicable, the NPDES General Permit for Storm Water Discharges from Construction Activities and/or the Wetlands Protection Act.

Reason for change:

Mr. DiPersio, City Engineer explained this would bring requirements into compliance with current standards.

Mr. LaVenture explained that while many presentations have been clear and readily understandable, some have been a bit more difficult to determine the presenter's intent. Especially during an online meeting.

The working group decided to recommend one Rules and Regulation change and one procedural change. As mentioned previously, suggesting the Engineering Department review a plan for format and completeness prior to its submission was the proposed Rules change.

The proposed procedure change is to allow the plan presenter to have control of the screen during the presentation. This might provide smoother presentation as they would control the pointer and not need to direct its movement second hand.

>> Mr. Hodge suggested putting mailboxes on the sunny side of an east-west street.

Mr. DiPersio, City Engineer, explained that placement of the mailboxes is an issue for the local Post Office. The Detail shown for mailbox placement was derived from the standard set by the United States Postal Service.

Mr. Collins, Assistant City Engineer, had provided the following:

Can you move a mailbox?

The Postal Service permits moving a mailbox, but it must be placed in a location that is readily accessible by a mail carrier. For example, roadside mailboxes must in a location where mail carriers can place mail from their delivery vehicles.

Does one have to get permission from the USPS to move the ...
www.quora.com/Does-one-have-to-get-permission-from-t...

[See all results for this question](#)

Can USPS mailboxes be relocated?

The USPS does not legislate the relocation of residential mailboxes nationally. Rather, they allow local postmasters to decide what is best for their geographic location and mail service.

Relocating Residential Mailbox – USPS Mailbox Guidelines
www.mailboxworks.com/blog/relocating-residential-mailb...

[See all results for this question](#)

Is the placement of mailboxes determined by the USPS?

YES! The placement of every mailbox is determined by the USPS - for safety, efficiency of the route/driver. Before moving/replacing your mailbox one is encouraged to visit the post office and ask for instructions. You will be given general instructions on where/how a mailbox must be placed.

Mr. LaVenture suggested if Mr. Hodge had language he would like to propose, the working group would discuss it at their next meeting on March 11.

Current regulation: § A676-16 Protection of natural features.

Due regard shall be shown for all natural features, such as large trees, wooded areas, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. Whenever feasible, shade trees 12 inches in diameter or larger shall not be removed.

Proposed change:

Due regard shall be shown for all natural features, such as large trees, wooded areas, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. Whenever feasible, shade trees 12 inches in diameter or larger shall not be removed. (ADD) The Applicant may be required to hire a certified consulting arborist to identify those trees which can be saved and thrive upon the completion of the subdivision, show those trees on the Definitive Subdivision Plans and certify as to such.

"I hereby certify that the trees shown on this plan as to be retained (RET.), if preserved, will add attractiveness and value to the subdivision. Those trees not designated as to be retained (RET.) have no significant value where they would need to be retained."

Reason for change:

To reduce total tree clearing of lots prior to lot development.

Discussion regarding the exact intent and language required resulted with the working group agreeing to review the language at it March 11 meeting.

Current regulation: § A676-28 Trees.

A. Street trees of a species approved by the **City Forester** shall be planted on each side of each street in a subdivision, except where the definitive plan showed trees to be retained which are healthy and adequate. Such trees shall be located outside of the right-of-way as shown in the profile and standard cross section plans, Appendix F, approximately at forty-foot intervals, and shall be at least 12 feet in height and a minimum of three-inch caliper.

B. The subdivider shall **plant other trees** as needed to provide at least two areas of shade to each lot.

C. Removal and disposal of trees not intended for preservation shall be as designated by the City Forester.

Proposed change: Member discussion resulted in amending the pre-meeting posted language to the following:

A. Street trees of a species approved by the ~~(REMOVE) City Forester~~ **(ADD) Tree Warden** shall be planted on each side of each street in a subdivision, except where the definitive plan showed trees to be retained which are healthy and adequate. Such trees shall be located outside of the right-of-way as shown in the profile and standard cross section plans, Appendix F, approximately at forty-foot intervals, and shall be at least 12 feet in height and a minimum of three-inch caliper.

B. The subdivider shall plant ~~(REMOVE) other~~ **(ADD) shade** trees as needed to provide at least two areas of shade to each lot.

~~(REMOVE) C. Removal and disposal of trees not intended for preservation shall be as designated by the City Forester.~~

(ADD) If allowed by the Tree Warden, Shade Trees located within 15 feet of the roadway layout may also be designated as Street Trees and be designated as both a Shade Tree and a Street Tree.

(ADD) Street tree compensation. For those street trees required, that cannot be planted within the required landscape strip adjacent to the roadway right-of-way and there are not any trees adjacent to the roadway that can be considered as street trees, compensation for those street trees may be given in one of the following ways: (1) monetary value given to the City of Marlborough for the purpose of planting trees, (2) as trees planted elsewhere in the subdivision, or (3) trees planted within the City of Marlborough. Option chosen is at the discretion of the Planning Board with approval from the Tree Warden. All tree locations will be selected by the Tree Warden.

Mr. LaVenture noted that text in the APPENDIX F Cross-sections would be updated to state "MINIMUM 2 SHADE TREES PER LOT". The Board would see those changes in the future.

Reason for Change:

Update to meet current practices.

City Forester is no longer a City position – Replaced with the position of Tree Warden, who has been charged with the care of public trees.

Mr. Fay inquired about the status of proposed language regarding easement vs fee.

Mr. LaVenture noted the following language had been submitted to Legal for review:

All land required for access to a subdivision, including that required for the roadway roundings, must be held in fee by the Applicant.

Mr. LaVenture asked Assistant City Solicitor Piques if he could address the question. Mr. Piques indicated the language and its placement was under review.

Without further discussion the proposed changes were forwarded to Legal for review.

Working group discussion – Planning Board Rules and Regulations

ii. Next steps.

Mr. LaVenture noted that next steps included:

- A working group meeting 11 March to review outstanding items and the body of proposed changes in their entirety
- Planning for a public meeting for formal presentation to the Board of proposed changes for Board review.

Mr. LaVenture noted that due to the advertisement requirements for the public meeting, the earliest that presentation could occur was April 5.

Mr. LaVenture asked Mr. Piques if that provided enough time for Legal review. Mr. Piques indicated he would let us know if that would work.

11. Calendar Updates (None)

- A. Public Hearing Date - Proposed Zoning Amendment to Chapter 650 to amend Section 33 the Results Way Mixed-Use Overlay District (RMUOD). April 5, 2021 7:00 pm (Remote Teams Meeting)

12. Notices from other Cities and Towns (None)

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

Respectfully submitted,



George LaVenture/Clerk

/kih